

LAWS

PASSED AT

THE TWENTY-SIXTH SESSION

OF THE

Legislative Assembly

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID
STATE, ON TUESDAY, JANUARY THIRD, 1939, AND
CONCLUDING FRIDAY, MARCH THIRD, 1939.



HOLT PRINTING CO. GRAND FORKS, N. D.

AUTHENTICATION

STATE OF NORTH DAKOTA,
Department of State, Bismarck.

I, James D. Gronna, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed at the Twenty-sixth Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 3, 1939, and terminating Friday, March 3, 1939, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July, 1939.

(SEAL) JAMES D. GRONNA,
Secretary of State.

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By James D. Gronna
Secretary of State
of the State of North Dakota

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THE LAWS

AGRICULTURE

CHAPTER 1

H. B. No. 310—(Schimke, Schauss, and Hofstrand)

BEE INSPECTION

An act to amend and re-enact Section 2790a7 and 2790a8 of the 1925 Supplement to the Compiled Laws of the State of North Dakota; relating to duties of bee inspector and of owners; providing for inspection fees and the collection thereof and repealing all acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2790a7 of the 1925 Supplement to the Compiled Laws of North Dakota be amended and re-enacted to read as follows:

§ 2790a7. DUTY TO INSPECT.] The inspector shall inspect, in person or by deputy, every apiary, including all appliances, structures, buildings and bees thereof, at least once each year during any month between May first and October first.

§ 2. AMENDMENT.] That Section 2790a8 of the 1925 Supplement to the Compiled Laws of the State of North Dakota as amended by Chapter 91 of the 1929 Laws of the State of North Dakota is amended and re-enacted to read as follows:

§ 2790a8. INSTRUCTIONS TO OWNER.] If such inspection discloses any infection in such apiary, appliances, structures, buildings or bees, the inspector shall give instruction and supervise the owner or person in charge of such property in such treatment as in the judgment of the inspector may be necessary for the eradication or control of such infection; and the owner or person in charge shall immediately carry out such instructions.

§ 3. INSPECTION FEES.] Every owner or person in charge of bees shall pay an inspection fee of ten cents (10¢) for each and every colony inspected up to and including one hundred (100) colonies and five (5¢) cents a colony for each and every colony over one hundred (100) inspected, provided that in no case shall this

inspection fee be less than fifty (50¢) cents. This fee shall be collected by the inspector or his deputy making the inspection at the time of the completion thereof. All inspection fees so collected shall be turned over to the Commissioner of Agriculture and Labor, and by him, be paid monthly to the State Treasurer who shall deposit the same to the credit of the general funds of the State.

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

Approved March 18, 1939.

CHAPTER 2

H. B. No. 377—(Schimke, Schauss and Hofstrand)

BEE-KEEPERS ACT

An act to provide for the licensing of bee-keepers and/or apiaries; for issuance of license; for an appropriation; for penalties and declaring an emergency.

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

§ 1. SHORT TITLE.] This act shall be known, and may be cited as the "North Dakota Bee-Keepers Act."

§ 2. BEE-KEEPER DEFINED.] For the purposes of this act a bee-keeper shall mean any person, firm, association or corporation who owns, has possession or control of one or more colonies of bees for the production of honey, beeswax or by-products either for personal or commercial use.

§ 3. LICENSE.] Every bee-keeper shall, on or before the first day of April in each year, or within twenty days thereafter, make application to the Commissioner of Agriculture and Labor, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every bee-keeper who makes a satisfactory application in the form prescribed by the Commissioner of Agriculture and Labor and pays the license fee required herein.

§ 4. SUBSEQUENT POSSESSION.] Any person procuring or coming into possession of bees shall, within ten days thereafter, make application to the Commissioner of Agriculture and Labor for a license certificate pursuant to the provisions of Section 3 hereof. No person shall own bees or have bees in his possession unless he is the holder of a certificate of license for the current year or has made the application for the license certificate provided for herein.

§ 5. LICENSE FEES.] Any person owning bees or having bees

in his possession shall, upon making application for a license certificate pay a license fee based upon the following rates:

For one (1) to ten (10) colonies inclusive one (\$1.00) dollar.

For eleven (11) to fifty (50) colonies inclusive five (\$5.00) dollars.

For fifty-one (51) to one hundred (100) colonies inclusive ten (\$10.00) dollars.

For one hundred and one (101) to two hundred (200) colonies inclusive fifteen (\$15.00) dollars.

For two hundred and one (201) colonies and over, twenty-five (\$25.00) dollars.

§ 6. COLLECTION OF LICENSE FEES.] All fees collected by the Commissioner of Agriculture and Labor for the issuance of license certificates shall be paid to the State Treasurer and shall be deposited by him to the credit of the Bee Fund of the State.

§ 7. PENALTIES.] Failure of any person to comply with the provisions of this act is hereby declared to be a misdemeanor, punishable by a fine of not less than twenty-five (\$25.00) dollars nor more than fifty (\$50.00) dollars or thirty days in the county jail or by both such fine and imprisonment.

§ 8. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, in the Bee Fund not otherwise appropriated, the sum of three thousand six hundred (\$3,600.00) dollars, or as much thereof as may be necessary to defray the expenses of the Commissioner of Agriculture and Labor, or his agents, in carrying out the provisions of this act.

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

Approved March 18, 1939.

CHAPTER 3

H. B. No. 120—(Belzer, McIntyre and Culver)

SANITARY REGULATIONS CREAM HANDLERS

An act establishing rules and regulations and sanitary conditions for cream buying stations; sanitary requirements for haulers of cream; equipment and care of equipment; care of cream held in the State; care of cream in transit; repealing acts in conflict herewith; providing penalties; and declaring an emergency.

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

§ 1. CREAM STATION DEFINED.] For the purpose of this act a cream station shall be defined as any place or room where cream is purchased from the producer to be later transported to a processing plant.

§ 2. CREAM STATION REQUIREMENTS.] Any room where cream is purchased or concentrated for shipment in any cream buying station shall hereafter be used exclusively for the purchasing, handling and storing of cream. Walls and ceilings shall be tight, so as to exclude dust, and all openings in such stations shall be tightly screened against insects. The floors must be tight, and shall be maintained in a clean and sanitary condition at all times. Any door or other opening between a cream station room and any other room used for the storing or handling of hides, meats, fruits, vegetables, grain, poultry, or oils of any kind, or other dust or odor-producing articles are kept shall be tightly fitted and kept closed when not in use. Cream buying stations must be well-lighted and ventilated, and shall have a floor space of not less than one hundred and twenty (120) square feet.

No hides, furs, live poultry, petroleum products, groceries, or leather goods, or other articles that may cause cream to be contaminated with offensive odors or sediment, may be kept at any time in any cream station in this State.

§ 3. All cans used in the purchase, sale or handling of cream shall be kept thoroughly clean, steamed and free from rust, and from and after the taking effect of this act, no cream station operator may loan out a marked or identified cream can, and all empty cream cans to be used in connection with the purchase of cream in this State when in the custody of any cream buyer, shall be stacked in the rack inside such cream station, on their sides with the covers off. Cans used for the handling, sale or shipping of cream shall not be used for any other purpose, and all equipment and utensils used in the purchasing or handling of cream shall be kept in a clean and sanitary condition at all times.

All cream buyers in this State shall have at least a five-gallon

can filled with fresh, clean water, in which he shall submerge his cream stirrer at all times when it is not in use.

An approved rubber scraper shall be used to scrape cream from stirring rod, can covers, and other equipment.

Nothing but pure, clean water or steam shall be used in any cream station for the purpose of rinsing cream from cream cans in which cream has been delivered to the station by the producer.

Cans containing cream at cream stations must be covered so as to prevent the entrance of rodents, flies, dust or other contaminating substances.

All cream stations shall be equipped with cooling facilities so as to maintain the cream on hand at a low temperature to avoid deterioration.

§ 4. CREAM IN TRANSIT.] Containers of cream in transit, or in the possession of cream buyers, shall not at any time be placed near hides, furs, live poultry, petroleum products, or any other article that may cause cream to be contaminated with offensive odors or sediment, and such containers, when delivered to carriers shall be so equipped as to prevent contamination in transit.

§ 5. PENALTIES.] Any person violating any of the provisions of this act, upon conviction thereof shall be fined not to exceed one hundred dollars (\$100.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

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

§ 7. 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 13, 1939.

CHAPTER 4

H. B. No. 105—(Ireland, Solberg, Symington, Lange, Haugland, Beede and J. M. Thompson)

DIVISION OF CO-OPERATIVES

An act creating a Division of Co-operatives in the Department of Agriculture and Labor, and prescribing its functions; creating and establishing the office of director of said division and prescribing his duties; and making an appropriation therefor.

