

of the week, commonly called the Sabbath. Any person, firm or corporation violating the provisions of this act shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than \$25.00 nor more than \$50.00.

Approved March 5th, 1923.

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## TAXES

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### CHAPTER 298.

(S. B. No. 255—Storstad and Gardiner.)

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#### BASIS OF ASSESSMENT.

An Act to Amend and Re-enact Chapter 59 of the Session Laws of 1917 as amended by Chapter 220 of the Laws of North Dakota for the year 1919. Relating to the Basis of Assessment of Property for Taxation Purposes.

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

Sec. 1. AMENDMENT.) Chapter 59 of the Session Laws of 1917 as amended by Chapter 220 of the Laws of North Dakota enacted by the Regular Session of 1919 is hereby amended and re-enacted to read as follows:

All property, real, personal and mixed, subject to a general property tax, not exempted by law or subject to any gross sales or other lieu tax shall be valued and assessed at seventy-five per cent of the full and true value thereof, except farm buildings and improvements, which are hereby exempted from all taxes. Assessors and Boards of Review shall assess and return all taxable property at its full and true value, and it shall be the duty of the county auditor after equalization by the state board of equalization to make the computations necessary to reduce such assessed value to said Seventy-five (75) per cent.

Sec. 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 6th, 1923.

## CHAPTER 299.

(S. B. No. 301—Storstad.)

## ASSESSMENT OF BANK STOCK.

An Act to Amend and Re-enact Chapter 61 of the Session Laws of 1917 Relating to the Assessment of the Capital Stock of Banks, Loan and Trust Companies and of Moneyed Capital entering into Competition Therewith.

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

Sec. 1. Section 2115 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 61 of the Session Laws of 1917 is hereby amended and re-enacted to read as follows:

Sec. 2115. (1) The shares of stock of every bank and of every loan and trust company located in this state whether organized under the laws of this state or the United States or of any other state or country shall be assessed to the individual stockholders or owners thereof at the place where the bank or loan and trust company is located and not elsewhere. Such shares shall be listed and assessed to the owner thereof with reference to their value on the first day of April of each year and shall be taxed at the same rate as other property in the same taxing district is taxed.

(2) DETERMINATION OF THE VALUE OF SHARES OF CAPITAL STOCK.) On or before the first day of May in each year, the officers of each bank or loan and trust company located in this state shall file a statement with the state tax Commissioner and with the county auditor of the county where located, verified by oath, showing the amount and number of shares of capital stock of such bank, loan and trust company, the names and residences of the several stockholders and the amount owned by each; the amount of the corporation's surplus or reserve fund and undivided profits as of April 1st preceding. The value of each share of stock in each bank, loan and trust company, except such as are in liquidation, shall be taken to be the par value thereof, together with its prorata share of the accumulated surplus and undivided profits. The value of each share of stock in each bank which is in liquidation, shall be taken to be its prorata share of the actual value of the assets of such bank, or loan and trust company.

(3.) DEDUCTION OF REAL ESTATE AND PERSONAL PROPERTY TO ARRIVE AT TAXABLE VALUE OF SHARES OF STOCK.) Real estate owned by any bank or loan and trust company shall be assessed and taxed as other real estate is under this article. Personal property of any bank, loan and trust company, except furniture, fixtures and equipment, shall be returned in the name of the bank or trust company, and

shall be assessed and taxed as other personal property is under this article. In determining the taxable value of the shares of stock of such corporation, the tax commissioner shall deduct the net amount of such corporation's investment in real estate and the net amount of its investment in taxed personal property from the aggregate amount of the capital stock, surplus and undivided profits, and the remainder shall be taken as the basis for valuation of such shares of stock in the hands of the stockholders subject to the provisions of law requiring all property to be assessed at its true and full value, or such other provision of law as may be enacted at this or subsequent sessions of the legislature classifying such property for assessment purposes.

To determine the amount which shall be considered as being invested in real estate, the tax commissioner shall deduct from the total of such investment the amount of investments in real estate where the bank or loan and trust company has sold the real estate under contract whereby the purchaser agrees to pay the taxes assessed against such property.

(4) The tax commissioner shall compute the total net taxable value of the capital stock of each bank or loan and trust company and shall assess such shares of capital stock and shall on or before the first business day in July of each year certify such assessment to the county auditor of the county where such bank or loan and trust company is located.

(5) The county auditor shall compute the net taxable value of each share of stock in any bank or loan and trust company and shall multiply such value by the number of shares held by each individual stockholder and enter such assessment against the individual stockholder; provided that any solvent bank or loan and trust company may, upon written request of its cashier or other officer, have the amount of the assessment herein provided for against its stockholders assessed against the bank or loan and trust company in its corporate name and the taxes thereon may be paid as other expenses of the bank or loan and trust company are paid. The shares of capital stock in banks or loan and trust companies, not located in this state, but owned in this state, shall not be required to be listed under this article.

(6) All moneyed capital within the meaning of Section Fifty-two hundred Nineteen (5219) of the Revised Statutes of the United States shall be listed and assessed against the owner thereof at his place of business, and if a corporation at its principal place of business, at the same rate as state, national bank, loan and trust company stock is taxed in the same taxing district, and at the actual value of the moneyed capital so invested or at such percentage of actual value as may be provided by law for assessment of bank, loan or trust company stock with similar deductions for investments in real estate and taxed personal property as are allowed by this act in arriving at the net taxable

value of bank stock. The person or corporation using moneyed capital in competition with bank capital shall furnish the assessor upon demand a full and complete itemized, sworn statement showing the amount of moneyed capital so used.

(7) A refusal to furnish the tax commissioner or the county auditor with the list of stockholders and the information required under this act shall be deemed a misdemeanor and any bank or loan and trust company or any officer thereof so refusing shall be punished by a fine not exceeding five hundred dollars

Sec. 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 6th, 1923.

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## CHAPTER 300.

(S. B. No. 375—Van Camp.)

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### VALIDATING BANK STOCK TAXES.

An Act Validating taxes assessed against bank stock in the years 1919, 1920, 1921, and 1922, authorizing boards of county commissioners and the tax commissioner to compromise such taxes upon bank stock for 1919, 1920, and 1921, as have not been paid, and confirming and ratifying such settlements as have been made.

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

Sec. 1. All taxes levied and assessed in the years 1919, 1920, 1921, and 1922 upon bank stock are hereby validated and confirmed and shall be given full force and effect by all administrative and judicial officials notwithstanding the language contained in Section 1 of Chapter 62 of the Special Session Laws of 1919 and Section 1 of Chapter 230 of the Laws of 1917 purporting to include stock as money and credits in the exemption given to money and credits.

Sec. 2. Boards of County Commissioners and the tax commissioner are hereby authorized to compromise and settle taxes assessed upon bank stock for the years 1919, 1920, 1921, which have not already been compromised, settled, and paid upon the same basis of settlement upon which nearly all of the banks of the state have paid taxes for such years. The settlement of the taxes upon bank stock for the years 1919, 1920, and 1921, heretofore made by the tax commissioner and carried into effect by boards of county commissioners is in all things hereby ratified and confirmed.

Sec. 3. It is hereby declared to be the public policy of this state, recognized for many years, that all classes of property own-

ers possessing a considerable amount of taxpaying ability shall contribute to the expense of government in proportion to their relative abilities to pay, and that owners of bank stock constitute a class of property owners possessing such tax paying ability, and that the inadvertent inclusion in the legislative enactments of the 1917 session and the 1919 special session of a misstatement of the law and of fact in that it is therein inferentially stated that corporate stock is a credit, does not and did not indicate a deliberate departure from established legislative policy, and it is further declared to be in harmony with sound public policy that bank stock of the several banks should be assessed upon and should be taxed upon a uniform basis, and that such stockholders as have not paid taxes for the years in question should be required to pay taxes upon the same basis as those who have already complied with the terms of the settlement above referred to, and that this exercise of the limited power to enact retrospective legislation is in furtherance of firmly established and universally recognized principles of justice and equity.

Approved March 1st, 1923.

Note: Referendum petition has been filed against section 2 of Senate Bill No. 375, Chapter 300 herein, requesting that said section be submitted to the electors at the general election November 4, 1924.

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## CHAPTER 301.

(H. B. No. 40—Twichell.)

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### CANCELLATION OF PERSONAL PROPERTY TAXES, 1913 AND PRIOR.

An Act to Cancel Uncollected Personal Property Taxes Assessed for 1913 and Prior Years. Whereas, There are a large number of uncollectible personal property taxes on the tax books of the various counties of the state for the year 1913 and prior years which the Boards of County Commissioners have neglected to cancel as provided by law.

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

Sec. 1. PERSONAL PROPERTY TAXES CANCELLED.) That all unpaid personal property taxes levied and assessed for the year 1913 and all years prior thereto be and the same are hereby cancelled and the County Auditors of the various counties of the state are directed to cancel the same of record.

Sec. 2. REPEAL.) All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 19th, 1923.

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**CHAPTER 302.**

(S. B. No. 150—Thorson.)

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**CAPITAL STOCK TAX, REPEAL.**

An Act to Repeal Chapter 222 of the Session Laws of the State of North Dakota for the year 1919, being an act providing for a tax on shares of stock and bonds of corporations organized or doing business in this state.

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

Sec. 1. REPEAL.) Chapter 222 of the Session Laws of North Dakota for the year 1919 having to do with the tax on shares of stock and bond issues of corporations organized or doing business in this state, is hereby repealed.

Approved March 7th, 1923.

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**CHAPTER 303.**

(S. B. No. 289—Byrne.)

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**ABATEMENT OF IRRIGATION ASSESSMENTS.**

An Act Providing that the County Commissioners Shall Have Power to Abate Certain Assessments Levied by Boards of Irrigation Districts upon Application of the District Board Approved by the Director of the Reclamation Service.

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

The board of county commissioners shall have power with the approval of the tax commissioner to abate assessments made by irrigation districts in cases in which the application is approved by the board of directors of the irrigation district. In case such assessments are made for the purpose of meeting payments due to the United States under any contract between the irrigation district and the United States, the application for abatement shall not be granted unless it also bears the approval of the director of the United States Reclamation Service or the secretary of the interior. The application for the abatement may be made by the board of directors of the irrigation district instead of by individual taxpayers and any number of tracts of land may be included in a single application.

Approved March 10th, 1923.

## CHAPTER 304.

(S. B. No. 89—Thorson, By request.)

## CONSOLIDATED TAX ACCOUNT.

An Act Relating to what shall be carried as "Consolidated Tax Account," and repealing Section 2274, Compiled Laws of 1913 as amended by Chapter 253, Session Laws of 1915.

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

Sec. 1. CONSOLIDATED TAX ACCOUNT.) That when the 1922 taxes are certified to the State Auditor, he shall open a consolidated tax account with each county to be known as "1918 and prior" in which account shall be included the unpaid delinquent taxes charged against each county in the state for 1918 and all prior years.

In 1923 the State Auditor shall, in addition to the "Consolidated Tax Account," carry separate accounts with each county for the following years, 1919, 1920, 1921, and 1922. As each subsequent years taxes are certified to the State Auditor, he shall include the fifth delinquent year in the "Consolidated Tax Account" and shall at no time carry over five accounts with each county. All taxes collected by the counties for the year so adjusted shall be credited to such account and may be reported as collections on account of the "Consolidated Tax Account."

Sec. 2. DISPOSITION OF MONIES COLLECTED ACCOUNT. "CONSOLIDATED TAX ACCOUNT.") All monies collected on taxes reported under "Consolidated Tax Account" shall be credited to the General Fund of the State of North Dakota.

Sec. 3. REPEAL.) That Section 2274, Compiled Laws of 1913 as amended by Section 2274, Session Laws of 1915 is hereby repealed.

Approved March 8th, 1923.

## CHAPTER 305.

(S. B. No. 300—Storstad.)

## TAXATION OF CORPORATE EXCESS.

An Act to Amend and Re-enact Section 2110 of the Compiled Laws of 1913 as Amended by Chapter 221 of the Session Laws of 1919 and Chapter 119 of the Session Laws of 1921 Relating to the Taxation of Corporate Excess.

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

Sec. 1. AMENDMENT.) Section 2110 of the Compiled Laws

of 1913 as amended by Chapter 221 of the Session Laws of 1919 and Chapter 119 of the Session Laws of 1921 is hereby amended and re-enacted to read as follows:

“The president, secretary, or other principal accounting officer of any domestic corporation, joint stock company or association whether incorporated or not, excepting bank and loan and trust companies, the taxation of which is provided for by other legislation, shall make out and mail to the tax commissioner, upon blanks furnished by the tax commissioner for such purpose which may be upon the same blank upon which the income tax return is made out, a sworn statement setting forth the following information concerning said corporation.

1. The name and location of the corporation, joint stock company or association.

2. The amount of capital stock authorized and the number of shares into which said stock is divided.

3. The amount of capital stock paid up.

4. The market value, or if it has no market value then the actual value of the shares of stock, and in estimating the actual value of the capital stock, the surplus and undivided profits shall be included.

5. The value of all its real estate.

6. The value of its personal property which is listed for taxation and taxed at the rate of the general property tax.

7. The aggregate amount of the 5th and 6th items shall be deducted from the amount of the 4th item, and the remainder, if any, shall be listed and taxed as corporate excess. The real and personal property, except money and credits, of each corporation, joint stock company, or association shall be listed and taxed the same as other real and personal property.

Sec. 2. The amount of corporate excess taxable against each corporation shall be assessed by the tax commissioner and shall be certified by him to the county auditors of the several counties on or before July first of each year, and the county auditor shall enter such assessment upon the tax list of the taxing district where its principal office or place of business is located, and extend taxes upon the same at the rate of the general property tax. The basis of assessment of corporate excess shall be such percentage of the total value thereof as is now or may hereafter be provided by statutes specifying the classification of property for purposes of taxation.

Sec. 3. In all cases of failure or refusal of any person, officer, corporation, joint stock company or association to make such statement, it shall be the duty of the commissioner to make such assessment from the best information he can obtain.

Approved March 1st, 1923.

## CHAPTER 306.

(S. B. No. 292—Van Camp.)

## STATE BOARD OF EQUALIZATION.

An Act to Amend and Re-enact Section 2141 of the Compiled Laws of North Dakota for the Year 1913 as Amended and Re-enacted by Chapter 35, Special Session Laws of 1919; Providing for the Substitution of the State Auditor and State Tax Commissioner as Members of the State Board of Equalization, Instead of the Commissioner of Insurance and Attorney General; Providing that the Tax Commissioner Shall be Secretary thereof instead of the Commissioner of Insurance and Prescribing the Powers and Duties of the State Board of Equalization in Regard to the Equalization and Assessment of Property.