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

§ 1. CREATION. There is hereby created in the Department of Agriculture and Labor a Division of Co-operatives, the purpose of which shall be to aid co-operatives by serving as a source of co-operation and information in the establishment and/or maintenance of co-operatives generally.

§ 2. DIRECTOR.] The chief administrative official of the Division of Co-operatives shall be the Commissioner of Agriculture and Labor.

§ 3. DUTIES.] It shall be the duty of the Commissioner of Agriculture and Labor to assemble, compile and maintain files of statistical data relating to the work and progress of co-operative enterprises, the statutes of the several States and, so far as reasonably convenient, those of foreign countries, affecting co-operatives. He shall also carry standard forms and outlines for use and reference in organization work.

The Commissioner of Agriculture and Labor shall disseminate such information and materials for the use and benefit of established co-operatives and new co-operative projects in process of organization. He shall also render such personal assistance to co-operatives generally as may be possible with the means and facilities at his disposal.

§ 4. APPROPRIATION.] There is hereby appropriated for the establishment and maintenance of the said Division of Co-operatives out of the general funds of the State the sum of \$2,000 to be used and expended under the direction and in the discretion of the Commissioner of Agriculture and Labor.

Approved March 14, 1939.

CHAPTER 5

S. B. No. 34—(Thorson)

FEDERATED CO-OPERATIVE AGRICULTURAL ASSOCIATION
ACT AMENDMENT

An act to amend and re-enact Section 5 and Section 9 of Chapter 4 of the Session Laws of North Dakota for 1935.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 4 of the Session Laws of North Dakota for 1935 be and the same is hereby amended and re-enacted to read as follows:

§ 5. FEDERATION. HOW ESTABLISHED.] As soon as three or more States have accepted the plan of federation as herein proposed, and their respective legislatures have authorized the formation thereof, said commissioners from each State shall proceed to organize by electing officers, adopting by-laws for the proper conduct of the business of such federation, not inconsistent with the purposes thereof.

§ 2. AMENDMENT.] That Section 9 of Chapter 4 of the Session Laws of North Dakota for 1935 be and the same is hereby amended and re-enacted to read as follows:

§ 9. NAME OF NATIONAL ORGANIZATION.] Whenever any three States have accepted, by legislative enactment, the purposes and objects of this act, and have organized a federation it may be called the National Federated, Co-operative, Agricultural Association, or any name according to the judgment of the commissioners, the only restriction being that the purposes and objects of this act shall be preserved.

Approved March 16, 1939.

CHAPTER 6

S. B. No. 89—(Guthrie, Morrison & Aandahl)

SOIL CONSERVATION DISTRICTS ACT AMENDMENT

An act to amend and re-enact Sub-section (a) and Sub-section (f) of Section 5, Section 6, Section 8 and Section 9 of Chapter 9 of the Session Laws of North Dakota for 1937; relating to the organization of soil conservation districts, the election, qualification and tenure of supervisors thereof; and relating to the adoption and enforcement of land-use regulations, and declaring an emergency.

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

§ 1. AMENDMENT.] That Sub-section (a) and Sub-section (f) of Section 5 of Chapter 9 of the Session Laws of North Dakota for 1937 is hereby amended and re-enacted to read as follows:

§ 5. (a) Any twenty-five occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil Conservation Committee asking that a soil conservation district be organized in the territory described in the petition. Such petition shall set forth:

First: The proposed name of said district.

Second: That there is need for a soil conservation district to function in the territory described in the petition.

Third: A description of the territory proposed to be organized as a district.

Fourth: A request that the State Soil Conservation Committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Committee may consolidate all or any such petitions.

(f) If the committee shall determine that the operation of such proposed district is administratively practicable and feasible, it shall file with the Secretary of State a certified statement indicating and describing the boundaries of such district and the name thereof. Such statement shall also indicate the reasons for the formation of such districts and the result of the referendum. Upon such certification by the committee to the Secretary of State such district shall become a governmental sub-section of this State and a body corporate and politic; and the Secretary of State shall make and issue to the State committee a certificate, under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such

district shall include the territory as determined by the State Soil Conservation Committee, as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

§ 2. AMENDMENT.] That Sub-division (a) of Section 6 of Chapter 9 of the Session Laws of North Dakota for 1937 is hereby amended and re-enacted to read as follows:

§ 6. ELECTION, QUALIFICATION AND TENURE OF SUPERVISORS.]

(a) 1. As soon as practicable after the issuance by the Secretary of State of a certificate of organization of a soil conservation district, the State committee shall give notice that an election will be held in such district for the election of three supervisors, who shall be land occupiers of the district and who shall constitute the governing body of the district, and that petitions for the nomination of candidates for the office of supervisor may be filed with the committee not later than the date and hour stated in such notice. At least twenty days before such election, the State committee shall cause such notice to be posted in at least five conspicuous places within the district and shall publish such notice once each week for two consecutive weeks in a newspaper of general circulation in the district. The final date for filing nominating petitions shall be ten days prior to such election. Such notice shall be substantially in the following form:

"Notice is hereby given that on the-----day of-----, 19----, an election will be held at----- (here designate the polling place, or places), for the purpose of electing three supervisors of----- (name of district) soil conservation district. Polls will be open at nine o'clock in the forenoon and will close at five o'clock in the afternoon of that day.

Notice is further given that petitions for the nomination of candidates for the office of such supervisor may be filed with the State committee not later than the hour of noon on the-----day of-----, 19----. Nominating petitions may be delivered or mailed to----- (Here give address and office or place where petitions may be filed)."

No nominating petition shall be accepted by the State unless it shall be subscribed by twenty-five or more occupiers of lands lying within boundaries of such district. Land occupiers may sign more than one such nominating petition to nominate more than one candidate for supervisor; provided that for subsequent elections the name of only one nominee shall appear on a petition if only one supervisor is to be elected and no land occupier shall then sign more than one petition. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be arranged in the alphabetical order of the surnames upon the ballots and ballots shall be printed. A square shall

appear after each name and a direction to insert an X mark in the square after any three names to indicate the voters preference. Only land occupiers shall be eligible to vote in such election. The three candidates receiving the largest number, respectively, of the votes cast in such election shall be the supervisors for such district. The State committee shall pay all the expenses of such election and shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein and shall publish and declare the results thereof.

2. Prior to such election the State committee shall appoint from the land occupiers of the district one inspector, one judge and two clerks who shall constitute a board of election. Before opening the polls each member of the election board shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will perform my duties as inspector, judge or clerk (as the case may be) according to law and to the best of my ability." The inspector of the election shall take such oath or affirmation before some officer authorized to administer oaths and the inspector shall have the authority to administer and certify all oaths or affirmations taken by other members of the election board and shall administer all oaths or affirmations required during the progress of the election.

Immediately after the polls are closed, the board shall publicly open and proceed to canvass the ballots cast and shall declare the result of their canvass. The inspector shall then securely wrap all lists, tally sheets, oaths and affirmations and other documents relating to the progress of the election and shall deliver or mail the same to the State committee.

3. As soon as practicable, the State committee shall meet and canvass the returns and shall verify and declare the results thereof and shall issue or cause to be issued to each person elected supervisor a certificate of election. Such certificate of election shall be in such form as the committee shall prescribe.

4. The supervisors thus elected shall designate a chairman and may, from time to time, change such designation. One supervisor elected at the first general election of the district shall serve until the next general election of the district, one shall serve until the third general election and the third shall serve until the fourth general election; provided, however, that each supervisor shall serve until his successor has been duly elected and qualified. The term of office of the supervisor receiving the lowest number of votes shall expire at the next general election of the district and the supervisor receiving the highest number of votes shall hold office for the longest term. In case the office of supervisor shall for any reason become vacant, the remaining supervisors shall, with the advise and consent of the State committee, fill the vacancy by appointment. A supervisor appointed to fill a vacancy shall serve until the next general election of the district, and until his successor is elected and qualified.

Supervisors elected at subsequent elections shall hold office for a term of three years and until their successors are elected and qualified.

5. In 1940, and each year thereafter, the general election of soil conservation districts shall be held on the second Tuesday in June of each year. The notice of such election and the conduct thereof shall be the same as provided herein for the first district election, except that the supervisors of the district shall give notice of the election, designate the polling place or places, and shall appoint the election officers; provided that the returns of all elections shall be submitted to the State committee in the same manner as the returns of the first election and such returns shall be canvassed and verified by the State committee and certificates of election shall be issued by the State committee.

§ 3. AMENDMENT.] That Section 8 of Chapter 9 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 8. ADOPTION OF LAND-USE REGULATIONS.] The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No.-----□, prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No.-----□, prescribing land-use regulations for conservation of soil and prevention of erosion," shall be printed, with a direction to insert an "X" mark in the square before one of the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the

district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least three-fourths of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by three-fourths of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches and other necessary structures;
2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;
3. Specifications of cropping programs and tillage practices to be observed;
4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;
5. Provisions for such other means, measures, operations and programs as may assist conservation of soil and water resources

and prevent or control soil erosion in the district, having due regard to the declaration of policy set forth in Section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district.