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

Sec. 1. AMENDMENT.) Section 2141 of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted by Chapter 35 of the Special Session Laws of 1919, is hereby amended and re-enacted so that the same shall read as follows:

Sec. 2141. MEMBERSHIP OF BOARD.) The Governor, state treasurer, state auditor, commissioner of agriculture and labor and the state tax commissioner shall constitute the state board of equalization. The governor shall be chairman of the board and the tax commissioner the secretary.

Sec. 2. The state board of equalization shall meet annually on the first Tuesday in August at the office of the state tax commissioner and shall then examine and compare the returns of the assessment of property in the several counties of the state and proceed to equalize the same so that all taxable property in the state shall be assessed uniformly at its full and true value or at such percentage of full and true value as may be required by law.

Sec. 3. GENERAL POWERS AND DUTIES OF THE BOARD.) The State board of equalization shall equalize the valuation and assessment of property throughout the state and shall have power to equalize the assessment of property in this state between cities and villages of the same county and between the different counties of the state. It shall:

(A) Equalize the assessment of land by adding to the aggregate value thereof in every county in which the board may believe the valuation too low, such rate per cent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value thereof, in every county in which the board may believe the value too high, such per cent as will reduce the same to its proper relative value. Town and city lots shall be equalized in the same manner as herein provided for equalizing lands.

(B) Equalize the assessment of personal property by adding to the aggregate assessed value of any class of personal property of every county in which it believes such valuation to be too low, such rate per cent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value of any class of personal property in every county in which the board may believe the valuation to be too high, such per cent as will reduce the same to its proper relative value.

(C) Such board, in making such equalization, may add to or deduct from the aggregate assessed valuation of lands, town or city lots, or any class of personal property throughout the state, such per cent as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several counties, or throughout the state, the rate per cent of addition or deduction shall be even and not fractional.

Sec. 4. CERTAIN PROPERTY TO BE DIRECTLY ASSESSED IN THE FIRST INSTANCE BY THE STATE BOARD OF EQUALIZATION.) All property, real or personal belonging to railroad, street railroad, telegraph, telephone, express, sleeping car, dining car, freight line and car equipment companies and used exclusively in the operation and maintenance of its lines or routes in this state and lines for the transmission of electric current, shall be assessed for the purpose of taxation by the state board of equalization and not otherwise except in case of any such property as is now or may hereafter be made subject to a gross earnings tax in lieu of a property tax.

Approved March 1st, 1923.

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## CHAPTER 307.

(S. B. No. 299—Storstad.)

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### MONEY AND CREDITS.

An Act to Amend and Re-enact Section 1 of Chapter 62 of the Laws of North Dakota Enacted at the Special Session of 1919, and Declaring that an Emergency Exists, and that this Act shall Become Effective Immediately upon its passage and Approval.

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

Sec. 1. AMENDMENT.) Section 1 of Chapter 62 of the Laws of North Dakota enacted at the Special Session of 1919 is hereby amended and re-enacted to read as follows:

(1) Money and credits, as the same are defined in Section 2074 of the Compiled Laws of North Dakota for the year 1913, are hereby exempted from taxation except moneyed capital of the

citizens of the State of North Dakota which is so invested or used as to come into competition with money invested in bank stock of banks doing business in this state. This act shall not be construed so as to exempt the income from any class of money or credits from the operation of the existing or any future income tax law, nor to exempt any class of money or credits from the existing or any future law imposing a tax upon transfers of property, by will, gift or intestate law.

Sec. 2. EMERGENCY.) Whereas an emergency exists in that bank stock was inadvertently exempted from taxation by the section above amended and there is now no adequate method provided by law for the taxation of bank stock, therefore, 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 6th, 1923.

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## CHAPTER 308.

(S. B. No. 146—Ettestad.)

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### TAX EXEMPTIONS.

An Act to Amend and Re-enact Section 2078, Compiled Laws of North Dakota for the year 1913 as Amended by Chapter 223, Session Laws of 1919, and Chapter 122, Session Laws of 1921, Relating to the Exemption of Certain Property from Taxation.

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

Sec. 1. AMENDMENT.) That Section 2078, Compiled Laws of North Dakota for the year 1913, as amended by Chapter 223, Session Laws of 1919 and Chapter 122, Session Laws of 1921 is hereby amended and re-enacted to read as follows:

Sec. 2078. All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

1. All property whether real or personal owned exclusively by the United States.

2. All property whether real or personal owned by the state, but no lands contracted to be sold by the state shall be exempt.

3. All property whether real or personal belonging to any county, town, township, school district or to any municipal corporation, excepting land purchased by counties at tax sales which shall be taxed as provided in Section 2191, Compiled Laws of 1913.

4. Property of Indians who are not citizens except lands held by them by purchase, not held in trust.

5. All lands used exclusively for burying grounds or cemeteries.

6. All school houses, academies, colleges, institutions of learning, with the books and furniture therein, and the grants

attached to such buildings necessary for their proper occupancy, use, and enjoyment and not otherwise used with a view to profit; also all dormitories and boarding halls including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for use of students in attendance upon any of the educational institutions; provided that such dormitories and boarding halls shall not be managed or used for the purpose of making a profit over and above the cost of maintenance and operation.

7. All houses used exclusively for public worship, and lots or parts of lots upon which such houses are erected; also dwellings belonging to religious organizations intended and ordinarily used for the residence of the bishop, priest or rector, or other minister in charge of the services of the church, together with the lots upon which the same are situated.

8. All buildings and contents thereof belonging to institutions of public charity, including public hospitals under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institution not leased or otherwise used with a view to profit; and all money and credits appropriated solely to sustaining and belonging exclusively to such institutions.

9. Real and personal property of any agricultural fair association duly incorporated for the exclusive purpose of holding agricultural fairs and not conducted for the profit of any of its members or stockholders.

10. Real and personal property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations and associations, grand or subordinate, not organized for profit and used by them for places of meeting and for conducting their business and ceremonies; and all personal and real property owned by any fraternity, sorority or organization of college students; provided, however, that such property as enumerated in this subsection shall be used exclusively for such purposes.

11-A. All personal property of insurance companies that are subject to a lieu tax upon gross premiums or gross earnings.

11-B. All personal property of National and State Banking Associations, whose capital stock is assessed and taxed to the holders thereof in lieu of a tax upon its property valued and assessed under the provisions of Section 2115 of the Compiled Laws for 1913, as amended by Chapter 61 of the Laws of 1917.

12. All land used as a public park or monument ground belonging to any military organization and not used for gain shall be exempt from taxation.

13. The armory, and land or lots upon which situated, owned by any regiment, battalion or company of the North Da-

kota National Guard, and used for military purposes by such organization.

14. All structures and improvements on agricultural lands, provided that this subsection shall be construed to mean farm buildings and not industrial plants, residences or other structures located without the limits of any city, town or village, not used or intended for use as a farm residence or as a part of a farm plant.

Sec. 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 6th, 1923.

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#### CHAPTER 309.

(S. B. No. 253—Van Camp.)

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#### REPEAL, TAX EXEMPTIONS, LIMITATIONS.

An Act to Repeal Chapter 122 of the Session Laws of 1921.

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

That Chapter 122 of the Session Laws of 1921 be and the same is hereby repealed.

Approved March 5th, 1923.

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#### CHAPTER 310.

(S. B. No. 302—Storstad.)

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#### TAXATION FREIGHT LINE AND CAR EQUIPMENT COMPANIES.

An Act to Impose a Gross Earnings Tax on Certain Freight Line and Car Equipment Companies Owning and Operating or Leasing and Operating over Railroad Lines Within this State for the Purpose of Raising Revenue to Defray the General Expenses of State Government; Repealing Sections 2 to 11 Inclusive, of Chapter 59, Special Session Laws of 1919 and All Other Acts and Parts of Acts in Conflict Herewith.

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

Sec. 1. Every freight line and car equipment company, except dining, buffet, chair, parlor or sleeping car companies, owning and operating or leasing and operating cars over any railway line in this state or partly within this state shall pay an annual tax to the State upon the gross earnings from the operation of its lines or routes in this state of six (6) per cent of its total gross earnings within the state.

Sec. 2. Every such freight line and car equipment company shall on or before the fifteenth day of March of each year, file with the state tax commissioner a statement under oath of its treasurer or person performing the duties of treasurer, or of its duly authorized agent. Such statement shall contain:

- (1.) The name of the company.
- (2.) Whether a person, partnership, association or corporation, and under the laws of what state or country organized.
- (3.) The location of its principal office.
- (4.) The name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager.
- (5.) The name and postoffice address of the chief officer and managing agent of the company in this state.
- (6.) The total amount of gross earnings from the operation of its lines or routes for the preceding calendar year, or for such lesser time as such company has carried on business.
- (7.) The total number of miles its cars were operated in this state and the total number of miles its cars were operated both within and without this state for such period.
- (8.) Every corporation included in Section 1 of this act shall be taxed upon the amount of its gross earnings from its operation in this state which shall be determined for the purpose of assessment and taxation as follows:

(A.) In the case of a company owning and operating or leasing and operating cars wholly within the limits of this state the entire amount of gross earnings from the operation of its lines or routes.

(B.) In the case of a corporation owning and operating or leasing and operating cars both within and without the state, such share of the entire amount of the gross earnings from the operation of its lines or routes shall be apportioned to this state as the number of miles such cars were operated in this state for the year ending December 31st next preceding, bears to the total number of miles such cars were operated both within and without the state.

Sec. 3. ASSESSMENT AND COLLECTION.) The total tax due from each company shall be computed by the state tax commissioner from the annual return herein required, or from other information and shall be assessed by the state board of equalization. The tax as so determined and assessed shall be certified by the state tax commissioner to the state treasurer for collection on or before the first day of May in each year. The tax shall be payable on the first day of June next, and if not paid shall become delinquent on the first day of July, and thereupon a penalty of five (5) per cent shall attach and be charged. Interest at the rate of one per cent per month shall be computed upon all delinquent taxes paid after August 1st. Unpaid taxes shall be

collected by the procedure outlined in Chapter 58 of the Special Session Laws of 1919 for the collection of delinquent taxes.

Sec. 4. EXEMPTION FROM OTHER TAXATION.) The tax imposed by this act upon the property of freight line and car equipment companies shall be in lieu of all other taxes upon property used exclusively in the operation of the business of such companies in this state.

Sec. 5. PENALTIES.) If the return required to be made by Section 1 of this act is not made within twenty (20) days after the time therein fixed, the person or company or officer neglecting or refusing to make the same shall be liable to a penalty of not exceeding five hundred dollars (\$500) for each ten days thereafter during which such report shall be delayed, said penalty to be assessed by the state board of equalization and certified and collected in the manner herein provided for the assessment and collection of a tax. The tax commissioner may, in his discretion, grant extension of time within which such returns shall be filed.

Sec. 6. For the purpose of this act and the taxes herein imposed, all cars owned and operated or leased and operated by any freight line or car equipment company over railroad lines or routes within the state or partly within and partly without the state are hereby declared to have a situs in the state. All administrative special and general provisions of law, including the general tax laws of the state and not inconsistent with the provisions of this act are hereby extended and made applicable to all of the provisions of this act and to the tax herein imposed.

Sec. 7. All moneys collected under the provisions of this act shall be paid into the state treasury to be used in paying the general expenses of state government.

Sec. 8. REPEAL.) Sections 2 to 11 inclusive, Chapter 59, Special Session Laws of 1919 and all other acts and parts of acts in so far as inconsistent with the provisions of this act are hereby repealed.

Sec. 9. Whereas, an emergency exists because the present gross earnings tax law on freight line and car equipment companies is legally defective, this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 7th, 1923.

## CHAPTER 311.

(S. B. No. 341—Thorson.)

## GASOLINE TAX.

An Act to Impose a Tax upon Gasoline, stored, shipped, distributed or held for sale within this State, for the purpose of raising revenue for defraying the expenses of the State Government; providing for the Administration of the Same; Repealing Chapter 227 of the Session Laws of 1919 as Amended by Chapter 64 of the Special Session Laws of 1919.

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

Sec. 1. DEFINITION.) The term "oil company" when used in this act, shall mean any person, corporation, company, or association engaged in the business of storing, shipping, distributing or selling within the state any of the petroleum products enumerated in this act. The term "gasoline" as used in this act, shall include the product as defined in the North Dakota Petroleum Products Inspection Act. The term "state chemist" shall mean the state food commissioner and chemist, and shall include any person employed by the state for the inspection of any petroleum products within the state.

Sec. 2. IMPOSITION OF THE TAX.) Upon all gasoline stored or offered for sale within the state or held with intent to sell or transport within the state, there is hereby imposed a tax of one cent per gallon upon each and every gallon so stored or held from and after the date when this act goes into effect. Such tax shall be assessed against all oil companies doing business within the state and engaged in storing, shipping, consigning, distributing, or selling the petroleum product hereinbefore named.

Sec. 3. The taxes herein imposed shall be assessed monthly by the state tax commissioner on returns to be made by the state chemist.

Sec. 4. At the time of making inspection of gasoline as prescribed by the oil inspection laws of the state, such state chemist shall require every oil company for whom such inspection is made to furnish him all data and information necessary to determine the number of gallons subject to taxation under this act; such state chemist shall include such data and information in his monthly report to the state tax commissioner. If any oil company shall refuse to furnish such data or information, or in case the state chemist shall have reasonable grounds for the belief that such data or information is false or inadequate, he shall secure all the data or information necessary for making the return herein required by further investigation and inspection.

Sec. 5. The state tax commissioner shall make all assessments of taxes upon such returns, within thirty days after the close of the calendar month for which such returns are made, and shall certify the amount of the tax to the state treasurer who shall notify such oil company of the amount of taxes due. If the taxes remain unpaid for thirty days after notice by the state treasurer, such taxes shall become delinquent and a penalty of five (5) per cent of the amount thereof shall immediately accrue, together with one per cent for each month during which such tax continues to be delinquent and remains unpaid, which penalty shall be added to the tax demanded, and paid in the manner herein provided for the tax itself.

Sec. 6. Such delinquent and unpaid taxes and penalties assessed, certified and demanded, as provided in this act, shall be a lien upon all and singular the property, estates and effects of each oil company against which the taxes are assessed, and such lien shall have precedence over all demands and judgments against the same, and the certificate of the state treasurer that said tax and penalties are due and unpaid shall be sufficient warrant for the tax commissioner to institute proceedings for the collection of such taxes and penalties by a sale of such property, or otherwise; and the tax commissioner, not less than thirty days after such taxes have become delinquent, shall institute such proceedings for the collection of such taxes and penalties as herein provided.