§ 4. AMENDMENT.] That Section 9 of Chapter 9 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 9. ENFORCEMENT OF LAND-USE REGULATIONS.] The supervisors shall have authority to go upon any land within the district to determine whether land-use regulations adopted under the provisions of Section 8 of this act are being observed.

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

Approved March 16, 1939.

CHAPTER 7

H. B. No. 260—(State Affairs Committee)

POULTRY IMPROVEMENT BOARD

An act to create a North Dakota Poultry Improvement Board; to define its powers and duties; to provide for licenses and fees for poultry processors, packers, hatching [hatcheries], baby chick jobbers, record of performance breeders and poultry feed manufacturers and wholesalers, and for the disposition of the proceeds thereof; to require the filing of reports by carriers and shippers of poultry and poultry products, and fixing penalties for violation hereof.

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

§ 1. NORTH DAKOTA POULTRY IMPROVEMENT BOARD ESTABLISHED. PURPOSE.] There is hereby created a board to be known as the North Dakota Poultry Improvement Board, for the following purposes:

(a) To promote the welfare of and stimulate interest in the poultry industry.

(b) To cooperate with the North Dakota Department of Agriculture and Labor, and all other State and Federal agencies in all activities and programs designed for the advancement, promotion and improvement of the poultry industry of the State of North Dakota.

(c) To improve poultry breeding and to cooperate with the North Dakota Livestock Sanitary Board in controlling and eradicating communicable disease of poultry.

(d) To act as the official State agency for North Dakota in cooperation with the Bureau of Animal Industry, United States Department of Agriculture, for the purpose of furthering the objectives and supervising the State's participation in the national poultry improvement plan.

(e) To act as the State agency to cooperate with the Bureau of Agricultural Economics, United States Department of Agriculture, to supervise the Federal-State poultry grading service.

(f) And generally, to promote the welfare and improvement of the poultry industry and the marketing of poultry and poultry products within the State of North Dakota through such means and in such manner as may, by said board, be deemed conducive to such improvement, and to effectuate these purposes, this act shall be liberally construed.

§ 2. MEMBERSHIP OF BOARD. TERM OF OFFICE.] The North Dakota Poultry Improvement Board shall consist of the chairman of the Poultry Department at the North Dakota Agricultural College, the Commissioner of Agriculture and Labor, and the executive officer of the Livestock Sanitary Board, ex-officio, and five members to be appointed by the Governor in the manner hereinafter set forth. The ex-officio members shall have no voting power, but shall attend and participate in the meetings of the board in an advisory capacity. As soon as possible after the taking effect of this act, and in any event not later than July 10, 1939, the boards of directors of the North Dakota State Poultry Association and the North Dakota Turkey Improvement Association, acting concurrently, shall submit to the Governor a list of nominees for appointment to said board containing the names of three bona fide hatchery operators or owners, three poultry processors, and marketing men, three record of performance breeders under the national poultry improvement plan, three poultry producers, and three turkey breeders, and shall designate in such list the classification for which the nominees are selected. All of such nominees shall be qualified electors of the State of North Dakota. Not to exceed five days after the receipt of such list of nominees, the Governor shall appoint from such list, five members of said board, consisting of one member from each of such classifications. One of such members shall be appointed for a term to expire July 1, 1940, one for a term to expire July 1, 1941, one for a term to expire July 1, 1942, one for a term to expire July 1, 1943,

and one for a term to expire July 1, 1944, and said members shall serve until such dates, respectively, and until their successors are appointed and qualified. On or before July 1st in each year hereafter when a term is to expire, the Governor shall appoint one member, for a five year term, who shall be appointed from a list of three nominees selected and submitted to him in the same manner as above set forth, which nominees shall be named from the classification represented by the member whose term expires. Vacancies arising by reason of the death, resignation, removal or disqualification of a member of said board shall be filled in the same manner as to nomination and appointment, and members appointed to fill vacancies shall serve for the unexpired term in which the vacancy has arisen.

§ 3. MEETINGS. COMPENSATIONS.] The said board shall meet in Bismarck within ten days after their appointment, upon the call of the Commissioner of Agriculture and Labor, and shall organize by electing one of the members thereof chairman of said board, to serve as such for such period as said board may determine. A majority of the appointed members of said board shall constitute a quorum for the transaction of business. Said board shall make all necessary rules and regulations for the conduct of its meetings and business, and for carrying out the purpose of this act. The board shall hold its meetings at the State Capitol at such times as it may determine, but there shall not be more than four regular meetings each year; provided, that the chairman of said board shall have power to call special meetings whenever in his judgment a meeting is necessary. The appointed members of said board shall receive five dollars per diem while in session, and for performance of their duties hereunder, including the attendance at meetings of this board, the sum of five cents for each mile so travelled, and shall receive no other compensation. Ex-officio [officio] members shall receive no compensation nor expense money from the fund hereinafter provided for, but nothing herein is to be construed as prohibiting such ex-officio members from charging and collecting expenses from the departments which they represent for expense incurred in connection with carrying out the work of said Poultry Improvement Board.

§ 4. EXECUTIVE SECRETARY.] The board shall appoint an executive secretary who shall serve at the will of said board, and who shall receive such compensation as shall be fixed and determined by such board. It shall be his duty to execute all orders and regulations of the board, to present at each meeting of the board a detailed statement of all work done by him or his subordinates, and perform such other duties as may be required by such board. He shall carry on all correspondence and keep all files, records, documents, legislative bills and other material pertaining to said board and the poultry industry of the State of North Dakota. He shall be furnished suitable quarters in the Capitol Building. Before

entering upon the discharge of his duties he shall take the oath of office required of State officers and shall be bonded in the State Bonding Fund (or otherwise as provided by law) in the sum of five thousand (\$5,000.00) dollars.

§ 5. LICENSES AND FEES.] No person shall hereafter engage in the business of poultry and/or turkey buyer, processor, packer, hatchery operator, baby chick jobber, record of performance breeder, or poultry and/or turkey feed manufacturer or jobber without first securing from said North Dakota Poultry Improvement Board a license to engage therein, which said licenses shall expire on the 1st day of July of each year, and shall be issued or renewed by said board only upon payment to said board of such fees as may be fixed by said board for each of said occupations, not exceeding, however, the amounts hereinafter set forth, to-wit:

(a) Poultry and/or turkey buyers, processors and packers: annual license fee, \$1.00, plus 25¢ per thousand pounds (or fraction thereof) of poultry and/or turkeys processed, packed or sold.

(b) Hatcheries: annual license fee, \$1.00, plus 50¢ per thousand eggs or fraction thereof based upon manufacturer's rated incubating capacity.

(c) Baby chick and/or turkey poult jobbers: annual license fee, \$1.00, plus 50¢ per thousand chicks and/or poult or fraction thereof sold.

(d) Records of performance breeders: annual license fee, \$10.00, plus 5¢ per pullet candidate over 100 birds entered in R. O. P. Work.

(e) Poultry and/or turkey feed manufacturers and wholesalers: annual license fee \$1.00, plus 50¢ per ton for all mixed poultry feeds produced or sold in the State of North Dakota.

It is the intention of this act that the foregoing schedule of license charges and fees shall constitute the maximum to be charged and collected, but the North Dakota Poultry Improvement Board shall have authority, if it determines that any or all of such fees or charges are excessive or unduly burdensome, or that a lesser schedule of fees will produce all income necessary for carrying on the work of the board, to reduce the license charges and fees of any or all of such occupations.

The annual license fees for the ensuing year, plus all other fees previously accrued, must be paid before any license is issued, and all accrued fees other than license fees must be remitted at the time of making the reports hereinafter required. Failure to pay any fee or license charged within ten (10) days after the same shall become due shall constitute a violation of this act.

§ 6. REPORTS OF LICENSEES.] All persons engaged in any of the occupations required by this act to be licensed shall make quar-

terly reports on the first days of the months of January, April, July and October to the North Dakota Poultry Improvement Board, except that hatcheries and record of performance breeders shall report annually on the first day of January. Such reports shall contain the information required to determine the fees payable for the preceding reporting period, together with such other information as may be required by the board and shall be accompanied by remittance for the amount of fees then due. Failure to make any such report within ten days after the same shall become due, and failure to remit for fees within ten days after the reporting date herein set forth, shall constitute a violation of this act.