Sec. 7. If any oil company subject to any tax hereunder fails to furnish upon demand of the state chemist the data or information herein required to be furnished, and if, because of such failure, such state chemist shall in any case be unable to make the return herein required to be made, such state chemist or his duly appointed agent shall examine the books, accounts, and records of such company and according to his findings of such examination, or from any other source available to him, shall determine the tax upon such gasoline and shall notify said tax commissioner of the amount thereof, and in assessing such tax the state tax commissioner shall add thereto a penalty of ten (10) per cent of the amount of such tax for the failure of such oil company to furnish such information. Said assessment by the state tax commissioner shall stand in place of the report required by law to be made by such oil company, and the same, or a certified copy thereof, shall be prima facie evidence in all the courts of the state of the correctness and validity of such assessment, taxes, and penalties, and the liability of such oil company.

Sec. 8. Any oil company required to make any return or furnish any information under the provisions of this act, which shall neglect to make such return or furnish such information at the time and in the manner specified, shall be deemed guilty of a misdemeanor and shall be punishable by a fine of not less than

one hundred dollars (\$100) and each day's continuance of the failure or refusal to make such return, or furnish such information, shall constitute a new offense. Any oil company making any false or fraudulent return or statement for the purpose of evading the payment of any taxes imposed by this act, shall be deemed guilty of a misdemeanor and shall be punishable by a fine of not less than five hundred dollars (\$500), and any person responsible for making such false or fraudulent return shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than one hundred (\$100) nor more than five hundred dollars (\$500), or by imprisonment for not less than six (6) months, nor more than one year, or by both such fine and imprisonment.

Sec. 9. It is hereby declared to be the intention and purpose of this act to impose a tax upon every gallon of gasoline coming within Section 2 of this act, and at the rate therein specified, where such gasoline is stored, shipped or offered for sale by any oil company, as in this act defined, to any selling agent, retailer or consumer; but nothing in this act shall be construed so as to impose a tax upon any gasoline more than once nor upon gasoline reshipped and sold within the state, or used by any such oil company in the course of its business within the state. Any oil company which has been assessed and has paid any tax upon gasoline, afterwards used by it in the course of its business or shipped out of the state, shall be allowed a rebate of the amount of the same by making an application therefor under oath to the state tax commissioner; provided that the state chemist shall hereby be authorized to make rules and regulations permitting a rebate to cover actual shrinkage in gasoline upon which a tax has been paid; such rebate for shrinkage shall include actual losses either by leakage of containers or evaporation, and such rebate shall not exceed two (2) per cent of the amount of such gasoline handled during the year. Said rebates are to be paid out of the state treasury by warrant of the state auditor drawn in accordance with the certificate of the state tax commissioner that such rebate has been approved, or the amount of such rebate may be credited to such oil company and deducted from its next assessment, at the option of such company as expressed in its application for such rebate.

Sec. 10. For the purpose of this act and the taxes herein imposed, all cars, transmission lines, tanks, tank wagons, distributing stations, filling stations and gasoline in storage or in transit, owned and operated by any oil company and situated within the state, or partly within and partly without the state, are hereby declared to have a situs in the state.

Sec. 11. All administrative, special and general provisions of law, including the oil inspection laws and the general tax

laws of the state, not inconsistent with the provisions of this act, are hereby extended and made applicable to all provisions of this act, and the taxes herein imposed.

Sec. 12. All taxes imposed under the provisions of this act upon gasoline shall be in lieu of all other state or local taxes upon such product.

Sec. 13. Of the moneys collected under the provisions of this act, the state treasurer shall annually retain in his hands the sum of fifteen thousand dollars (\$15,000) out of which he shall pay any refunds as provided for in Section 9. Any unexpended balance of such sum shall, at the close of the year, be credited to the general fund. All other moneys collected under the provisions of this act shall be paid into the state treasury to be used in defraying the general expenses of the State government.

Sec. 14. If any section, paragraph, clause, sentence or part of this act shall by any court of competent jurisdiction be declared unconstitutional, such decision shall not affect or impair the validity of any other section, paragraph, clause, sentence, or part thereof, but be confined to the particular section, paragraph, clause, sentence, or part involved in the case in which such decision was rendered.

Sec. 15. Chapter 227, Session Laws of 1919, as amended by Chapter 64 of the Special Session Laws of 1919, and all acts and parts of acts in so far as inconsistent with the provisions of this act, are hereby repealed.

Sec. 16. 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 6th, 1923.

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## CHAPTER 312.

(S. B. No. 21—Thorson.)

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### INCOME TAX.

An Act to Amend and Re-enact Chapter 224, Laws of North Dakota for the year 1919, as amended by Chapter 60, Special Session Laws of 1919, as amended by Chapter 123 of the Laws of 1921; an act for the purpose of raising revenue to defray the general expenses of the state government by providing for a tax on the incomes of individuals, fiduciaries, corporations, joint stock companies or associations and insurance companies in the State of North Dakota; graduating incomes for the purpose of taxation; providing for exemptions and deductions in certain cases; prescribing a method of levying and collecting said tax; prescribing penalties for nonconformance with the provisions of this act, and repealing all acts and parts of acts in conflict herewith.

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

Sec. 1. Chapter 224, Session Laws of North Dakota for the year 1919, as amended by Chapter 60, Special Session Laws of

North Dakota for the year 1919, as amended by Chapter 123 of the Laws of 1921, is hereby amended and re-enacted to read as follows:

Article 1.

Definitions.

Sec. 2. For the purpose of this act, unless otherwise required by the context:

1. The term "person" includes individuals, fiduciaries, partnerships, and corporations.

2. The term "corporation" includes associations, joint stock companies and insurance companies.

3. The term "domestic" when applied to a corporation means created or organized under the laws of North Dakota.

4. The term "foreign" when applied to a corporation means created or organized outside of North Dakota.

5. The term "tax commissioner" means the state tax commissioner.

6. The term "taxpayer" includes any individual, corporation, or fiduciary subject to a tax imposed by this act.

7. The term "income Year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the net income is computed under this act. If no fiscal year has been established, it means the calendar year.

8. The term "fiscal year" means an accounting period of twelve months ending on the last day of any month, other than December.

9. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate.

10. The term "resident" applies only to individuals and includes, for the purpose of determining liability to the tax imposed by this act, any individual who shall be a resident of the state on January first of the tax year.

11. The term "tax year" means the calendar year in which the tax is payable.

12. The term "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in the stock of the corporation.

13. The term "paid" for the purposes of deductions under this act, means "paid or accrued" or "paid or incurred," and "incurred" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

14. The term "received," for the purpose of computation of net income under this act, means "received or accrued,"

and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

## Article II.

### General Provisions.

#### Income of Individuals and Corporations Subject to Tax. Allocation and Apportionment of Income of Corporations and Partnerships.

Sec. 3. The tax imposed by this act shall be levied, collected and paid annually with respect to his entire net income not hereinafter exempted received by every resident individual. Provided that any individual may pay the tax due under this act in four quarterly installments on March fifteenth, June fifteenth, September fifteenth, and December fifteenth of the year in which it is assessed.

Sec. 4. Non-resident individuals shall not be subject to tax under this act.

Sec. 5. Partnerships shall not be subject to tax under this act but the individual members of such partnerships shall be taxable on their share of the net profits of such partnership whether the same are distributed or not.

Sec. 6. The tax imposed by this act shall be levied, collected and paid annually with respect to its North Dakota net income, as hereinafter defined, received by every corporation doing business in this state.

#### Sec. 7. ALLOCATION AND APPORTIONMENT OF INCOME OF CORPORATIONS.)

1. Interest, dividends, rents and royalties not received in connection with the transaction of business, and gains from the sale of property not held, owned or used in connection with business (less related expenses, if any) shall be allocated to North Dakota if received from sources within the State of North Dakota and if received from sources outside the State of North Dakota such income shall be allocated outside the state and the balance hereinafter referred to as business income shall be allocated to North Dakota and shall be taxable as hereinafter set forth.

2. If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire business income, but if such trade or business is carried on partly within and partly without the state, the tax shall be imposed only on the portion of the business income reasonably

attributable to the trade or business within the state, to be determined as follows:

(a) Interest, dividends, rents and royalties (less related expenses) received in connection with business in the state, shall be allocated to the state and where received in connection with business outside of the state, shall be allocated outside of the state.

(b) Gains from the sale of capital assets or property held, owned or used in connection with the trade or business of a corporation but not for sale in the regular course of business shall be allocated to the state if the property sold is real or tangible personal property situated in the state, or intangible property connected with the business in the state; otherwise, such gains shall be allocated outside of the state.

(c) Net income of the above classes having been separately allocated and deducted as above provided, the remainder of the net business income of a corporation shall be allocated and apportioned as follows:

(1) Where income is derived from business other than the manufacture and sale of tangible personal property, or the conduct of a public utility, such income shall be specifically allocated or equitably apportioned within and without the state under rules and regulations of the tax commissioner.

(2) Where income is derived from the manufacture or sale of tangible personal property, the portion thereof attributable to business within the state shall be taken to be such percentage of the total of such income as the tangible property and business within the state bear to the total tangible property and total business, the percentage of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

For the purpose of the foregoing computation, the value of the tangible property shall be taken to be average value of the tangible property held and owned by the corporations in connection with such business during the year for which the income is returned, excluding any property the income of which is not taxable or separately allocated under the foregoing provisions of this act.

The business of the corporation shall be measured by the amount which the corporation has paid out during the year for which the income is returned for wages, salaries, or other compensation to employees and for the purchase of goods, materials and supplies consumed or sold in the regular course of business, plus the amount of all receipts during the year from sales and other sources connected with said business, excluding however,

receipts from the sale of capital assets and property not sold in the regular course of business and also receipts from interest, dividends, rents and royalties separately allocated as above provided.

Accounts payable for compensation and purchases and accounts receivable from sales and other sources arising from business during the year, shall be included in the formula if the corporation's return is made on the accrued basis.

For the purpose of this subdivision, payments of wages, salaries, and other compensation shall be assigned to the office, agency or place of business of the corporation at which the employee chiefly works, or from which he is sent out or with which he is chiefly connected.

Payments for purchases shall be assigned to the office, agency or place of business of the corporation at or from which such purchases are chiefly handled and attended to with respect to the negotiation and execution.

Receipts from sales and other sources shall be assigned to the office, agency, or place of business of the corporation at or from which the transactions giving rise to such receipts are chiefly handled and attended to with respect to the negotiation and execution.

For the purposes of this section, the word "sale" shall include all exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing.

(3) Where the income is derived from the conduct of a public utility, the portion thereof attributable to business within the state shall be taken to be such percentage of the total of such income as the tangible property and business within the state bear to the total tangible property and total business, the percentages of tangible property and of business being separately determined as hereinafter provided, and the two percentages averaged.

For the purposes of the foregoing computation, the value of the tangible property shall be taken to be the average value of the tangible property held and owned by the corporation in connection with such business during the year for which the income is returned; excluding any property the income of which is not taxable or separately allocated under the foregoing provisions of this act.

The business of the public utility shall be measured by the amount which the utility has paid out during the year for which the income is returned for wages, salaries, or other compensation to employees plus the amount of receipts from the carrying on of the business; providing that receipts in North Dakota shall be held to be all receipts from business beginning and ending within North Dakota and a proportion of receipts on all busi-

ness passing into, through or out of this state; the apportionment or allocation of gross receipts of railroad companies and other public utilities to the state shall be made on the basis prescribed by the Interstate Commerce Commission for assigning interstate traffic receipts to the state.

Accounts payable for compensation and accounts receivable from services rendered and other sources arising from business during the year shall be included in the formula if the corporation's return is made on the accrued basis.

For the purposes of this subsection, payments for wages, salaries and other compensation shall be assigned to the office, agency or place of business of the corporation at which the employee chiefly works or from which he is sent out or with which he is chiefly concerned.

Sec. 8. ALLOCATION IN SPECIAL CASES.)

(a) If any corporation believes that the method of allocation and apportionment hereinbefore prescribed as administered by the tax commissioner and applied to their business has operated or will so operate as to subject them to taxation on a greater portion of their net income than is reasonably attributable to business or sources within the state, they shall be entitled to file with the commissioner a statement of their objections and of such alternative method of allocation and apportionment as they believe to be proper under the circumstances with such detail and proof and within such time as the tax commissioner may reasonably prescribe; and if the tax commissioner shall conclude that the method of allocation and apportionment theretofore employed is in fact inapplicable and inequitable, he shall redetermine the taxable income by such other method of allocation and apportionment as seems best calculated to assign to the state for taxation the portion of the income reasonably attributable to business and sources within the state, not exceeding, however, the amount which would be arrived at by application of the statutory rules for apportionment.

(b) The income of a partnership shall be allocated to North Dakota and outside North Dakota in the same manner as is hereinbefore provided in the case of corporations.

Sec. 9. BASIS FOR DETERMINING GAIN OR LOSS.) For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal or mixed, the basis shall be:

(a) In the case of property acquired before January 1, 1919, the fair market value as of that date; and

(b) In the case of property acquired on or after that date, the cost thereof, or the inventory value, if the inventory is made in accordance with this act.

(c) When property is exchanged for other property, the property received in exchange, shall, for the purpose of determining gain or loss, be treated as the equivalent of cash to the amount of its fair market value, if any.

Sec. 10. INVENTORY.) Whenever in the opinion of the tax commissioner, use of inventory is necessary in order clearly to determine the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the tax commissioner may prescribe, conforming as nearly as may be, to the best accounting practice in the trade or business, and most clearly reflecting income and conforming, as far as may be, to the forms and methods prescribed by the United States Commissioner of internal revenue under the act of congress known as the Revenue Act of 1921.

Sec. 11. FISCAL YEAR WITH DIFFERENT RATES.) That if a taxpayer makes return for a fiscal year beginning in 1922 and ending in 1923, his tax under this act shall be computed by using:

(a) The 1922 rates on that proportion of his total net income which the portion of such fiscal year ending within the calendar year 1922 bears to the full fiscal year.

(b) The 1923 rates shall apply to the remainder.

### Article III.

#### Imposition of Tax on Individuals and Fiduciaries.

Sec. 12. A tax is hereby imposed upon every resident of North Dakota which tax shall be levied, collected and paid annually with respect to his entire net income as herein defined, computed at the following rates after deducting the exemptions provided in this act:

On all net income above exemptions and not in excess of \$2,000 a tax of 1 per cent.

On all net income in excess of \$2,000 above exemptions and not in excess of \$4,000 a tax of 2 per cent.

On all net income in excess of \$4,000 above exemptions and not in excess of \$6,000 a tax of 3 per cent.

On all net income in excess of \$6,000 above exemptions and not in excess of \$8,000 a tax of 4 per cent.