§ 7. SPECIAL FUND.] All license charges and fees collected under this act shall be deposited in the State Treasury in a special fund to be known as the Poultry Improvement Fund, and shall be disbursed upon proper vouchers approved by the president of the North Dakota Poultry Improvement Board, and said fund shall constitute the sole source of funds for the carrying out of the provisions of this act, and said fund and the affairs of the board shall be audited in the same manner and by the same officer as other similar public funds and boards of the State of North Dakota.,

§ 8. PURPOSES OF FUND.] The Poultry Improvement Fund may be expended under the direction of said North Dakota Poultry Improvement Board for the payment of any and all expenses incident to the fulfillment of the purposes of this act, including assistance in the promotion, co-ordination, assist with financing of State, county or district poultry shows, and any other instrumentality or agency designed for the welfare and improvement of the poultry industry in North Dakota.

§ 9. ANNUAL REPORT.] The said board shall make an annual report to the Governor of all its proceedings and transactions for the preceding year, on or before the 1st day of January of each year, and said reports shall be published as one of the official documents of the State of North Dakota.

§ 10. PENALTY.] Violation of this act shall constitute a misdemeanor and be punishable by a fine of not to exceed \$50.00 for each offense, and as additional or alternative penalties, the board may revoke any license issued, and may by injunction restrain the continuance of any operations covered by this act.

§ 11. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 14, 1939.

CHAPTER 8

H. B. No. 111—(Schwartz)

UNFAIR DISCRIMINATION PURCHASE CERTAIN
FARM PRODUCTS

An act to amend and re-enact Chapter 3 of the Session Laws of 1933; defining unfair discrimination in the purchase of certain farm products; prohibiting such discrimination; providing a penalty therefor; and repealing act in conflict herewith; and declaring an emergency.

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

§ 1. DEFINITION.] The following words, terms and phrases shall, for the purposes of this act, be given the meaning hereinafter subjoined to them.

§ 2. (a) The term "person" means an individual, firm, co-partnership, corporation or association.

(b) The term "farm products," as used in this act, shall mean and include butter, milk, cream, butterfat, cheese, and other dairy products, honey, eggs and poultry.

(c) The term "bona fide competitor" shall be deemed to be a duly licensed dealer in any farm product maintaining a place of business in the same trade territory.

§ 3. Any person engaged in the business of buying any such farm products, for manufacture or sale, who shall discriminate between different sections, localities, communities, cities or villages of this State, by purchasing any such farm products at a higher price or rate in one locality than is paid for such products of the same kind, quality and grade by such person in another section, locality, community, city or village, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the actual cost of transportation paid from the locality of purchase to the locality of manufacture or sale, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. It shall not be unfair discrimination for any person to pay in any section, locality, community, city or village, a price equal to that actually paid on the same day by any bona fide competitor in such section or locality, for farm products of the same kind and grade, provided such price is paid in a bona fide and good faith effort to meet competition, and in such case the burden of proving such facts shall be upon the defendant.

§ 4. Proof that any person has paid a higher price for any such farm products in one section, locality, community, village or city, than in another, or has paid another person a different price for the same kind and quality product in the same community, after

due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of this act.

§ 5. The Commissioner of Agriculture and Labor, the State Dairy Commissioner and his deputies, assistants and agents, and the state's attorneys, sheriffs and peace officers of the respective counties, shall enforce the provisions of this act, and in so doing shall have all the powers conferred upon each of them by the provisions of law.

§ 6. If complaint shall be made to the Commissioner of Agriculture and Labor, or to the Dairy Commissioner, that any person is guilty of unfair discrimination, either of them shall forthwith investigate such complaint, or may, upon his own initiative, investigate whether this statute has been violated, and in either event, for that purpose, either of them may subpoena, supervise and control witnesses the same as the district court, administer oaths, take testimony, and if, in his opinion, sufficient ground exists therefor, he may prosecute an action in the name of the State in the proper court to annul the corporation or the existence of the corporation violating the provisions of this act. If any corporation is adjudged by the courts to be guilty of unfair discrimination, such court may vacate the charter or revoke the authority of such corporation to do business in the State of North Dakota, and may permanently enjoin it from transacting business in this State.

§ 7. Any person violating the provisions of Section 3 of this act shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00), for each offense, and in default of the payment of such fine be imprisoned in the county jail for not less than three (3) months, nor more than one (1) year.

§ 8. The authority hereby extended to the Commissioner of Agriculture and Labor and the Dairy Commissioner shall be considered as their duties only, and shall not be construed to preclude any other prosecuting officer or any interested party from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of this act.

§ 9. REPEAL.] Chapter 3 of the Session Laws of 1933 is hereby expressly repealed, but nothing in this act shall be construed as repealing any other act or parts of acts, but the remedies herein provided for shall be cumulative to all other remedies provided by law.

§ 10. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall take effect immediately upon its passage and approval.

Approved February 15, 1939.

AIRPORTS

CHAPTER 9

S. B. No. 153—(Blaisdell)

PUBLIC AIRPORTS AND LANDING FIELDS

An act to amend and re-enact Section 1 of Chapter 92 of the Session Laws of North Dakota for the year 1931, relating to public airports and landing fields and declaring an emergency.

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

§ 1. AMENDMENT.] Section 1 of Chapter 92 of the Session Laws of North Dakota for the year 1931 is hereby amended and re-enacted to read as follows:

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

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

Approved March 7, 1939.

ANIMALS

CHAPTER 10

H. B. No. 62—(Committee on Livestock)

BANG'S DISEASE

REIMBURSEMENT OF OWNERS OF CATTLE AFFECTED WITH BANG'S DISEASE AND PAYMENT OF EXPENSES IN CONNECTION THEREWITH

An act to provide for the reimbursement of owners of cattle destroyed by order of the North Dakota Livestock Sanitary Board on account of being affected with Bang's disease and to pay expenses in connection therewith, and providing for the creation of a fund therefor, limiting the liability of the State of North Dakota, and declaring an emergency.

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

§ 1. WHEREAS, during the past fiscal year ending June 30th, 1938 the U. S. Congress provided that indemnity on cattle reacting to the blood test for Bang's disease will not be provided for after May 1st, 1939 unless matched by an equal indemnity by the States,

THEREFORE, each State must make provisions to meet this indemnity or lose the aid of the Federal Government in Bang's disease control work in cattle.

§ 2. NOTICE, HOW SERVED.] Whenever any cattle have been adjudged to be infected with Bang's disease by the North Dakota Livestock Sanitary Board, it shall be the duty of said board, or its duly authorized agent, to serve a written notice upon the owner or keeper of such decision before the killing of the animal or animals condemned, which notice shall contain the provisions for a protest according to Section 6 of this act, and if no protest is made by the owner or keeper, such animal or animals shall be appraised according to the provisions contained in Section 3 of this act.

§ 3. APPRAISAL, HOW MADE.] Whenever any cattle have been adjudged to be infected with Bang's disease by the North Dakota Livestock Sanitary Board and have been ordered killed by said board and are killed in accordance therewith, the actual value of said animal or animals at the time of appraisal shall be determined by the North Dakota Livestock Sanitary Board, or its authorized agent, within twenty-four hours after the killing is ordered and before it or they are killed; provided, that if the owner or keeper is aggrieved by such appraisal he may cause a board of appraisers to be appointed according to Section 4 of this act.

§ 4. APPRAISERS, HOW APPOINTED.] In case the owner

of cattle to be killed under the provisions of this act, or his agent, is not satisfied with the appraisal made by the North Dakota Livestock Sanitary Board, or its agents, he may protest against the same, whereupon a board of three appraisers is to be formed, of which one member shall be the agent of the North Dakota Livestock Sanitary Board, one member shall be selected by the owner of the animal or animals involved, and a third member shall be selected by the first two members, as herein provided, whereupon an appraisal of animal or animals involved shall be made by the board of appraisers, according to Section 5 of this act, and in case all three appraisers or any two of them agree upon a certain valuation, this appraisal shall be regarded as final.

§ 5. MAXIMUM VALUATION.] In no case shall the appraised value of grade cattle of two years old or more exceed eighty dollars, nor that of grade cattle under two years old exceed forty dollars; provided, in the case of purebred cattle, accompanied by a certificate of registration in a recognised [recognized] herd book, the appraised value of said purebred cattle of two years old or over shall not exceed one hundred fifty dollars, nor that of said purebred cattle under two years old exceed seventy-five dollars.

§ 6. PROTEST, HOW MADE.] Providing the owner or his agent is aggrieved with the diagnosis of the North Dakota Livestock Sanitary Board, or its agents, said owner may within twenty-four hours make protest against the diagnosis; and be entitled to consultation, in accordance with the provisions of Section 10 and 11 of Chapter 169 of Session Laws of 1907.

§ 7. FEES, HOW PAID.] The two members of this board of appraisers, not connected with the North Dakota Livestock Sanitary Board, shall be entitled to one dollar per day for their services, to be paid out of the fund created for the purpose of carrying out this act, upon presentation of vouchers to the State Auditor and duly approved by the North Dakota Livestock Sanitary Board.