On all income in excess of \$8,000 above exemptions and not in excess of \$10,000 a tax of 5 per cent.

On all net income in excess of \$10,000 above exemptions a tax of 6 per cent.

Sec. 13. Such tax shall first be levied, collected and paid in the year 1924 and with respect to the net income received during the calendar year 1923.

Sec. 14. The tax imposed by this act shall be imposed upon resident fiduciaries, which tax shall be levied, collected and paid annually, with respect to:

(a) That part of the net income of estates or trusts which has not been distributed or become distributable to the beneficiaries during the income year.

(b) The net income received before death during the income year by deceased individuals who at the time of death were residents, and who have died during the tax year without having made a return;

(c) The entire net income of resident insolvent or incompetent individuals, whether or not any portion thereof is held for future use of the beneficiaries, where the fiduciary has complete charge of such net income.

Sec. 15. The tax imposed upon a fiduciary by this act shall be a charge against the estate or trust.

#### Article IV.

##### Computation of Tax of Individuals and Fiduciaries.

Sec. 16. NET INCOME DEFINED.) The words "net income" mean the gross income of an individual or fiduciary less the deductions allowed by this act.

Sec. 17. GROSS INCOME DEFINED.)

(1) The words "gross income" include gains, profits, and income derived from salaries, wages or compensation for personal services of whatever kind and in whatever form paid, or from professions, vocations, trades, business, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership or use of, or interest in, such property; also from interest, rent, dividends, securities or the transaction of any business carried on for gain or profit, or gains or profits, and income derived from any source whatever. The amount of all such items shall be included in gross income of the taxable year in which received by the taxpayer unless under methods of accounting permitted under this act any such amounts are to be properly accounted for as of a different period.

(2) The term "gross income" does not include the following items, which shall be exempt from taxation under this act:

(a) Proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract, or upon surrender of the contract.

(c) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income.)

(d) Interest upon obligations of the United States or its possessions, or upon obligations of the state of North Dakota, or any political subdivision of the state of North Dakota.

(e) Any amount received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness plus the amount of damages received, whether by suit or agreement on account of such injuries or sickness.

(f) Salaries, wages and other compensation received from the United States by officials or employees thereof, including persons in the military or naval forces of the United States.

(g) Income from deposits in North Dakota banks and from loans on North Dakota real estate when payable to foreign corporations.

Sec. 18. BASIS OF RETURN OF NET INCOME.) (1) Taxpayers who customarily estimate their income on a basis other than that of actual cash receipts and disbursements, may, with the approval of the tax commissioner, return their net income under this act upon a similar basis. Taxpayers who customarily estimate their income on the basis of an established fiscal year instead of on that of the calendar year, may, with the approval of the tax commissioner, and subject to such rules and regulations as he may establish, return their net income under this act on the basis of such fiscal year, in lieu of that of the calendar year.

(2) A taxpayer may, with the approval of the tax commissioner and under such regulations as he may prescribe, change his income year from fiscal year to calendar year, or otherwise, in which case his net income shall be computed upon the basis of such new income year.

(3) An individual carrying on business in partnership shall be liable for income tax only in his individual capacity and shall include in his gross income the distributive share of the net income of the partnership received by him or distributable to him during the income year.

(4) Every individual taxable under this act who is a beneficiary of an estate or trust, shall include in his gross income the distributive share of the net income of the estate or trust, received by him or distributable to him during the income year. Unless otherwise provided in the law, the will, the deed, or other instrument creating the estate, trust or fiduciary relation, the net income shall be deemed to be distributed or distributable to the beneficiaries (including the fiduciary as a benefi-

ary in the case of income accumulated for future distribution) ratably in proportion to their respective interests.

Sec. 19. DEDUCTIONS ALLOWED.) In computing net income, there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid during the income year in the carrying on of any trade or business including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession for the purposes of the trade or business of property to which the taxpayer has not taken or is not taking title, or in which he has no equity.

(2) Interest paid or accrued within the year on taxpayer's indebtedness.

(3) Taxes paid or accrued within the income year upon property or business, but not including those assessed against local benefits of a kind tending to increase the value of the property assessed. Federal income taxes may be deducted to the extent such taxes represent a tax paid on income taxable under this act.

(4) All losses sustained during the income year and not compensated for by insurance or otherwise.

(5) Debts ascertained to be worthless and charged off during the taxable year, if the amount has previously been included in gross income in a return under this act.

(6) A reasonable allowance for necessary repairs and a reasonable allowance for depreciation by use, wear and tear of property used in business or trade, and in case of mines, oil and gas wells or other natural deposits, a reasonable allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or in the equivalent of cash, and including cost of development, and in case of property acquired prior to January 1, 1919, the fair market value on that date shall be taken in lieu of cost up to that date.

(7) Dividends or income received by any person from stock or interest in any corporation, the income of which shall have been assessed under this act; provided, that when only a part of the income of any corporation shall have been assessed under this act, only a corresponding part of the dividends or income received therefrom shall be deducted. Income tax paid at the source shall be deducted from the amount of tax due.

Sec. 20. ITEMS NOT DEDUCTIBLE.) That in computing net income, no deduction shall, in any case, be allowed in respect to:

(1) Personal living or family expenses.

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate.

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(4) Premiums paid on life insurance policies covering taxpayer's life, or the life of any employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Sec. 21. EXEMPTIONS.)

(a) For the purpose of the tax on individuals, there shall be deducted from the net income the following exemptions:

(1) In the case of a single individual, an exemption of \$1,000.

(2) In the case of a head of a family or married individual living with husband or wife, a personal exemption of \$2,000. A husband and wife living together shall receive but one personal exemption of \$2,000 against their aggregate net income; and in case they make separate returns, the personal exemption of \$2,000 may be taken by either or divided between them.

(3) Three hundred dollars for each individual (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if such dependent individual is under eighteen years of age or is incapable of self support because mentally or physically defective or incapacitated, provided that exemptions may be claimed for children over the age of eighteen years and under the age of twenty-one years, that are dependent upon the taxpayer for support and are attending educational institutions.

(b) For the purpose of the tax on fiduciaries, there shall be deducted:

(1) If taxable under Article III, Section 14 (a), a personal exemption of \$1,000.

(2) If taxable under Article III, Section 14 (b), the same exemption as would be allowed the deceased if living.

(3) If taxable under Article III, Section 14 (c), the same exemption to which the beneficiary would be entitled.

(c) The status on the last day of the income year shall determine the right to exemptions provided in this section; provided, a taxpayer shall be entitled to such exemptions for husband, wife or dependent who has died during the income year.

## Article V.

## Returns of Individuals and Fiduciaries.

## Sec. 22.

(a) Every individual subject to taxation under the provisions of this act, having a net income during the income year of \$1,000 or over, if single, or if married and not living with husband or wife, or having a net income for the fiscal year of \$2,000 or over, if married and living with husband and wife, shall make a return, under oath, stating specifically the items of his gross income and the deductions and exemptions allowed by this act.

(b) If a husband and wife living together have an aggregate net income of \$2,000 or over, each shall make such a return, unless the income of each is included in a single joint return.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(d) Every fiduciary subject to taxation under the provisions of this act, as provided in Section 14 hereof, shall make a return under oath, for the individual estate or trust for whom or for which he acts, if the net income thereof amounts to \$1,000 or over.

(e) The return made by a fiduciary shall state specifically the items of gross income and the deductions and exemptions allowed by this act, and such other facts as the tax commissioner may prescribe. Under such regulations as the tax commissioner may prescribe, a return may be made by one or more joint fiduciaries.

(f) Fiduciaries required to make returns under this act shall be subject to all of the provisions of this act which apply to individuals.

Sec. 23. INFORMATION AT THE SOURCE.) Every individual or corporation being a resident or having a place of business in this state, in whatever capacity acting, having the control, receipt, custody, or disposal of interest, rent, salaries wages, or any other fixed gains, paid or payable during any year to any resident or North Dakota, shall make complete return of information thereof under oath, to the tax commissioner, under such regulations as he may prescribe; unless of such character that it is exempt from taxation under the terms of this act; provided no payments of less than \$1,000 salaries or wages, or less than \$600 of the other payments mentioned herein need be reported.

Sec. 24. TIME AND PLACE OF FILING RETURNS AND PAYMENTS OF TAX DUE.) Returns shall be in such form as the tax commissioner may from time to time prescribe, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. Returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of March. The tax commissioner may grant reasonable extensions of time for filing reports, when in his judgment good cause exists. There shall be annexed to the return an affidavit or affirmation of the taxpayer making the return to the effect that the statements contained therein are true. The tax commissioner shall prepare blank forms for said returns and shall cause them to be distributed throughout the state, but failure to receive or secure a form shall not relieve the taxpayer from making a return. The taxpayer shall compute the amount of tax due under his return and shall attach thereto a check, draft or money order, payable to the state treasurer, Bismarck, North Dakota, for the amount of tax as so computed. Provided that the payments may be made in quarterly installments, and if paid in installments the first installment shall be paid at the time fixed by law for filing the return; the second installment shall be paid on the fifteenth day of the third month; the third installment, on the fifteenth day of the sixth month; and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return.

Sec. 25. FAILURE TO FILE RETURNS: UNDER STATEMENT IN RETURNS.) If the tax commissioner shall be of the opinion that any taxpayer has failed to file a return, or to include in a return filed, either intentionally or through error, items of taxable income, he may require from such taxpayer a return, or supplementary return, under oath, in such form as he shall prescribe of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this act. If from a supplementary return, or otherwise, the tax commissioner finds that any items of income, taxable under this act, have been omitted from the original return, he may require the items so omitted to be disclosed to him under oath of the taxpayer and to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provisions of this act.

#### Article VI.

##### Imposition of Tax on Corporations.

Sec. 26. There shall be levied, collected and paid for the

year ending December 31, 1923, and annually thereafter, upon the net income of every domestic and every foreign corporation received from such sources as are described in Article II, Sections 7 and 8, a tax equivalent to three per cent (3%) of such net income.

Sec. 27. **CONDITIONAL AND OTHER EXEMPTIONS.)**

The following organizations shall be exempt from taxation under this act:

1. Labor, agricultural or horticultural organizations.
2. Mutual savings banks not having a capital stock represented by shares.
3. Fraternal beneficiary societies, orders or associations;
  - (a) Operating under the lodge system or for the exclusive benefit of the members of the fraternity itself operating under the lodge system, and
  - (b) providing for the payment of life, sick, accident, or other benefits, to the members of such society, order or association, or their dependents.
4. Domestic building and loan associations operated for mutual purposes, except Building and Loan Associations which receive savings deposits.
5. Cemetery companies owned and operated exclusively for the benefit of their members.
6. Corporations organized and operating exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual.
7. Business leagues, commercial clubs, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual.
8. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.
9. Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member.
10. Farmers, or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or co-operative telephone companies or like organizations of a purely local character, the income of which consists solely of assessment dues, and fees collected from members for the sole purpose of meeting expenses.
11. Farmers' potato growers' or like associations, organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds

of sale, less the necessary expenses, on the basis of the quantity of produce furnished by them.

12. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount thereof, less expenses, to an organization which is itself exempt from the tax imposed by this act.

13. Insurance companies doing business in the state and paying a tax upon the gross amount of premiums received in the state.

#### Article VII.

##### Computation of Tax On Corporations.

Sec. 28. NET INCOME DEFINED.) The words "net income" mean the gross income of a corporation less the deductions allowed by this act.

Sec. 29. GROSS INCOME DEFINED.) The words "gross income" mean the gross income as defined in Article IV, Section 17; except that, in the case of life insurance companies there shall not be included in gross income such portion of any actual premium received from any individual policy holder as is paid back or credited to or treated as an abatement of premium of such policyholder within the taxable year.

##### Sec. 30. BASIS OF THE RETURN OF NET INCOME.)

1. Taxpayers who customarily estimate their net income on a basis other than that of actual cash receipts and disbursements may, with the approval of the tax commissioner, return their net income under this act upon a similar basis. Taxpayers who customarily estimate their income on the basis of an established fiscal year instead of on that of the calendar year, may, with the approval of the tax commissioner and under such regulations as he may establish, return their net income under this act on the basis of such fiscal year, in lieu of the calendar year.

2. A taxpayer may, with the approval of the tax commissioner and under such regulations as he may prescribe, change his income year from fiscal to calendar year, or otherwise, in which case his net income shall be computed on the basis of such new income year.

Sec. 31. DEDUCTIONS.) In computing net income, there shall be allowed as deductions:

1. All the ordinary and necessary expenses paid during the income year in the carrying on of any trade or business including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to

the continued use or possession for the purpose of the trade or business of property to which the taxpayer has not taken or is not taking title, or in which he has no equity.

2. All interest paid during the income year on indebtedness incurred in connection with the trade or business.

3. Taxes paid within the income year, including taxes paid by banks on behalf of their stockholders upon their shares of stock, but not, including those assessed against local benefits tending to increase the value of the property assessed. Federal Income taxes shall be deducted only to the extent that such taxes represent a tax paid on income taxable under this act.

4. Losses sustained during the income year that are not compensated for by insurance or otherwise.

5. Debts ascertained to be worthless and charged off during the taxable year, but no debts shall be deducted unless they have previously been included as income in a return under this act.

6. DEPRECIATION.) A reasonable allowance for depreciation by use, wear and tear of property used in a trade or business; and in the case of mines, oil, and gas wells and other natural deposits, a reasonable allowance for depletion.

7. Dividends or income received from stock or interest in any corporation, the income of which shall have been assessed and taxed under the provisions of this act, provided that when only part of the income of any corporation shall have been assessed under this act, only a corresponding part of the dividends or income received therefrom shall be deducted.

8. Amounts distributed by co-operative companies to patrons, stockholders and non-stockholders alike, on a strictly patronage basis.

9. In the case of taxpayers who keep regular books of account upon an accounting basis and in accordance with standard accounting practices, reserves for bad debts and for contingent liabilities under such rules and restrictions as the tax commissioner may impose. If the tax commissioner shall, at any time, deem the reserve excessive in amount, he may restore such excess to income either in a subsequent year or as a part of the income of the income year, and assess it accordingly.

10. In the case of insurance companies, in addition to the above; (a) The net additions required by law to be made within the taxable year to reserve funds; and (b) the sums other than dividends paid within the taxable year on policy and annuity contracts.

### Article VIII.

#### Corporation Returns.

Sec. 32. Every corporation subject to taxation shall make a return under oath, stating specifically the items of gross income, the deductions and such other facts as the tax commissioner may require for the purpose of making any computation required by this act. Provided, that any foreign loan and investment company engaged in business in the state, and whose income in the state consists solely of income exempt from taxation under this act, need not file an annual report unless specially requested to do by the tax commissioner, but may file in lieu thereof an affidavit claiming exemption under this act.

Sec. 33. TIME AND PLACE FOR FILING RETURNS.) Returns shall be in such form as the tax commissioner may, from time to time prescribe, and shall be filed with the tax commissioner at Bismarck, North Dakota. Returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or if the return is made on a basis of the calendar year then the return shall be made on or before the fifteenth day of March. The tax commissioner shall prepare blank forms and have them distributed throughout the state, but failure to receive blanks shall not relieve any taxpayer from the obligation of making any return as herein required.

Sec. 34. FAILURE TO FILE RETURNS. UNDERSTATEMENT IN RETURNS.) If the tax commissioner shall be of the opinion that any taxpayer has failed to file a return, or to include in a return filed either intentionally or through error, items of taxable income, he may require from such taxpayer a return, or supplementary return, under oath, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this act. If from a supplementary return or otherwise the tax commissioner finds that any items of income, taxable under this act, have been omitted from the original return, he may require the items so omitted to be disclosed to him under oath of the taxpayer and to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable, under the provisions of this act.

### Article IX.

#### Collection of Tax. Additional and Delinquent Taxes.

Sec. 35. The tax appearing on the face of the return shall be paid at the same time the report is filed. The taxpayer shall

attach to his report his remittance for the amount of tax due as computed by him. Provided, that the payments may be made in quarterly installments and if paid in installments the first installment shall be paid at the time fixed by law for filing of the return; the second installment shall be paid on the fifteenth day of the third month; the third installment on the fifteenth day of the sixth month; and the fourth installment, on the fifteenth day of the ninth month after the time fixed by law for filing the return. The tax commissioner shall, as soon as possible after the receipt of the report and remittance, issue a receipt to the taxpayer for the amount of his remittance. Such receipt shall not be a receipt in full for the amount of tax due, but only for the remittance made by the taxpayer. The tax commissioner shall proceed to audit the reports of taxpayers and assess the tax and if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase. The taxpayer shall be given thirty days from the date of such notice to file objections to the additional tax, either in person or by attorney. Unless such objections are filed, said tax shall become delinquent fortyfive days after notice. If objections are filed, the objections shall be considered by the tax commissioner who may call for any further information from the taxpayer that he deems necessary to make a fair determination. After making a redetermination of the disputed tax, the tax commissioner shall notify the taxpayer of his findings and the amount of tax as redetermined shall become delinquent fifteen days after notice. Interest at the rate of one per cent (1%) a month shall be computed upon all delinquent income tax payments with an additional penalty of five per cent (5%) at the time such tax becomes delinquent. Any unpaid taxes shall be collected by the procedure outlined in Chapter 58, Special Session Laws of 1919, for the collection of delinquent taxes.

Sec. 36. Every tax imposed by this act, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt from the person or persons liable to pay the same to the state of North Dakota.

#### Article X.

##### Penalties.

#### Sec. 37.

1. If any taxpayer without intent to evade any tax imposed by this act, shall fail to file a return of income or pay a tax if one is due at the time required by or under the provisions of this act, but shall voluntarily file a correct return of income or pay the tax due within sixty days thereafter,

there shall be added to the tax an additional amount equal to five per cent (5%) thereof, but such additional amount shall in no case be less than one dollar and an additional one per cent (1%) for each month or fraction of a month during which the tax remains unpaid.

2. If any taxpayer does not voluntarily file a return of income within sixty days of the time required by or under the provisions of this act, and after notice by the tax commissioner, he shall be subject to a fine of not less than ten dollars and not more than five hundred dollars and shall pay interest at the rate of one per cent (1%) for each month or fraction of a month from the time the tax was originally due until the date of payment.

3. If any taxpayer fails to file a return within sixty days of the time prescribed by this act, and refuses to file such return within thirty days after he has been notified by the tax commissioner to do so, any judge of the district court upon petition of the tax commissioner shall issue a writ of mandamus requiring such person to file a return. The order of notice upon the petition shall be returnable not later than ten days after the filing of the petition. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's office in any county and except as aforesaid, shall be returnable as the court shall order.

4. Any person or any officer or employee of any partnership who with intent to evade any requirement of this act shall fail to pay any tax or to make, sign or verify and return or to supply any information required by law or under the provisions of this act or who with like intent shall make, render, sign, or verify any false or fraudulent return or statement or shall supply any false or fraudulent information shall be liable to a penalty of not more than one thousand dollars to be recovered by the attorney general in the name of the state by action in any court of competent jurisdiction and shall be guilty of a misdemeanor and shall upon conviction be fined not to exceed one thousand dollars, or be imprisoned not to exceed one year or both at the discretion of the court.

5. In case any person or any corporation fails to pay any tax or penalty imposed by this act within thirty days after notice of amount of tax or penalty which is due has been mailed from the office of the tax commissioner, the attorney general shall bring action for the recovery of the amount of

tax, penalty and interest which may be due in the name of the state in any court of competent jurisdiction.

6. The attorney general shall have the power, with the consent of the tax commissioner, to compromise any penalty for which he is authorized to bring action under subdivisions 4 and 5 of this section. The penalties provided by such subdivisions shall be additional to all other penalties in this act provided.

7. The certificate of the tax commissioner to the effect that a tax has not been paid, or that a return has not been filed or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

8. If any taxpayer who has failed to file a return or has filed an incorrect or insufficient return and has been notified by the tax commissioner of his delinquency, refuses or neglects within thirty days after such notice to file a proper return or files a fraudulent return, the tax commissioner shall determine the income of such taxpayer according to his best information and belief and assess the same at not more than double the amount so determined. The tax commissioner may, in his discretion, allow further time for the filing of a return in such case.

#### Article XI.

##### Revision and Appeal.

Sec. 38. REVISION BY TAX COMMISSIONER.) A taxpayer may apply to the tax commissioner for revision of the tax assessed against him at any time within two years from the time of the filing of the return or from the date of the notice of the assessment of any additional tax. The tax commissioner shall grant a hearing thereon, and if upon such hearing, he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and adjust the computation of the tax accordingly. The tax commissioner shall notify the taxpayer of his determination and shall cause to be refunded to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. If the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return, or, having filed an incorrect return, has failed, after notice, to file a proper return, the tax commissioner shall not reduce the tax below double the amount for which the taxpayer is found to be properly assessed. Refund claims properly verified and approved by the tax commissioner shall be audited and paid as are other claims against the state.

Sec. 39. APPEAL.) The determination of the tax commissioner upon any application made by a taxpayer for revision of any tax, may be reviewed in any court of competent jurisdiction by a complaint filed by the taxpayer against the tax commissioner in the county in which the taxpayer resides or has his principal place of business, within thirty days after notice by the tax commissioner of his determination, given as provided in Section 38 of this act. Thereupon appropriate proceedings shall be had and the relief, if any, to which the taxpayer may be found entitled may be granted, and any taxes, interest or penalties paid, found by the court to be in excess of those legally assessed, shall be ordered refunded to the taxpayer with interest from time of payment.

## Article XII.

### Administration.

Sec. 40. The tax commissioner shall administer and enforce the assessment, levy and collection of taxes herein imposed. He shall, as soon as practical, after receipt thereof, turn over to the state treasurer all income tax collections. The state treasurer shall give the tax commissioner a receipt for the collections made by the tax commissioner, which receipt shall be made a permanent record in the office of the tax commissioner.

Sec. 41. POWERS OF TAX COMMISSIONER.) The tax commissioner for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and require proof material for his information with power to administer oath to such person or persons.

Sec. 42. OATH AND ACKNOWLEDGMENTS.) The tax commissioner and such officers as he may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person in respect of any return or report required by this act or by the rules and regulations of the tax commissioner.

Sec. 43. PUBLICATION OF STATISTICS.) The tax commissioner shall prepare and publish biennially statistics reasonably available with respect to the operation of this act, including amounts collected, classification of taxpayers, and such other facts as are deemed pertinent and valuable.

Sec. 44. **SECRECY REQUIRED OF OFFICIALS: PENALTY FOR VIOLATION.)**

1. Except in accordance with the proper judicial order or as otherwise provided by law, it shall be unlawful for the members of the tax commissioner's office, any deputy, agent, clerk or other officer or employee, to divulge or make known, in any manner, the amount of income or any particulars set forth or disclosed in any report or return required under this act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.

2. Any offense against subdivision one (1) of this section shall be punished by a fine of not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the State, he shall in addition be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

3. Notwithstanding the provisions of this section, the tax commissioner may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing an income tax similar to that imposed by this act, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayers, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officers or representatives, only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act.

Sec. 45. **REGULATIONS.)** The tax commissioner may, from time to time, make such rules and regulations, not inconsistent with this act, as he may deem necessary to enforce its provisions.

**Article XIII.****Miscellaneous.**

Sec. 46. Of the revenue collected under this act, the state treasurer shall annually retain, in his hands, a fund in the sum of \$10,000 out of which he shall pay any refunds to which taxpayers shall be entitled under the provisions of this act. Any unclaimed balance of such fund at the end of each year shall be paid into the state treasury to the credit of the general fund. The balance of the money collected under the provisions of this act, shall be paid into the state treasury to the credit of the general fund for the purpose of defraying the general expenses of the state government.

Sec. 47. If for any income year beginning after December 31, 1922, it appears upon the production of evidence satisfactory to the tax commissioner that any taxpayer has sustained a net loss, the amount thereof shall be deducted from the net income of the taxpayer for the next succeeding income year, and if such net loss is in excess of the net income for such succeeding year, the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding income year, provided the net loss is sustained in connection with business operations the net income of which is taxable under this act; the deduction in all cases to be made under regulations prescribed by the tax commissioner.

Sec. 48. UNCONSTITUTIONALITY OR INVALIDITY.) If any clause, sentence, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder of this act, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall, in any way, affect the interpretation of this act or any part thereof.

Sec. 49. All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 6, 1923.

## CHAPTER 313.

(S. B. No. 342—Rusch.)

**INHERITANCE TAXES UPON ESTATES OF NON-RESIDENTS.**

An Act To Amend and Re-enact Subdivision 2 of Section 1 and Section 13a of Chapter 231 of the Session Laws of 1917 as Amended by Chapter 225 of the Session Laws of 1919, and to Amend Section 2 of Chapter 125 of the Session Laws of 1921 Relating to Inheritance Taxes Upon Estates of Deceased Non-Residents.

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

Sec. 1. AMENDMENT.) Subdivision 2 of Section 1 of Chapter 231 of the Session Laws of 1917 as amended by Chapter 225 of the Session Laws of 1919 is hereby amended and re-enacted to read as follows:

(2) When the transfer is by will or intestate law of real or personal property, including corporate stock, within this State, and the deceased was a non-resident of the state at the time of his death. Promissory notes, certificates of deposit, mortgages and other money and credits, as defined by Section 2074 of the Compiled Laws of North Dakota for the year 1913, belonging to estates of deceased non-residents, shall be exempt from all taxes imposed by this chapter.

Sec. 2. AMENDMENT.) Section 13a of Chapter 231 of the Session Laws of 1917 as amended by Section 13a of Chapter 225 of the Session Laws of 1919 is hereby amended and re-enacted to read as follows:

(13a) Said list shall be in the form of an affidavit and shall be sworn to by the executor or administrator of said estate, and shall contain a detailed description of the property and the value thereof, owned by said non-resident decedent in this state as of the date of his death. If such property consists in whole or in part of the shares of stock or Bonds of any corporation organized, doing business or owning property in this state, wherever such corporation has been created or organized, said list shall enumerate each corporation issuing any of said shares of stock or bonds, giving in each case the name of the corporation and of the state or country in which it was created or organized, and shall enumerate under each the bonds and shares of stock issued by it and owned by the decedent, giving the par and the market value of said shares of stock. If such property consists in whole or in part of the debt or interest in any property existing within this state in any other manner, the said list shall contain the name of the debtor, the amount of the debt or other interest in such property as of the date of the death of the decedent and the nature of such debt

or other interest. Said list shall be filed with the state tax commissioner within thirty days after the issuing of the letters testamentary or letters of administration as the case may be. Upon receipt of said list in proper form the commissioner shall proceed to determine the amount of inheritance tax, if any, due the State of North Dakota, from said estate, and upon such determination shall notify the administrator or executor of said estate immediately whether the same is taxable or exempt, and if taxable, the amount for which said estate is liable, and the manner in which the tax shall be paid.

Sec. 3. AMENDMENT.) Section 2 of Chapter 125 of the Session Laws of 1921 is hereby amended and re-enacted to read as follows:

(2) The intention of this law is to exempt from inheritance tax all money and credits as defined by Section 2074 of the Compiled Laws of 1913 belonging to estates of deceased non-residents.

Approved March 7th, 1923.

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## CHAPTER 314.

(H. B. No. 195—Freeman.)

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### INTEREST ON DELINQUENT INHERITANCE TAXES.

An Act to Amend and Re-enact Section 8 of Chapter 225 of the Session Laws of 1919 Relating to Interest to be Charged Upon Delinquent Inheritance Taxes.

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

Sec. 1. AMENDMENT.) That Section 8 of Chapter 225 of the Session Laws of 1919 is hereby amended and reenacted to read as follows:

Sec. 8. If such tax is not paid within one year from the death of the decedent, interest shall be charged and collected thereon at the rate of one per cent per month from a date twelve months after the death of the decedent. If by reason of delay in closing the estate the amount of such tax cannot be accurately determined on such date, the executor or administrator may, in order to avoid such interest charge, pay such amount of inheritance tax as he estimates to be correct. When the amount of the tax is afterwards determined by the court, the executor or administrator shall pay the amount remaining unpaid and only such amount shall bear interests at the rate above stated. In case an overpayment of such inheritance tax

has been made, such overpayment shall be repaid upon an application therefor submitted to the county commissioners.

Approved March 1st, 1923.

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CHAPTER 315.

(S. B. No. 329—Rusch.)

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INHERITANCE TAXES.

An Act to Amend and Re-enact Section 33 of Chapter 225 of the Session Laws of 1919 Relating to Rehearings of the Determination of Inheritance Taxes, and Providing that no Report Need be made to the Tax Commissioner in Case of Insolvent Estates.

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

Sec. 1.) Section 33 of Chapter 225 of the Session Laws of 1919 is hereby amended to read as follows:

The attorney general, tax commissioner, public administrator, state's attorney, or any person dissatisfied with the appraisal or assessment and determination of such tax, may apply for a rehearing thereof before the county court within sixty days from the receipt by the tax commissioner of a copy of the order determining the tax as herein provided on filing a written notice which shall state the grounds of the application for a rehearing. The rehearing shall be upon the records, proceedings and proof had and taken on the hearing as herein provided, and a new trial shall not be had or granted unless specially ordered by the county court upon its own motion or upon application by one or more of such officials or by a person interested in the estate.