§ 8. WHO MAY TAKE ADVANTAGE OF THIS ACT.] The owner of cattle affected with Bang's disease, or so adjudged by the North Dakota Livestock Sanitary Board, and appraised in accordance with this act shall be entitled to the amount named in the appraisal providing that the owner or owners of such cattle have applied to the North Dakota Livestock Sanitary Board for a Bang's test to be made under the supervision of said board.

§ 9. CLAIMS, HOW PAID.] The return of appraisers made under this act shall be in writing, and signed by the North Dakota Livestock Sanitary Board, or its agents making the appraisement, or by the board of appraisers in case of protest, and also signed by the owner of said cattle condemned and certified to by the executive officer of the North Dakota Livestock Sanitary Board to the State

Auditor, who shall draw a warrant on the State Treasurer in favor of the owner for the amount thereof; provided that the amount of indemnity paid by the State shall not exceed one-third of the difference between the appraised value of such cattle and the net value of the salvage thereof, and must not exceed nine dollars in the case of grade cattle nor more than fifteen dollars in the case of purebred cattle; further providing, that in the event that the Federal Government fails to provide an equal amount of indemnity with the State then the owner shall be paid one-half of the difference between the appraised value of such cattle and the net value of the salvage thereof, and must not exceed fourteen dollars in the case of grade cattle. Providing further that the State of North Dakota shall not be liable for any indemnity whenever the amount hereby appropriated shall be exhausted or in any sum larger than the sum hereby appropriated.

§ 10. CARCASSES, HOW DISPOSED OF.] All and any money realized from the sale of the whole or any part of cattle killed on account of Bang's disease may be paid to the owner of said condemned cattle, and the amount thereof deducted from the appraised value of said condemned cattle.

§ 11. OWNER SHALL NOT BE INDEMNIFIED IN THE FOLLOWING CASES.] The right to be indemnified shall not exist, and payment shall not be made, in the following cases:

First: For animals belonging to the United States, or any county, city, township, or village in the State.

Second: When the owner at the time of coming into possession of the animal or animals knew it or them to be diseased or suspected of it or them being diseased.

Third: For animals found to have been diseased at the time of their arrival in this State.

Fourth: When the owner is a non-resident and not engaged in the breeding of livestock in this State.

Fifth: When the animal or animals at the time of its or their killing had been in the State less than six months.

Sixth: When the owner shall have been guilty of negligence by wilfully exposing his animal or animals to Bang's disease or if he has previously injected live Bang's disease organisms into his cattle in the form of so-called Bang's disease vaccines.

§ 12. FUND, HOW CREATED.] For the purpose of creating a fund to provide for the expenses incurred in carrying out the provisions of this act, there is hereby created a fund to be known as the Bang's Disease Fund.

§ 13. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the

sum of \$50,000.00, or as much thereof as may be necessary for the purpose of indemnifying the owners of animals infected with Bang's disease and destroyed, and to pay expenses in connection therewith.

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

Approved March 16, 1939.

CHAPTER 11

H. B. No. 61—(Livestock Committee)

BANG'S TEST IN TOWNSHIPS

An act relating to the application of the Bang's test in townships in counties in North Dakota under the direction of the North Dakota Livestock Sanitary Board by petition of seventy-five per cent of the freeholders or livestock owners in such townships, fixing penalty for violation.

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

§ 1. Upon receipt of a petition signed by not less than seventy-five per cent of the resident freeholders or livestock owners of any township in any county in North Dakota petitioning for the application of the Bang's test to all cattle within such township, the North Dakota Livestock Sanitary Board is authorized and empowered to enforce the Bang's testing of all such cattle in such township, in accordance with the laws providing for the eradication of Bang's disease and reimbursement of owners of cattle slaughtered on account of Bang's disease and the regulations of the North Dakota Livestock Sanitary Board.

Provided, that in any circumscribed area as established by the North Dakota Livestock Sanitary Board, where all the cattle in said area are to be Bang's tested and said Bang's test is undertaken under the direction of the North Dakota Livestock Sanitary Board, no other cattle shall enter said area unless Bang's tested under the direction of the North Dakota Livestock Sanitary Board or are accompanied by a proper Bang's test health certificate, except under special permit and restrictions provided by the North Dakota Livestock Sanitary Board.

§ 2. PENALTY.] Any person who refuses to assist or endeavors to prevent the North Dakota Livestock Sanitary Board, or its agent, in carrying out the purposes of or violates any of the provisions of this act shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five

hundred dollars (\$500.00), or by imprisonment in the county jail not less than thirty days nor more than ninety days, or both such fine and imprisonment.

Approved March 16, 1939.

CHAPTER 12

H. B. No. 110—(Schmidt of Sheridan)

FUR-BEARING ANIMALS

An act to amend and re-enact Sub-section 1 of Section 32, Chapter 148, Session Laws of 1931, relating to fur-bearing animals; and declaring an emergency.

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

§ 1. AMENDMENT.] Sub-section 1 of Section 32, Chapter 148, of the Session Laws of North Dakota for 1931 is hereby amended and re-enacted to read as follows:

§ 32. (1) FUR-BEARING ANIMALS.] No person shall hunt, shoot, trap, take, disturb, molest or imprison in any manner any fur-bearing animals except during the open or lawful season as established by this act; provided, that it shall be lawful to take at any time, any wild fur-bearing animal not specifically protected by this act, and, provided further, that animals may be taken for breeding or domestication as hereinbefore authorized.

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

Approved March 1, 1939.

CHAPTER 13**S. B. No. 134—(Flatt and Watt)**

**PERMITTING KILLING OF DOGS, WOLVES AND COYOTES
UNDER CERTAIN CIRCUMSTANCES**

An act permitting the killing of dogs, wolves and coyotes kept as domestic animals when caught in the act of killing, chasing, worrying or damaging livestock or poultry, providing owners of livestock and poultry killing such animals shall not be held civilly liable and declaring an emergency.

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

§ 1. That any owner of livestock or poultry may kill any dog, wolf or coyote kept as a domestic animal when he sees such dog, wolf or coyote in the act of killing, chasing, worrying or damaging any livestock or poultry, and he shall not be held liable in any civil action to the owner of the dog, wolf or coyote kept as a domestic animal so killed.

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

Approved March 7, 1939.

CHAPTER 14**H. B. No. 306—(Knutson)**

LIVESTOCK DEALERS, REGULATION

An act to amend and re-enact Section 2 of Chapter 5 of the 1937 Session Laws.

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

§ 1. AMENDMENT.] Section 2 of Chapter 5 of the 1937 Session Laws is hereby amended and re-enacted to read as follows:

§ 2. LICENSE AND BOND REQUIRED.] All dealers in livestock, as herein defined, shall be duly licensed as hereinafter provided. No agent shall act for any such livestock dealer unless the dealer is duly licensed and has designated such agent to act in his behalf and notified the Board of Railroad Commissioners in his application for license or in writing of such appointment, and requested the commission to issue to such agent an agent's license; and the dealer shall be accountable and responsible for all the acts of his agent.

Each dealer, before entering in the business of dealing in livestock, shall annually on or before January 1 of each year, file an

application with the Board of Railroad Commissioners on a form prescribed by it for a license to transact such business. The applicant shall state the nature of the business as herein above set forth, the name or names of persons applying for the license, and if the applicant is a firm, association, partnership or corporation the full name of each member of such firm, association, or partnership, or the names of the official officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership or corporation, the post office address and the principal place of business of the applicant, and if a foreign corporation it must state its principal place of business without the State and the name of the State incorporated in and it must also state that it has complied with the corporation laws of this State relating to foreign corporations, and such other facts as the commissioners may prescribe.

Each applicant shall file with his application a surety company bond to be approved as to amount, form and sufficiency and surety by the commission in the sum of not less than \$1,500.00 for principal's bond and that the amount of said bond be increased not less than \$500.00 for each applicant appointed by the dealer and licensed by the commission, in which the commissioners shall be the obligee but which shall be for the benefit and purpose of protecting any person, and shall be for the benefit of all persons selling livestock or poultry, or both, to such licensed livestock dealer or his agent. Such bond shall be conditioned upon the faithful performance of his duties as a dealer in livestock and all of the provisions of law relating to the purchase of livestock or poultry, or both, by such livestock dealer, and for the payment by said livestock dealer of all livestock purchased by such dealer, as a dealer in livestock, and for the purpose of protecting any person which bond shall cover the entire license period; provided, however, that a separate bond for each agent appointed and licensed, may be given in the sum of \$1,500.00, in lieu of the additional amount on the principal bond; provided further that the commission may demand at any time additional bond for either principal or agent when in the discretion and judgment of the commission the volume of business of the principal or any agent named by such principal warrants it.

The commissioners shall thereupon issue to such applicant on the payment of the sum of five dollars a license entitling the applicant, his agent, to conduct the business of dealing in livestock as herein defined, at the place or places named in the application until the 31st day of December next following; provided that for each agent to whom a license is issued, the sum of five dollars shall be paid to the commission.

Provided, however, that if a buyer desires to buy poultry only, he may upon the payment of the sum of \$2.00, receive a license which will entitle him to buy nothing but poultry, and, in such event, he need only post a bond as aforesaid, in the sum of \$1,000.00

for the principal bond and \$500.00 additional for each agent as heretofore provided.

Approved March 16, 1939.

CHAPTER 15

H. B. No. 82—(Committee on Livestock)

PUREBRED CATTLE, CERTIFICATE OF HEALTH

An act to amend and re-enact Section 2761 of the Compiled Laws of the State of North Dakota for 1913 as amended by Chapter 64, Session Laws of 1915, prohibiting the sale of purebred cattle and nonregistered bulls for any other purpose except slaughter, unless accompanied by a certificate of health, and providing a penalty therefor.

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

§ 1. AMENDMENT.] That Section 2761 of the Compiled Laws of the State of North Dakota for 1913 as amended by Chapter 64, Session Laws of 1915 is hereby amended and re-enacted to read as follows:

§ 2761. CERTIFICATE OF HEALTH OF PUREBRED CATTLE AND NONREGISTERED BULLS REQUIRED.] All persons selling purebred cattle and nonregistered bulls for any purpose except slaughter shall, before delivery, make application to the State Livestock Sanitary Board, indicating the number of cattle sold or to be sold, purebred name and registry number, age and sex, and before delivery thereof such cattle shall be tested with tuberculin under the direction of the State Livestock Sanitary Board, or some person duly authorized by said board, and if found free from disease a certificate of health shall be issued by the State Livestock Sanitary Board to the owner to be delivered to the purchaser; said certificate to be valid for one year from the date of said test.

Provided, that no health certificate shall be required for an animal under six months of age.

Provided, further, that it shall not be required that negative herds of cattle in modified accredited tuberculosis-free counties be submitted to further tuberculin tests in order to comply with this act.

§ 2. PENALTY.] Any person who shall sell or dispose of any purebred cattle or nonregistered bulls for any purpose except slaughter, without furnishing a certificate of health, as provided for in Section 1 of this act, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than ninety days.

Approved March 7, 1939.

APPROPRIATIONS

CHAPTER 16

S. B. No. 232—(Committee on Appropriations)

ADDRESSOGRAPH APPROPRIATION

An act making an appropriation for the use and benefit of the State Highway Department of the State of North Dakota to pay for equipment (purchased from and installed by the Addressograph Multigraph Corporation).

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$25,567.00, or so much thereof as may be necessary to pay for office equipment (consisting of one automatic addressograph; two manually fed addressographs; four keyboard graphotypes; five steel cabinets; and 175,000 embossed plates), purchased by the Highway Department of the State of North Dakota (from Addressograph Multigraph Corporation of Cleveland, Ohio, and by said Company) and delivered to said Highway Department, and for the payment of which no funds are otherwise available.

§ 2. It is hereby declared that this act shall in no way constitute or in any way establish a precedent and that it shall apply only to the appropriation herein set forth, and that this appropriation is made in full payment of all claims and demands of every nature whatsoever.

Approved March 15, 1939.

CHAPTER 17

S. B. No. 244—(Committee on Appropriations)

THE BANK OF NORTH DAKOTA

An act making an appropriation for the purpose of defraying the expense of the maintenance and operation of the Bank of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Bank of North Dakota Fund created by transfer of profits from said institution, the sum

of \$591,448.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Bank of North Dakota for biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

BANKING DEPARTMENT

Salary—Manager	\$ 9,600.00
Clerkhire:	
Manager, credits department	9,000.00
Assistant manager, credits department	5,800.00
Auditor	7,800.00
Legal counsel	7,200.00
Tellers	14,000.00
Manager, transit & bookkeeping departments	4,272.00
Asst. manager, transit & bookkeeping department	3,600.00
Bookkeepers	19,200.00
Transit machine operators	8,500.00
Stenographers	12,480.00
Clerks	18,480.00
Janitors	6,600.00
Fieldman & collectors	3,600.00
Temporary & special clerks & stenographers	2,500.00
Postage	15,000.00
Office supplies	4,800.00
Furniture & fixtures	10,000.00
Printing	9,000.00
Miscellaneous	7,000.00
Travel expense	5,000.00
Examinations & legal expenses	11,000.00
Advertising	5,000.00
Insurance	7,500.00
Bank building maintenance & repair	12,000.00
Taxes	4,500.00
Service and repair on equipment	2,500.00
Telephone & telegraph	6,000.00
Rents	1,200.00
Total	\$236,532.00

COLLECTION & LAND DEPARTMENT

Salary—Farm manager	\$ 8,000.00
Collection department manager	6,000.00
Clerkhire:	
District managers	25,440.00
Manager, insurance department	5,640.00
Attorney	6,600.00
Accountants	14,216.00

Bookkeepers -----	11,040.00
Stenographers -----	44,760.00
Clerks -----	16,320.00
Repair foremen -----	4,200.00
Fieldmen and appraisers -----	93,400.00
Temporary and special clerks and stenographers -----	4,800.00
Postage -----	15,000.00
Office supplies -----	1,500.00
Printing -----	4,500.00
Miscellaneous -----	2,500.00
Travel Expense -----	60,000.00
Examinations and legal expense -----	5,000.00
Advertising -----	1,000.00
Insurance -----	300.00
Taxes -----	100.00
Emergency Fund -----	30,000.00
<hr/>	
Total -----	\$360,316.00
Grand Total -----	\$591,448.00

Approved March 14, 1939.

CHAPTER 18

H. B. No. 33—(Committee on Appropriations)

BOARD OF AUDITORS PAYMENT AUDITS, ETC., CERTAIN STATE INSTITUTIONS AND DEPARTMENTS

An act to provide for the payment of the expenses of auditing and examining the affairs of the State industrial institutions, and the special departments and its sub-divisions, of the State of North Dakota, designating and appropriating the funds from which paid; providing for the payment of said collection into the Special Fund in the State Treasury; providing for repeal of acts.

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

§ 1. In order to reimburse the State for the expense of making the audits and examinations of industrial and business institutions of the State of North Dakota by the State Board of Auditors as provided for by Section 369b of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 186 of the Laws of 1933, the North Dakota Mill and Elevator Association for the State Mill and Elevator at Grand Forks, the Bank of North Dakota, including the Farm Loan Department, the State Hail Insurance Department, the Workmen's Compensation Bureau of the State of North Dakota, State Laboratories, the North Dakota Teach-

ers Insurance and Retirement Fund, the Highway Department, the Motor Vehicle Department and the Game and Fish Department, immediately upon the receipt of a statement of the actual expense of auditing such departments or institutions, such department or institution shall pay to the State Treasurer of the State of North Dakota, to the account of the State Board of Auditors and to be by the State Treasurer deposited in a special fund to be known as the State Board of Auditors Fund. Provided, however, that the auditing fee for such service in any one year shall not exceed the sum set forth for the various institutions and departments, as follows:

North Dakota Mill and Elevator Association for the State	
Mill and Elevator at Grand Forks.....	\$ 5,000.00
Bank of North Dakota, including the Farm Loan Department	7,000.00
State Hail Insurance Department	2,000.00
Workmen's Compensation Bureau	1,500.00
Beer Commissioner	500.00
Teachers Insurance and Retirement Fund.....	400.00
State Highway Department, including Motor Vehicle and Drivers License Departments	6,000.00
Game and Fish Department.....	750.00
State Laboratories	750.00
Total.....	\$23,900.00

§ 2. APPROPRIATION.] The amount herein directed to be paid by the aforesaid mentioned departments and institutions, shall be deemed and considered as appropriations of each amount thereof to the State Board of Auditors.

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

Approved March 14, 1939.

CHAPTER 19

H. B. No. 23—(Committee on Appropriations)

PREMIUMS BONDS STATE OFFICIALS

An act making an appropriation for the purpose of paying premiums on bonds of State officials as provided by Section 663a1 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,700.00, for the biennium, or so much thereof as may be necessary to pay the premiums on bonds of State officials, bonded under the provision of Section 663a1 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 3, 1939.

CHAPTER 20

S. B. No. 249—(Committee on Appropriations)

STATE BONDING FUND

An act making an appropriation for the purpose of operating and maintaining the State Bonding Fund for the biennium beginning July 1st, 1939.

PARTIAL VETO

Bismarck, North Dakota,
March 18, 1939.

Hon. James D. Gronna,
Secretary of State,
Bismarck, North Dakota.