Sec. 2.) It shall not be necessary for county judges to file with the tax commissioner notices of hearing upon petitions to determine the inheritance tax in advance of the making of the order determining the inheritance tax unless requested so to do in a particular instance by the tax commissioner.

Sec. 3.) In case an estate is insolvent, or in case all of its assets are exempt under the provisions of Sections 8723, 8725, and 8727 of the Compiled Laws, 1913, it shall not be necessary for the county judge to make any report thereof to the tax commissioner or to file any notice or order in connection therewith in the office of the tax commissioner.

Sec. 4.) All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7th, 1923.

## CHAPTER 316.

(S. B. No. 272—McCoy.)

## CARE OF PATIENTS AT STATE INSTITUTIONS.

An Act Relating to the method of levying tax for the care of patients at the Hospital for the Insane, Institution for the Feeble Minded and the State Tuberculosis Sanatorium; providing the method of settlement between county and state; providing a penalty for failure to pay; providing a method of settling disputed claims and repealing Sections 2572 and 2573, Compiled Laws of 1913 and all acts or parts of acts in conflict therewith.

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

Sec. 1. LEVY OF TAX TO PAY CHARGES.) The Board of County Commissioners shall, at the time of levying the county taxes as provided in Section 2148 of the Compiled Laws of 1913, include in the itemized statement of county expenses upon which the county taxes are to be based as provided in said section, an estimate of the total amount which will be chargeable to the county during the ensuing year for the care, board and treatment of such county's patients at the State Hospital for the Insane, the Institution for the Feeble Minded and the State Tuberculosis Sanatorium. If any county fails to levy such taxes as herein provided, sufficient to pay the amount estimated to become chargeable to such county during the ensuing year, at the time of levying other county taxes, it shall be the duty of the Attorney General of the state to bring action in the name of the State against such county, to enforce the making of the estimates and the levying of taxes as provided herein.

Sec. 2. METHOD OF SETTLEMENT BETWEEN COUNTY AND STATE.) The Superintendents of the Hospital for the Insane, the Institution for the Feeble Minded and the State Tuberculosis Sanatorium shall certify to the State Auditor on the first day of January, April, July and October of each year, the amount not previously certified to by him showing the amounts due their respective institutions from the various counties having patients chargeable thereto, and the State Auditor shall pass the same to the credit of the proper institution. The State Auditor shall thereupon draw his draft upon the County Treasurer for the amount due each institution as certified to by its superintendent in the manner provided by Section 3255, Compiled Laws of 1913. In the event that there are not sufficient monies on hand in the county treasury to remit to the State Treasurer with a County Treasurer's check, the County Auditor shall immediately issue a registered warrant payable to the State Treasurer for the amount of the State Auditor's draft. The State Treasurer shall not issue his regular receipt for such

registered warrant accepted in payment of the charges, but may stamp in the face of the draft "Payment of this draft accepted by Registered County Warrant No..... Regular receipt will be issued when this warrant is redeemed." It is hereby made the duty of the County Treasurer and the County Auditor, and they and each of them, are hereby required to remit to the State Treasurer for the amount of the State Auditor's Draft. Provided, however, that if there is included as a part of the amount for which such draft is drawn by the State Auditor upon the County Treasurer, any charge or charges for any patient or patients, which patient or patients, have or shall be by proper resolution of the Board of County Commissioners declared not chargeable against such county, the amount of such so disputed claim or claims, may be deducted in making remittance for such draft. Such claims so disputed shall be determined, adjusted and payment made in manner by Sections 2576 and 2577 of the Compiled Laws of North Dakota of 1913 provided.

Sec. 3. PENALTY FOR FAILURE TO PAY.) Upon the failure of any county to pay into the state treasury the amount charged to such county for the care, board and treatment of their patients at the Hospital for the Insane, the Institution for the Feeble Minded, and the Tuberculosis Sanatorium at the times prescribed in this act, it shall be the duty of the State Treasurer to charge such delinquent county with a penalty of one per cent per month upon the amount of indebtedness then thirty days overdue for each month until payment thereof, including the penalty, has been made.

Sec. 4. SETTLEMENT OF DISPUTED CLAIMS.) The State Treasurer is authorized to remit any penalty for nonpayment of county care charges when satisfied that same has been improperly charged or that such penalty occurred in consequence of the negligence or error of any officer required to do any duty relative to the collection of such county care charges. The State Auditor may, with the approval of the Governor, the Attorney General and the State Treasurer, make compromise settlements with the counties in case of any dispute arising over improper charges.

Sec. 5. REPEAL.) Sections 2572 and 2573 of the Compiled Laws of 1913 and all acts or parts of acts in conflict herewith are hereby repealed.

Sec. 6. EMERGENCY.) Whereas, an emergency exists, this act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 8th, 1923.

## CHAPTER 317.

(H. B. No. 212—Orange.)

## HOME BUILDING ASSOCIATION DEFICIT TAX.

An Act Providing for the levying of a tax to create a fund for the purpose of paying the deficit in the funds and the indebtedness of the Home Building Association of North Dakota, and in paying the indebtedness, salaries, expenses, and expenditures incurred by the Industrial Commission in liquidating and winding up the Business and affairs of said Association.

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

Sec. 1. There shall be levied by the State Board of Equalization, at the time other taxes are levied, an annual tax of one twentieth of a mill upon each dollar of assessed valuation of all taxable property within the state, and all revenues collected pursuant to this Act shall be paid into a special fund to be known and designated as the "Home Building Association Deficit Tax Fund." Such fund shall be used only for the purpose of paying and discharging the deficit in the funds and the indebtedness existing in the business and affairs of the Home Building Association of North Dakota, and in paying any and all indebtedness, salaries, expenses and expenditures hereafter incurred by the Industrial Commission in liquidating and winding up the business and affairs of said Association. All moneys arising from such tax shall be expended by the Industrial Commission, and shall be paid out of said Home Building Association Deficit Fund by the State Treasurer upon properly prepared vouchers approved by the Industrial Commission and by the State Auditing Board.

Approved March 1st, 1923.

## CHAPTER 318.

(H. B. No. 131—Jardine.)

## TAX LEVY LIMITATIONS.

An Act to Limit the Rate in Mills Which May be Levied by Taxing Districts; Providing a Method of Suspending Such Limitations in Certain Cases; Prescribing Penalties for Violations of this Act by County Auditors; and Repealing All Acts and Parts of Acts in Conflict with this Act.

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

Sec. 1. CITY AND VILLAGE LEVIES.) Except as otherwise provided in Section 6 of this act, no village shall levy taxes in

excess of ten (10) mills on the dollar of its net taxable assessed valuation, and no city whether organized under general law or special charter, shall levy taxes in excess of fourteen (14) mills on the dollar of its net taxable assessed valuation.

Sec. 2. TOWNSHIP LEVIES.) Except as otherwise provided in Section 6 of this act, no township shall levy taxes in excess of five (5) mills on the dollar of its net taxable assessed valuation.

Sec. 3. SCHOOL DISTRICT LEVIES.) Except as otherwise provided in Section 6 of this act, no school district, common, independent or special, shall levy taxes in excess of fourteen (14) mills on the dollar of its net taxable assessed valuation, except that any school district giving two years of standard high school work may levy taxes not to exceed sixteen (16) mills, and any school district giving four years of standard high school work may levy not to exceed eighteen (18) mills, and any school district maintaining a consolidated school may levy not to exceed sixteen (16) mills on the dollar of its net taxable assessed valuation.

Sec. 4. PARK DISTRICT LEVIES.) No park district shall levy taxes in excess of two (2) mills on the dollar of its net taxable assessed valuation.

Sec. 5. COUNTY LEVIES:) Except as otherwise provided in this section or in Section 6 of this act, the amount levied for road purposes in any county plus the amount levied for bridge purposes shall not exceed two and one-half ( $2\frac{1}{2}$ ) mills on the dollar of the net taxable assessed valuation provided, however, that in unorganized townships the board of county commissioners may levy, under the provisions of Chapter 231 of the Laws of 1919, not to exceed three (3) mills on the dollar of the net taxable assessed valuation of such unorganized townships for road purposes.

Sec. 6. VOTERS MAY AUTHORIZE EXCESS LEVY.) A county, city, town, village, township or school district may levy taxes in excess of the limitations prescribed by Sections One to Five (1-5), inclusive, of this act when authorized so to do by a majority of the electors voting upon the question at a regular or special election. Provided, however, that the excess levy shall not be more than forty percent over and above the legal levy by a majority vote. But a fifty per cent increase may be levied if two-thirds of the voters voting thereon vote in the affirmative. The tax levying board of the taxing district shall have power to call a special election for the purpose of voting upon the question of authorizing an excess levy, or in the case of counties, to submit the question to the voters either at a special election called for that purpose or at the regular primary election. Such

elections shall be held not later than September first of the year in which the tax is to be levied, and shall be conducted as other elections of such taxing districts except as herein otherwise provided. The notice of election, in addition to the usual requirements, shall contain a statement of the question to be voted upon pursuant to the terms of this act, and shall also show the total amount of income and expenditures of such taxing district for the fiscal year immediately preceding; the estimated expenditures, for the year for which the taxes are to be levied; the aggregate amount of tax levies which the tax levying board seeks authority to make; the aggregate amount of tax levies permissible without special authority from the electors; and the amount of tax levy in excess of the statutory limit which the board seeks authority to make. A copy of the notice of election shall be mailed by the auditor or clerk of the taxing district to the tax commissioner at Bismarck, North Dakota, on or before the date of the posting or first publication of the notice and shall be open to public inspection in his office.

In case the question is submitted by the county board at the regular primary election, the county auditor shall publish a notice of the submission of such question with the information above indicated, or shall embody such information in the usual notice of election. The question shall be submitted in the following form:

“Shall.....(naming the taxing district) levy taxes for the year.....(naming the current calendar year) which shall exceed the legal limit by.....dollars, so that the taxes levied instead of being.....dollars, which is the limit authorized by law, shall be .....dollars?”

Opposite to such question shall be printed the word “yes” and below it the word “no,” and opposite each word there shall be a square in which the voter may indicate his intention by making a cross. If a majority of all votes cast upon the question are in favor of authorizing the excess levy, it shall thereby be authorized. In such case, the election board shall certify the result of such election to the county auditor within ten days after such election, and in case of a county election the result shall be certified by the canvassing board within one day after it has completed canvassing the returns from the several precincts. The certificate shall include a statement of the question as the same appeared upon the ballot, together with the total number of votes cast upon the question, the number of votes cast in favor of it, and the number of votes cast against author-

izing the excess levy. If a majority of the votes cast upon the question were in favor of authorizing such excess levy, the county auditor shall extend such excess levy upon the tax lists.

Sec. 7. NOT APPLICABLE TO CERTAIN LEVIES.) The foregoing limitations shall not apply to irrigation districts nor drainage districts nor to special assessments in cities and villages assessed by special assessment commissions against benefitted property; nor to levies for the purpose of paying bonded indebtedness or interest upon the bonded indebtedness in any class of taxing district; nor to the county tuition levy, provided for by Section 1224 of the Compiled Laws of 1913 as amended by Chapter 66 of the Special Session Laws of 1919; nor to taxes levied pursuant to the provisions of Chapter 139, Session Laws of 1919, for the purpose of combating the grasshopper pest; nor to taxes levied pursuant to the provisions of Chapter 106 of the Session Laws of 1915 for the purpose of combating gophers and similar pests. In case revenue raised for the purpose of combating such pests is transferred to the road and bridge fund, the amount of the maximum legal limit of the levy for roads and bridges made next after such transfer shall be diminished from the maximum amounts permitted by the provisions of Section 5 of this act by the amount of such transfer or transfers.

Sec. 8. SUPERSEDES OTHER LIMITATIONS.) The limitations imposed by this act shall supersede and be substituted for all limitations upon the tax levying power imposed by statutes heretofore in effect as to taxes other than those excepted by Section 7 of this act, whether such former limitations be expressed in terms of the aggregate levy in mills or in terms of the levy for each individual purpose, or in whatever other manner expressed.

Sec. 9. DEFINITIONS.) The terms "net assessed valuation" or "assessed valuation," when used in this act, signify the valuation remaining after deducting exemptions and making other reductions from the original assessed valuation, and is the valuation upon which the rate of levy is finally computed and against which the taxes are finally extended. The terms "taxing district" or "taxing districts," when used in this act, mean counties and all other local districts which possess the power of levying taxes.

Sec. 10. PENALTY FOR VIOLATION.) Any county auditor who shall extend taxes in excess of the limitations prescribed by the terms of this act shall forfeit a sum not exceeding one thousand dollars to be determined by the court in an action brought in district court by the state's attorney in the name of the state for the benefit of the county general fund, and if such action of the county auditor be willful he shall also be deemed

guilty of a misdemeanor and in addition to the usual penalty his office shall be deemed vacant and shall be filled according to law.

Sec. 11. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7th, 1923.

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## CHAPTER 319.

(S. B. No. 288—Baird.)

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### TAX UPON MINERAL RESERVES.

An Act Providing for a Tax upon Reserves of Coal and Minerals, Providing for the obtaining of Tax Titles to Such Reserves When Taxes Thereon Remain Unpaid and Repealing Section 2119, Section 2120 and Section 2121, Compiled Laws of 1913, and all Acts and Parts of Acts in Conflict with this Act.

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

Sec. 1. An annual state tax of three cents on each acre is hereby levied upon all deposits of lignite coal and minerals and all titles to coal and mineral underlying any and all lands, the ownership of which coal and minerals has been severed from the ownership of the overlying strata and the surface of the land. Such deposits of coal and minerals and said titles thus severed may any or all be designated by the term "mineral reserves." The revenue collected from such taxes shall be paid into the general fund of the state for the purpose of defraying the general expenses of the state government.

Sec. 2. It shall be the duty of the register of deeds of each county in which there are mineral reserves as defined by this act, to compile a list of all the lands in his county with respect to which there are mineral reserves as shown by the records in his office and he shall certify such list to the state auditor not later than October first of 1923 which certificate shall state in substance that such list contains a complete list of all the lands in such county affected by mineral reserves. In case any of such lands have been platted into cities, villages, or town sites, it shall not be necessary to give the numerical description by lots or blocks except in cases in which the mineral reserve is confined to a specified lot or block, but the entire quarter section or other governmental subdivision may be treated as a single description in compiling such lists notwithstanding the fact that the surface rights may be measured by lots or blocks or other descriptions of land smaller than governmental subdivisions.