MY DEAR SECRETARY:

I transmit herewith, Senate Bill No. 249 entitled "An act making an appropriation for the purpose of operating and maintaining the State Bonding Fund for the biennium beginning July 1st, 1939."

I have approved this bill and am transmitting the same to you herewith my signature and approval, with the exception of the item of \$1,500.00 allowed for the salary of Assistant Attorney General; I withhold my approval of this particular item for the reason that I believe same to be unnecessary.

Respectfully yours,

JOHN MOSES
Governor of the State of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the monies in the State Bonding Fund the sum of twenty-eight thousand, eight hundred and eighty-five dollars and fifty-nine cents (\$28,885.59), or so much thereof as may be necessary to maintain and operate the State Bonding Fund of the State of North Dakota during the biennium beginning July 1, 1939, and ending June 30, 1941, to-wit:

Salaries	\$ 8,160.00
Postage	1,500.00
Office supplies	300.00
Furniture and fixtures	250.00
Printing	700.00
Miscellaneous	300.00
Assistant Attorney General, salary	1,500.00
Inspections	500.00

Total.....\$13,210.00

Expenditures, other than operating expenses:

Excess re-insurance	\$15,040.00
Premium refunds	635.59

Total.....\$15,675.59

Approved March 18, 1939.

CHAPTER 21

H. B. No. 5—(Committee on Appropriations)

BOVINE TUBERCULOSIS

An act making an appropriation for the purpose of testing animals for bovine tuberculosis and indemnifying owners of animals infected with bovine tuberculosis and to pay expenses in connection therewith, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$55,000.00, or so much thereof as may be necessary for the purpose of testing animals for bovine tuberculosis and indemnifying the owners of animals infected with bovine tuberculosis, which animals have been or may be destroyed and to pay expenses in connection therewith as provided in Sections 2699 to 2710, inclusive, of

the Compiled Laws of North Dakota for the year 1913, and amendments thereto.

Services	\$24,000.00
Travel expense	12,000.00
Clerkhire (2)	3,600.00
Printing	150.00
Postage	250.00
Indemnity	15,000.00
Total	<u>\$55,000.00</u>

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

Approved March 14, 1939.

CHAPTER 22

H. B. No. 79—(Anderson of McKenzie)

GREAT NORTHERN RAILWAY BRIDGE, YELLOWSTONE RIVER, McKENZIE COUNTY

An act making an appropriation for the purpose of maintaining and operating the bridge across the Yellowstone River in McKenzie County, North Dakota, declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums out of any monies in the State Treasury, not otherwise appropriated, or so much thereof that may be necessary, to maintain, repair and operate the bridge across the Yellowstone River in McKenzie County, North Dakota, to-wit:

Operation and Maintenance to June 30, 1939.....	\$ 5,000.00
Maintenance, material and labor for replanking, repairing of bridge and approaches	16,800.00
Total	<u>\$21,800.00</u>

§ 2. EMERGENCY.] Twenty-four hour service is maintained at this bridge. Since this bridge was taken over by the State and toll charges discontinued, travel has increased from less than three hundred per month to more than three thousand per month.

An emergency is hereby declared and this act shall take effect from and after its passage and approval.

Approved March 16, 1939.

CHAPTER 23

S. B. No. 1—(Committee on Appropriations)

BUDGET

An act to appropriate money for the expenses of the executive, legislative and judicial departments of the State government, and for all of the sub-divisions thereof, and for public schools, specifying the amount and time for which such appropriations shall be available, and repealing all acts, or parts of acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein, and declaring an emergency.

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

§ 1. APPROPRIATIONS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE STATE GOVERNMENT, AND FOR ALL OF THE SUBDIVISIONS THEREOF, AND FOR PUBLIC SCHOOLS.] The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the State Treasury, to the credit of each department, sub-division and public schools hereinafter named and the balance necessary out of the General Fund, except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this act.

§ 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1939, and ending June 30th, 1941.

SECTION 3. APPROPRIATIONS.]

Subdivision 1.

EXECUTIVE OFFICE

Salary—Governor	\$ 8,000.00
Clerkhire:	
Secretary to Governor	3,600.00
Stenographers (4)	9,100.00
Postage	1,200.00
Office supplies	800.00
Furniture and fixtures	500.00
Printing	1,200.00
Miscellaneous	2,000.00
Travel expense	3,000.00
Contingent	8,000.00
Governor's conference	300.00
Great Lakes-St. Lawrence Deep Waterway Proj.	500.00
Total	\$ 38,220.00

Subdivision 2.

LIEUTENANT GOVERNOR

Salary—Lieutenant Governor	1,600.00
Total	\$ 1,600.00

Subdivision 3.

SUPREME COURT

Salary—Judges Supreme Court	50,000.00
Clerkhire	
Clerk Supreme Court	4,000.00
Stenographers to justices	12,000.00
Postage	500.00
Office supplies	450.00
Furniture & fixtures	1,200.00
Printing	450.00
Miscellaneous	850.00
Travel expense	150.00
Total	\$ 69,600.00

Subdivision 4.

SUPREME COURT REPORTER AND LAW LIBRARIAN

Salary	4,000.00
Postage	200.00
Office supplies	75.00
Furniture and fixtures	100.00
Printing and binding	250.00
Miscellaneous	200.00
Purchase of books and legal periodicals	4,000.00
Publishing North Dakota Reports	4,800.00
Total	\$ 13,625.00

Subdivision 5.

DISTRICT JUDGES

Salary—15 judges	105,000.00
Expense	15,000.00
Total	\$ 120,000.00

Subdivision 6a

SECRETARY OF STATE

Salary	4,800.00
Clerkhire:	
Deputy	3,584.00
Chief clerk and bookkeeper	2,620.00
Stenographers (2)	4,560.00

Recording clerks (3) -----	6,840.00
Extra clerks during elections & Leg. Sess.-----	500.00
Postage -----	3,000.00
Office supplies -----	600.00
Furniture & fixtures -----	400.00
Printing -----	2,500.00
Miscellaneous -----	1,000.00
Deficit—Legal -----	300.00
Travel expense -----	200.00

Total ----- \$ 31,520.00

[Subdivision 6b.]

SECRETARY OF STATE—PUBLIC PRINTING

Legal notices -----	400.00
Publishing abstract of votes -----	600.00
Authenticated and Popular Ed. of 1939 Sess. Laws--	4,000.00
Publicity Pamphlet -----	8,000.00
Postage Publicity Pamphlet-----	4,200.00
Printing & Bind. 300 Pub. Doc, as required by Sec.	
54 and 101 — C. L. 1913-----	1,200.00
Def. Appro. Payment of Pub. Doc. '33 & '34 — as	
Required Sec. 54 — Com. Laws of 1913-----	928.53

Total ----- \$ 19,328.53

Subdivision 6c.

SECRETARY OF STATE—
FOREIGN CORPORATION DEPT. (SPECIAL)

Extra clerkhire -----	600.00
Printing, office supplies -----	300.00
Reg. Deeds recording fees-----	500.00

Total ----- 1,400.00

Subdivision 6d.

SECRETARY OF STATE—
PUBLIC CONTRACTORS LICENSE DEPT. (SPEC.)

Extra clerkhire -----	600.00
Printing & office supplies-----	200.00
Travel expense -----	200.00

Total ----- \$ 1,000.00

Subdivision 7.

STATE AUDITOR

Salary -----	4,800.00
Clerkhire:	
Deputy -----	4,480.00

Audit clerk -----	2,880.00
Bookkeeper -----	2,760.00
Bookkeeper -----	2,520.00
Warrant clerk -----	2,520.00
Warrant clerk -----	2,520.00
Gas tax audit clerk -----	2,760.00
Gas tax clerk -----	2,520.00
Gas tax clerk -----	2,520.00
Extra clerkhire -----	3,886.72
Postage -----	1,500.00
Office supplies -----	500.00
Furniture and fixtures -----	1,500.00
Printing -----	2,500.00
Miscellaneous -----	500.00
Travel expense -----	2,500.00
Gas. tax enforcement, Co's care etc.,-----	750.00
Cigarette revenue stamps -----	6,500.00
Supplies for depts. and counties-----	1,000.00
Total -----	\$ 51,730.72

Subdivision 7a.

Field man -----	3,000.00
Clerks -----	12,000.00
Postage -----	2,500.00
Travel expense for field man -----	3,000.00
Filing equipment -----	1,000.00
Printing -----	5,000.00
Total -----	\$ 26,500.00

Subdivision 8.