Such lists shall also show in a column provided for that purpose, the number of acres in each description and the name and address of the owner thereof, according to such information as is available to the register of deeds. The state auditor may prescribe uniform blanks to be used by the register of deeds for such purpose. Each subsequent year the register of deeds shall, not later than August first, certify to the state auditor like information concerning any additional mineral reserves that have, according to his records, been created or that have subsequently come to his attention.

Sec. 3. It shall be the duty of the state auditor to compile a list of all such mineral reserves, together with the names and addresses of the owners thereof, and to extend against each description of land the said tax computed at the rate of three cents per acre, which list shall be made in duplicate and a copy thereof shall be certified to the state treasurer whose duty it shall be to make collections of such taxes. Such taxes shall become payable on January second next, following the listing thereof, and shall become delinquent the following March first, and if not paid until after March first the same shall bear interest at the rate of one per cent per month.

Sec. 4. The state treasurer shall, during January before such taxes become delinquent, notify each owner of each mineral reserve according to the address shown upon the tax list that the tax has been entered against such mineral reserve and the amount thereof, and that the same will become delinquent if not paid on March first.

Sec. 5. On December thirty-first of each year, the state treasurer shall return the tax list of mineral reserves of the previous year to the state auditor and the same shall thereafter remain in his custody and payments of delinquent taxes shall thereafter be made to the state auditor. The state treasurer in returning such list shall certify to the state auditor that all such taxes as have not been marked "paid" on the tax list, have not been paid. If any such tax shall remain unpaid for the period of three years after the same becomes delinquent, the state auditor shall notify all persons who, according to said lists or the lists of subsequent years appear to be the owners of the reserves upon which the taxes are delinquent, to the effect that such taxes are unpaid, stating the amount thereof and that unless paid within thirty days from the date of such notice, proceedings will be taken to declare the title to said mineral reserve forfeited to the state. On July first of each year, the state auditor shall prepare a second notice of the delinquency of such tax and of intention to declare the title thereto forfeited to the state which shall be in substantially the following form:

To.....

I, ....., State Auditor of the State of North Dakota, pursuant to the provisions of Chapter.....of the Session Laws of 1923, do hereby serve notice upon you as the record owner of the mineral reserve affecting the land described as follows:.....

....., situated in  
.....County, North Dakota,

that the taxes for the year.....upon said mineral reserve have not been paid and that more than three years have expired since the same became delinquent, and that unless payment be made in full of the principal and interest of such tax not later than August thirty-first of the present year, the said mineral reserve will automatically and without further action by any official become absolutely forfeited to the State of North Dakota. The amount required to redeem said mineral reserve from said taxes is the amount of.....dollars, together with interest at one per cent per month from the second day of March, 19.....

Dated this.....day of....., 19.....

.....  
State Auditor of North Dakota.

Such notice shall be mailed by the state auditor to the owner of such mineral reserve who appears to be the owner thereof according to the records contained in the tax list of said year and subsequent years in his office and in the office of the state treasurer. Such notice shall be sent by registered mail.

Sec. 6. Any mineral reserve upon which the delinquent tax for the year specified in the auditor's notice prescribed by the preceding section, is not paid before the following September first, shall become automatically forfeited to the state without further action on the part of any official, and shall become the absolute property in fee of the State of North Dakota, and the rights of the former owner thereof shall entirely cease and terminate. The auditor shall thereupon refrain from entering such mineral reserves as have been forfeited upon the tax lists of subsequent years.

Sec. 7. The tax provided by this act shall be in lieu of all other direct property taxes upon mineral reserves.

Sec. 8. Coal, lignite coal, oil, and all other minerals and metals shall be included within the meaning of the terms "mineral" or "minerals" as used in this act. A severance of the minerals from the overlying strata and the surface of the land shall be deemed to have occurred when they are owned by different parties or when a conveyance is made of the surface which reserves in the grantor rights to any minerals or when a conveyance is made of minerals which reserves to the grantor the surface of the land.

Sec. 9. REPEAL.) Sections 2119, 2120, and 2121 and all other acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10th, 1923.

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## CHAPTER 320.

(H. B. No. 13—Hempel.)

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### PENALTY ON DELINQUENT TAXES.

An Act to Amend and Re-enact Section 2185, Compiled Laws of North Dakota for the Year 1913, as Amended and Re-enacted by Chapter 67 of the 1919 Special Session, Relating to Real Estate Taxes due and Delinquent, and Penalty and Interest Thereon.

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

Sec. 1. AMENDMENT.) Section 2185, of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 67 of the laws of the Special Session of 1919, is hereby amended and re-enacted to read as follows:

Sec. 2185. All real estate taxes shall become due on the first day of December in each and every year for which the tax is levied; the full amount of the hail tax both flat and indemnity and one-half of the remaining real estate taxes shall be delinquent on the first day of March following, and if said one-half becoming due on March first shall remain unpaid after that date, there shall be attached thereto a penalty of five per cent, and on the first day of June following an additional penalty of two per cent, and on the first day of November following a further penalty of three per cent on the original one-half become delinquent on March first as aforesaid.

The other half shall become delinquent on the fifteenth day of October and if unpaid on that date, a penalty of five per cent shall be added thereto. The penalties prescribed in this section to be cumulative and to be charged and collected accordingly without being specially added or noted on the tax list.

Sec. 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 February 19th, 1923.

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## CHAPTER 321.

(H. B. No. 165—Hempel.)

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### COLLECTION OF DELINQUENT TAXES.

An Act to Amend and Re-enact Chapter 58 of the Special Session Laws of North Dakota for 1919.

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

Sec. 1. AMENDMENT.) That Chapter 58 of the Session Laws of North Dakota for 1919 is hereby amended and re-enacted to read as follows:

Chapter 58. When any tax required by law to be paid to the state has been duly assessed, certified and demanded, and is delinquent and remains unpaid, the Attorney General, Tax Commissioner or other officer of the State charged with the enforcing of the payment or collection of the same, within ten days after such demand, shall notify the delinquent that unless such tax is paid on or before the tenth day thereafter, the same will be placed in the hands of any county sheriff for collection; and if such tax remains unpaid, such official shall, upon such date certify such tax to the County Sheriff of any county wherein the property of any such delinquent tax payer may be located, and such sheriff shall immediately proceed to collect such delinquent; and if same be not forthwith paid upon demand by him, he shall distrain sufficient property belonging to such tax payer to pay the same, including the penalty provided by law, together with accrued interest at the rate of twelve per cent per annum, and all costs of such distraint and sale. Said Sheriff shall immediately proceed to advertise the sale of such property by putting notices in three public places in the town or district where the same is taken, stating the time when and the place where such property is to be sold, the amount of said delinquent tax penalties; accrued interest and cost, which place of sale shall be at the residence or place of business of the person, firm, or corporation whose property has been distrained, or at the place of sale of mortgaged chattel or real property within such town or district, at the discretion of the sheriff. Such sale shall not be less than ten days after the taking of such property; and if such tax, penalties, accrued interest and costs be not at that time paid, said sheriff or his deputy shall proceed to sell such

property at public vendue, or so much thereof as shall be sufficient to pay such taxes, penalties, accrued interest and costs. Any surplus arising from such sale shall be disposed of as in the case of mortgaged personal or real property, as the case may be. All monies collected under the provisions of this act shall be paid into the State Treasury, and the State Treasurer shall issue to such Sheriff a proper receipt for the same.

Sec. 2. When any tax assessed under the authority of the State, or any taxing sub-divisions thereof, is due and unpaid, and any state or county officer whose duty it is to enforce the payment of such tax, by the institution of legal proceedings or otherwise, shall neglect or refuse to take such action, the State Tax Commissioner shall institute such legal or other proceedings as he may deem necessary for the enforcing of the payment of such taxes, or of the collection of the same, together with all penalties provided by law, by the distraint of property or otherwise; and for these purposes he may exercise any power conferred by law upon any state or local officer, for the carrying out of the purposes of this Act, the State Tax Commissioner may employ such legal or other assistance as he may deem necessary.

Sec. 3. 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 1st, 1923.

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## CHAPTER 322.

(H. B. No. 193—Trubshaw.)

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### PUBLICATION OF DELINQUENT TAX LIST.

An Act to Amend and Re-enact Section 2189 of the Compiled Laws of North Dakota for the year 1913, as Amended and Re-enacted by Chapter 256 of the Session Laws of North Dakota for the year 1915, Relating to Publication of Delinquent tax lists.

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

Sec. 1. AMENDMENT.) Section 2189 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 256 of the Session Laws of 1915, is hereby amended and re-enacted to read as follows:

Sec. 2189. AUDITOR'S NOTICE OF DELINQUENT TAX SALE. HOW PUBLISHED. WHAT TO CONTAIN.) The County Auditor shall give notice of the delinquent real estate tax sale in the official newspaper of the County. Such delinquent tax sale notice shall be published weekly in such paper for two succes-

sive weeks, the first publication of such notice to be made at least fourteen days prior to the date of such sale, and such notice as published shall be signed and certified to by the County Auditor. It shall contain the information that all lands upon which taxes for the preceding year (describing the same) remain unpaid, shall be sold, and shall state the time and place of such sale, which sale shall be held on the second Tuesday in December of each year. Such notice shall contain the name of the owner of each lot or tract, as by the records appear, the description of such lot or tract, and the total amount of tax and penalty due, in which amount as so printed shall be included by the County Auditor the sum of twenty-five cents as the cost and expense of advertising each such lot or tract. It shall be the duty of the County Treasurer between the first day of November and the fifteenth day of November prior to the date of such sale, to mail to each owner of any lot or tract of land which shall be offered for sale, as by the record appears, a notice giving the legal description of such lot or tract to be offered for sale, and stating that such lot or tract will be sold for delinquent taxes unless such delinquent tax with penalty, interest and any cost of advertising, be paid prior to said sale.

Such delinquent tax sale notice as published, shall be printed in the following manner: Such list shall be printed in single columns 12½ to 13 ems in width, in six point type set solid. Headings and sub-headings shall be set in six point bold face type. Whenever practical the description as to township, range, addition, sub-division and block shall be set as a sub-heading preceding the description of tracts and lots in such township, range, addition, sub-division or block, so as to preclude the necessity of the township, range, addition, sub-division or block being printed separately as a part of each description.

Tracts and lots shall be, as far as practical, described in such notice of sale, as to township, range, section, parts of section, sub-division, addition, block and lot by the use of the abbreviations, initial letters, figures, etc., declared to be legal in the matter of the sale of land for taxes by Section 2215 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 1 of the Session Laws of 1915. A statement of the abbreviations, initial letters and numbers so used with the meaning thereof in such notice, shall precede the published list of lands upon which taxes are delinquent, as shall a statement that the figures given under the heading "Total Amount" represent the amount of all taxes and special assessments delinquent for such year, together with interest, penalty and cost of advertising such description. Only such total amount as so due upon each of the several descriptions shall be published. The fee for the publication of such delinquent tax notice shall be paid, only, upon the publisher filing with the County Auditor an account,

duly sworn to, showing the number of lines published and the rate per line charged therefor, which rate shall be that by law provided. The County Auditor shall furnish to the official newspaper, as copy for such notice, only such matter as shall be required for the publication of such notice in the manner and form hereinbefore provided.

Approved March 1st, 1923.

STATE OF NORTH DAKOTA

Office of the Governor

Bismarck

R. A. Nestos, Governor

March 1, 1923.

To the Honorable Secretary of the State:

In approving House Bill No. 193 today, I am approving it with the understanding and on the assumption that where the bill reads: "Such list shall be printed in single columns, 12½ to 13 ems in width, in six point type set solid," that it means that the columns in which the list shall be printed will be columns of ordinary width of about 2 1-6 inches, sometimes, as I understand it, described as 12½ to 13 ems pica, but that the matter printed shall be printed in six point type set solid.

This, as nearly as I can ascertain it, was the legislative intent in passing the bill, and it is with this understanding that I have approved the same.

Very truly yours,

R. A. NESTOS,  
Governor.

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CHAPTER 323.

(H. B. No. 57—Doyle.)

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TAXATION OF RANGE STOCK.

An Act to Amend and Re-enact Section 2104 of the Compiled Laws of the State of North Dakota for 1913 relating to range stock and where listed for the purpose of taxation.

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

Sec. 1. AMENDMENT.) Section 2104 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 2104. RANGE STOCK, WHERE LISTED.) The owner of range stock, including cattle, horses or sheep, or his agent, fore-

man or superintendent, shall list the same for purposes of assessment and taxation in the assessor's district in which he claims his home ranch for rounding up and branding purposes, and where his herdsmen or employees are boarded and subsisted, regardless of where the cattle may range. If such owner of range stock, including horses, cattle or sheep has at the time the assessment is made, no such home ranch, then such range stock shall be listed and assessed in the assessor's district in which the home ranch was situated at the last round up and branding; provided, that any such stock, owned outside of this state, and ranging within the state, shall be assessed wherever and whenever found ranging within this state. When the home ranch of any owner of range stock is situated in an unorganized county of this state, such range stock shall be subject to taxation and assessed as provided in Section 2225. Provided, however, that where the owner of any herd or herds of cattle, has a fixed place of residence, and winters said herds or parts of herds at his place of residence, the said cattle so wintered, shall be listed for the purpose of taxation at the place of the owner's residence, regardless of where the said cattle may run during the summer months.

Approved February 19th, 1923.

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#### CHAPTER 324.

(H. B. No. 139—Harrington.)

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#### TAX CERTIFICATE ON STATE LAND.

An Act Authorizing Abatements to Purchasers of Tax Certificates on State Land, after cancellation of Contracts.

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

Sec. 1. Whenever any land sold under contract by the State of North Dakota has been sold for taxes and a tax certificate has been issued and the said contract for sale has thereafter been cancelled by the State of North Dakota, the holder of said unpaid tax certificate upon due and proper application in the manner now provided by law shall be entitled to an abatement and refund thereof as well as for any subsequent taxes paid on said land by such certificate holder, together with interest thereon at the rate of seven per cent per annum; and if such land has been bid in by the county at tax sale, all taxes against such land shall be abated.

Sec. 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 6th, 1923.

## CHAPTER 325.

(H. B. No. 224—V. L. Anderson.)

## SALE OF LOTS BID IN BY COUNTY.

An Act To Authorize the County Commissioners to Sell Certain lots or premises bid in by the County for Delinquent Taxes without giving notice of the expiration of redemption.

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

That where an addition to any city has been platted into lots for more than thirty (30) years and no streets, or sidewalks, have been opened or graded in such addition or other improvements made, and lots and premises in such addition have been sold to the county for delinquent taxes, and more than ten years (10) has expired since such sale, and said lots are still owned by the county and no subsequent taxes paid thereon, the County Commissioners of such county may sell and convey all the title and interest of the County in and to such lots or premises without giving any notice of the expiration of the time of redemption from such sale of taxes.

Approved February 27th, 1923.

## CHAPTER 326.

(H. B. No. 129—Jardine.)

## PLACING TAXING DISTRICTS UPON A CASH BASIS.

An Act Providing a Method by which Taxing Districts May Make Short Time Borrowings and Conduct their Current Business upon a Cash Basis; Providing that no Warrants may be issued in excess of Cash on Hand; Providing for the Funding of Floating or Unfunded Indebtedness of Counties, Cities, Villages, Townships, School Districts, and other Taxing Districts; Making the County Treasurer Custodian of Sinking Funds of all Taxing Districts; Providing for the Registering in the County Auditor's office of all bond issues and Certificates of Indebtedness; Prohibiting the Incurring of Indebtedness in Excess of Anticipated Revenues; Making Criminal Certain Violations of this Act, and Providing Penalties Therefor; and Repealing all Acts and Parts of Acts in Conflict with this Act.

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

Sec. 1. Counties, cities, villages, townships, school districts, park districts, and irrigation districts shall have power to borrow money to meet current expenses in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings shall not at any time exceed the amount of uncollected taxes which have been levied during the current

year plus uncollected taxes remaining upon the tax lists of prior years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing funds to meet current expenses, all such taxing districts may issue certificates of indebtedness which shall consist of an agreement on the part of the taxing district to pay a stated sum, not less than one hundred dollars, on a specified date or on or before a specified date, not more than eighteen months in the future, together with interest thereon at a specified rate, not to exceed seven (7) per cent per annum, which certificate shall be issued on behalf of the district by its president or chairman and also signed by its auditor, clerk or secretary upon a form approved by the tax commissioner. Such certificates of indebtedness shall bear the certificate of the county auditor to the effect that they, together with all other outstanding certificates, are within the amount of uncollected taxes which have been lawfully levied in the current year plus uncollected taxes standing upon the tax lists of prior years to the credit of the taxing district. Such certificates of indebtedness shall possess no validity unless they bear such certificate of the county auditor. It shall be the duty of the county auditor to make such certificate according to the facts. When so executed, with the prescribed certificate signed by the county auditor, such certificates of indebtedness shall be fully negotiable and shall be incontestable except upon the ground of fraud on the part of the holder or original payee, or connivance between the holder or the original payee and an officer or officers of the taxing district concerned.

Sec. 2. The county auditor shall at any time upon request of the officers of any taxing district, certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of such district on the last day of the preceding month, and shall annually certify such information to the clerk of each township and village on February fifteenth, and to the auditor of each city on September 10, and to the clerk of each school board on June tenth. The county auditor shall also certify to the clerk, auditor, or secretary of such taxing districts monthly, at the time of making the monthly apportionment of funds, the amount of cash collections apportioned for that month to such taxing district.

Sec. 3. No warrants, purporting to be drawn upon the funds in the hands of the treasurer of any taxing district, shall be issued in excess of the amount of cash in the hands of the treasurer, exclusive of sinking funds and funds for the payment of interest upon bond issues, and no indebtedness shall be incurred, and no undertakings or expenditures authorized in excess of uncollected taxes which have been levied during the current year plus uncollected taxes standing to the credit of the

district upon the tax lists of previous years, except, as is contemplated by statutes authorizing the issuance of bonds. Any warrant issued, contract entered into, or purported indebtedness incurred in contravention of this section shall be utterly null and void, this provision not being intended to detract from the provisions of Section 1 of this act with reference to the incontestability of certificates of indebtedness. Any officer knowingly and willfully executing or participating in the execution of any warrant or contract, or attempting to incur any indebtedness of any such taxing district in contravention of this act, shall be deemed guilty of a misdemeanor. Any officer executing or participating in the execution of any warrant in contravention of this act, shall be personally liable for the payment thereof to the holder in due course thereof. Any county auditor wilfully signing a false certificate upon any certificate of indebtedness issued pursuant to the provisions of this act, shall be deemed guilty of a misdemeanor. Any member of a governing board or any officer of any such taxing district who shall wilfully issue or participate in the issuance of, or the purported authorization of any certificate of indebtedness contrary to the provisions of this act, or in excess of the maximum amount permitted under this act, shall be personally liable for the payment thereof to the holder in due course thereof.

Sec. 4. The county auditor shall at the time of attaching his certificate to such certificates of indebtedness, register such certificates of indebtedness in his bond register in space set aside for the registration of certificates of indebtedness.

Sec. 5. When any taxing district has issued certificates of indebtedness pursuant to the terms of this act, which certificates remain unpaid after maturity, it shall be the duty of the county auditor upon presentation to him of such past due certificates and upon written request of the holder or holders thereof to set aside all tax collections except those for sinking and interest funds thereafter accruing to the credit of such district and the same shall be held by the county treasurer in a special fund to be used only for the purpose of retiring such certificates of indebtedness and paying interest thereon until sufficient funds shall have been accumulated to retire such past due certificates of indebtedness. All certificates of indebtedness shall cease to bear interest at maturity unless then presented for payment and not paid for lack of funds, in which case the treasurer of the taxing district, issuing such certificates shall make an endorsement upon the same over his signature in substantially the following form: "Presented for payment this.....day of .....19....., and not paid for lack of funds." All certificates not paid upon presentation at or after maturity shall bear interest from maturity until paid at the

same rate as before maturity. As certificates of indebtedness are paid and cancelled, they shall be exhibited to the county auditor who shall note the cancellation thereof upon his bond register and make a notation upon the certificate of indebtedness to the effect that the payment thereof has been noted upon his bond register.

Sec. 6. It is the intention of this act to place the business of all taxing districts upon a cash basis as nearly as may be and to that end, to provide for the funding of warrants outstanding at the time this act takes effect. Any taxing district may issue bonds for the purpose of retiring warrants outstanding July 1, 1923, which bonds may be issued without submitting the matter to the electors. The total amount of bonds thus issued shall not exceed the amount of outstanding warrants less any and all funds in the treasury exclusive of sinking and interest funds and less 90 per cent of the amount of uncollected taxes upon the tax lists of 1921 and prior years, and in no event shall exceed the constitutional debt limit of the taxing district. Such bonds shall bear interest at a rate not to exceed 7 per cent per annum and shall mature in not more than 10 years from the date of their issuance.

Sec. 7. If for any reason such bonds of any taxing district cannot be sold they shall be deposited with the county treasurer who shall hold them in trust for the owners of outstanding warrants of such taxing district for the purpose of retiring which they were issued, and as funds are afterwards collected for the purpose of retiring such bonds, he shall apply such funds to the payment and retirement of such outstanding warrants in the order of their registration, and as such warrants are retired he shall cancel an equal amount of such bonds and return them to the clerk of the taxing district issuing the same.

Sec. 8. The county treasurer shall hereafter be custodian of all sinking funds levied by all taxing districts within the county excepting cities having a population of over four thousand and school districts having a population of over four thousand, whether such sinking funds be for the purpose of retiring bonds issued pursuant to the terms of this act or bonds issued pursuant to the provisions of any law now in effect, or hereinafter enacted. As tax collections are made of taxes levied for the purpose of paying the interest on or retiring the principal of bond issues, such funds shall not be remitted to the treasurers of the taxing districts but shall be retained by the county treasurer in a separate special fund maintained as a sinking and interest fund for the bonds of each of such taxing districts, and as such bonds mature the county treasurer shall upon warrant drawn upon him by the county auditor apply

such sinking funds in retirement thereof, and also in payment of the interest thereon as it becomes payable. It shall be the duty of the county auditor to draw such warrants so as to pay the interest and retire the warrants at as early a date as possible. It shall be the duty of the county treasurer to keep the sinking funds of each taxing districts on deposit in such public depository as may have furnished proper bond therefor and as may be designated by the governing board of the taxing district, and when so deposited in such duly qualified public depository the county treasurer shall be relieved of personal responsibility for their safe keeping.

Sec. 9. It shall be the duty of the county auditor to keep a bond register in which shall be entered, as to each issue of bonds issued by any taxing district in the county, a record of the date of issuance, aggregate amount authorized, the aggregate amount issued, the number of bonds and denomination of each, the date of maturity of each bond, the rate of interest, the amount of the levy for each year certified by the taxing board, the amount of tax extended each year for the purpose of retiring principal and interest of such issue, and the amount of warrants drawn on the county treasurer for the purpose of retiring the same. Such bond register shall also contain similar information regarding each issue of certificates of indebtedness of each taxing district in the county. The State tax commissioner shall prescribe, for the use of the county auditors, a uniform form of bond register.

Sec. 10.) It shall be lawful for the governing boards of taxing districts to levy a tax for the purpose of providing funds with which to pay such warrants outstanding July 1st, 1923, as are in excess of the constitutional debt limit, which levy may be made in addition to the maximum rates of levy now or hereafter provided by law, provided such warrants have been issued in good faith and for value received. As such taxes are collected, the county auditor shall segregate the funds derived from such taxes into a separate fund and the same shall be applied by the treasurer of such taxing district for the purpose of retiring such warrants as are in excess of the constitutional debt limit and for no other purpose.

Sec. 11. DEFINITION.) The term "uncollected taxes" as used in this act means taxes from which revenue has not come into the public treasury either by payment or by tax sale.

Sec. 12.) Cities having a population of over four thousand and school districts having a population of over four thousand may issue certificates of indebtedness in any amount not in excess of uncollected taxes of the current year plus uncollected taxes of prior years standing to the credit of the district in

such form and manner and subject to such terms and conditions as the governing board may prescribe, and need not comply with or conform to any of the other provisions of this act pertaining to the issuance of certificates of indebtedness unless they choose to avail themselves of such other provisions of this act.

Sec. 13.) In case any taxing district is unable to sell its certificates of indebtedness, it may issue warrants in payment of current expense in excess of cash on hand, but not in excess of taxes levied but uncollected. If warrants be issued in excess of taxes levied, such warrants shall possess no validity as against the taxing district but the officials knowingly and wilfully issuing the same shall be personally liable for the payment thereof.

Sec. 14. REPEAL.) All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 10th, 1923.

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## CHAPTER 327.

(H. B. No. 130—Jardine.)

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### ADVERTISING FOR BIDS FOR CERTIFICATES OF INDEBTEDNESS OR BONDS.

An Act Providing that Public Officials of Taxing Districts Issuing Certificates of Indebtedness or Bonds, shall Advertise for Bids in Certain Cases and Providing the Procedure to be followed in Connection therewith, Prescribing Penalties for the Violation of this act, and Repealing all Acts and Parts of Acts in Conflict with this Act.

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

Sec. 1.) Except as hereinafter provided, no county, city, village, school district, township, or other taxing district shall sell, or enter into any contract for the sale of any issue of its bonds, for whatever purpose issued, without first advertising for bids in the manner prescribed by this act.

Sec. 2.) A notice calling for bids for each proposed issue of bonds shall be published at least once in the official newspaper of the county not less than fifteen days nor more than thirty days before the date specified therein for the receiving of such bids. Such notice shall be prepared by the auditor, clerk, or secretary of the taxing district and shall appear over his signature and shall specify the amount of the bonds offered for sale, the date or dates of the maturity thereof, the rate of

interest and the purpose for which issued, and shall contain a notice to the effect that no bids at less than par will be considered and that the district reserves the right to reject any and all bids. A copy of such notice shall be mailed to the tax commissioner at Bismarck not less than fifteen days before the date specified for the opening of bids, and the tax commissioner shall keep such notices on file for public inspection. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds, but shall render unenforceable any executory contract entered into for the sale thereof, and the auditor, clerk, or secretary failing to publish or send such notice shall be liable to a fine of not more than five hundred dollars (\$500.00) at the discretion of the court to be recovered in an action brought by the state's attorney in the name of the state, and the fine, when collected, shall be paid into the general fund of the county. If such failure to publish or send such notice is willful, the auditor, clerk, or secretary shall be guilty of a misdemeanor and shall be punished accordingly.

Sec. 3. The notice shall specify the time and place at which bids will be received. Except in case of cities of over four thousand population or school districts of over four thousand population the notice shall specify that bids will be received at the county auditor's office on the date and at the hour specified in the notice. At the time and place specified, the governing board of the taxing district shall be represented by one of its officials or by the county auditor or some other person acting at the request of the board who shall receive competitive bids whether submitted in writing or orally.

"All bids shall be accompanied by a certified check to the amount of not less than 5 per cent of the bid."

After all bids have been received, the governing board of the taxing district may act upon the same at its convenience, but within ten days after the bids have been received and the contract shall be awarded to the bidder who agrees to purchase the bonds upon the terms most favorable to the taxing district, unless the board determines to reject all bids.

Sec. 4. In case the governing board of any taxing district determines to borrow money in excess of two thousand dollars (\$2,000.00) upon certificates of indebtedness as provided by law, a similar notice shall be published and similar procedure followed and with like effect and subject to the same provisions as to penalties as in the case of issues of bonds. In case certificates of indebtedness can be sold at par to bear not more than five and one-half ( $5\frac{1}{2}$ ) per cent interest per annum, the same may be sold without advertising for bids.

Sec. 5. The procedure prescribed in this act shall not be required in case bonds or certificates of indebtedness 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.

Sec. 6. The provisions of this act shall not apply to sales of bonds issued by counties for the purpose of purchasing seed grain and feed, nor to bonds or certificates of indebtedness issued by cities of over four thousand population or school districts of over four thousand population.

Sec. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10th, 1923.

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## CHAPTER 328.

(H. B. No. 143—Jackson.)

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### NOTICE OF LIEN FOR FEDERAL TAXES.

An Act Providing for the Filing of Notices of Taxes due the United States, with Certain County Officers.

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

Sec. 1. That a Notice of Lien for the Amount of any taxes due the United States from any person or corporation may be filed by the Collector of Internal Revenue of the United States in the Office of the Register of Deeds in any County in the State, who shall forthwith record and index the same, and no such tax shall be a valid lien against any property of the person or corporation owing such taxes situated within such county, as against any mortgagee, purchaser or Judgment Creditor until such Notice is filed as aforesaid.

Approved February 19th, 1923.

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## TREASURER

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### CHAPTER 329.

(H. B. No. 44—Larson.)

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### PUBLICATION OF STATE TREASURER'S REPORT.

An Act to Amend and Re-enact Section 147 of the Compiled Laws of North Dakota for the year 1913 and repealing Section 147a of the Compiled Laws of North Dakota for the year 1913; providing for publicity of State Finances.

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

Sec. 1. AMENDMENT.) That Section 147 of the Compiled