STATE TREASURER

Salary -----	4,800.00
Clerkhire:	
Deputy -----	3,584.00
Chief clerk & bookkeeper-----	3,000.00
Cashier -----	3,360.00
Securities auditor -----	2,880.00
Bookkeepers & clerk (2)-----	4,080.00
Receipt clerk -----	2,520.00
Cigarette revenue clerk (2) -----	4,800.00
Farm loan & bond clerk-----	2,760.00
Stenographer -----	2,280.00
Extra clerkhire -----	2,756.16
Postage -----	5,000.00
Office supplies -----	500.00
Furniture and fixtures, available July 1, 1939-----	2,500.00

Printing	2,500.00
Miscellaneous	500.00
Travel expense	200.00
Bonds of deputy & employees	355.00
Maintenance of equipment:	250.00
1 posting machine	
3 electric typewriters	
6 adding machines	
4 hand typewriters	
Burglary & robbery insurance (3 yr. pol.) (\$50,000)	356.00
Purchase of safe for bonds	450.00
Total	\$ 50,047.16

Subdivision 9a.

DEPARTMENT OF INSURANCE

Salary	4,800.00
Clerkhire:	
Deputy	3,584.00
Actuary-examiner	6,000.00
Chief clerk & stenographer	3,000.00
Bookkeeper	2,520.00
Special clerk	1,800.00
Postage	1,000.00
Office supplies	300.00
Furniture and fixtures	150.00
Printing	5,000.00
Miscellaneous	500.00
Travel expense	1,000.00
Investigation of unauthorized ins. co's & benevolent societies	1,000.00
Total	\$ 29,094.00

Subdivision 9b

STATE FIRE MARSHAL

Salary	7,200.00
Clerkhire—Clerk & stenographer	3,000.00
Postage	300.00
Office supplies	150.00
Furniture and fixtures	100.00
Printing	150.00
Miscellaneous	300.00
Travel expense	3,000.00
Fees to fire chiefs	500.00
Arson hearing and bldg. condemnation hear. fund	300.00
Expense of attending F.B.I. Crime School at Washington, D. C.	450.00
Total	\$ 15,450.00

Subdivision 10.

ATTORNEY GENERAL

Salary	6,000.00
Clerkhire	10,192.00
Postage	1,000.00
Office supplies	500.00
Furniture and fixtures	500.00
Printing	1,000.00
Miscellaneous	1,000.00
Travel expense	2,000.00
Assistant Attorney General	18,000.00
Special Asst. Attorney General	2,750.00
Commerce counsel	4,608.00
Library	800.00
Miscellaneous court cases	4,000.00
Total	\$ 52,350.00

ATTORNEY GENERAL (SPECIAL)
LICENSING DEPARTMENT

There is also hereby appropriated out of any fees in the State Treasury to the credit of the Attorney General and resulting from the collection of license fees as provided by law, for the biennium commencing July 1, 1939, and ending June 30, 1941, the following sum for the following purposes, to-wit:—

Inspector	3,600.00
Deputy inspectors	6,000.00
Chief clerk	2,640.00
Travel	5,000.00
Postage	500.00
Printing	500.00
Miscellaneous	500.00
Total	\$ 18,740.00

Subdivision 11a.

DEPARTMENT OF PUBLIC INSTRUCTION

Salary	4,800.00
Clerkhire:	
Deputy	3,584.00
Chief clerk	2,280.00
Stenographers (3) and bookkeeper	7,500.00
Extra clerkhire	800.00
Postage	2,000.00
Office supplies	600.00
Furniture and fixtures	400.00
Printing	12,000.00
Deficit printing	2,400.00

Miscellaneous	600.00
Travel expense	1,500.00

Total -----\$ 39,200.00

DEPARTMENT OF PUBLIC INSTRUCTION
ADMINISTRATION OF STATE EQUALIZATION FUND

Salary—Director and Budget Auditor	3,600.00
Clerks and stenographers	4,800.00
Printing	1,000.00
Postage	300.00
Travel	200.00

Total -----\$ 9,900.00

Subdivision 11b.

DEPARTMENT OF PUBLIC INSTRUCTION
STATE AID AND EXAMINATIONS

Salary—Director of Sec. Education	3,400.00
High school examiner	2,280.00
Travel expense—Director of Second. Ed.	1,200.00
Exp. cond. eighth gr. and h. s. exams.	14,000.00
State aid:	
County agricultural schools	24,000.00
Teachers' meetings	1,000.00

Total -----\$ 46,200.00

Subdivision 11c.

DEPARTMENT OF PUBLIC INSTRUCTION (SPECIAL)
CERTIFICATION

Salary	3,600.00
Clerkhire	1,400.00
Bookkeeper	1,200.00
Stenographer	2,320.00
Postage	800.00
Printing	800.00
Travel expense	500.00
Exp. correcting teachers' examination papers	1,200.00

Total -----\$ 11,820.00

Subdivision 12a.

AGRICULTURE AND LABOR

Salary—Commissioner	4,800.00
Clerkhire:	
Deputy Commissioner	4,200.00
Chief clerk	3,000.00
Stenographers	5,000.00

Postage -----	1,000.00
Office supplies -----	700.00
Furniture and fixtures -----	200.00
Printing -----	2,500.00
Miscellaneous -----	500.00
Travel -----	1,500.00
Travel expense—Deputy -----	1,000.00
Three typewriters -----	250.00
Telephone and telegraph -----	100.00
Insurance (Workmen's Comp. Bureau) -----	480.00
Total -----	\$ 25,130.00

Subdivision 12b.

AGRICULTURE AND LABOR
FEDERATED CO-OPERATIVE AGRICULTURAL ASS'N

Maintenance -----	2,500.00
Total -----	2,500.00

Subdivision 12c.

AGRICULTURE AND LABOR
DAIRY

Salary—Commissioner -----	4,000.00
Assistant Commissioners (4) -----	12,000.00
Clerkhire:	
Chief clerk -----	2,280.00
Cream tester -----	2,160.00
Stenographers -----	3,840.00
Postage -----	2,000.00
Office supplies -----	400.00
Furniture and fixtures -----	300.00
Printing -----	1,500.00
Miscellaneous -----	250.00
Travel expense -----	12,000.00
Auto exchange -----	500.00
Two typewriters -----	150.00
Insurance -----	100.00
Telephone and telegraph -----	150.00
Total -----	\$ 41,580.00

Subdivision 12d.

AGRICULTURE AND LABOR
ERADICATION OF BEE DISEASES

Maintenance -----	1,000.00
Total -----	1,000.00

Subdivision 12f.

AGRICULTURE AND LABOR
MINIMUM WAGE

Salary -----	3,000.00
Clerkhire:	
Stenographer -----	1,920.00
Inspector -----	3,000.00
Postage -----	300.00
Office supplies -----	100.00
Furniture and fixtures -----	100.00
Printing -----	300.00
Miscellaneous -----	150.00
Travel expense -----	1,100.00
Hearings -----	500.00
Typewriter -----	90.00
Total -----	\$ 10,560.00

Subdivision 13a.

RAILROAD COMMISSION

Salary—Three commissioners -----	\$ 14,400.00
Clerkhire:	
Secretary -----	3,580.00
Chief clerk -----	3,000.00
Traffic expert -----	7,200.00
First ass't traffic expert -----	3,584.00
Reporter -----	4,000.00
Chief engineer -----	5,600.00
Assistant engineer -----	3,584.00
Accountant -----	5,600.00
Ass't accountant -----	3,584.00
Stenographers -----	10,000.00
Postage -----	2,000.00
Office supplies -----	1,500.00
Furniture & fixtures -----	800.00
Printing -----	2,000.00
Miscellaneous -----	1,500.00
Travel expense -----	6,000.00
Exp. handling cases before Inter. St. C. C. -----	12,000.00
Nat'l Ass'n of R. R. and Util Comm'rs exp. toward maintenance -----	1,000.00
Research data for commission library and commerce counsel -----	500.00
Total -----	\$ 92,380.00

Subdivision 13b.

RAILROAD COMMISSION
ELEVATOR DIVISION

Clerkhire:

Chief accountant -----	\$ 3,800.00
Ass't accountant -----	3,000.00
Stenographers & clerks -----	4,560.00
Postage -----	600.00
Office supplies -----	250.00
Furniture and fixtures -----	300.00
Printing -----	800.00
Miscellaneous -----	500.00
Travel expense & car exchange -----	3,500.00
Total -----	\$ 18,110.00

Subdivision 13c.

RAILROAD COMMISSION
MOTOR TRANSPORTATION DIVISION (SPECIAL)

Clerkhire:

Director -----	\$ 4,160.00
Inspectors -----	15,000.00
Accountant -----	2,730.00
Commerce counsel -----	1,392.00
Reporter -----	3,600.00
Clerks & stenographers -----	9,000.00
Postage -----	840.00
Office supplies -----	1,500.00
Furniture and fixtures -----	1,200.00
Printing -----	2,000.00
Miscellaneous -----	1,500.00
Travel expense -----	20,000.00
Refunds -----	2,400.00
Total -----	\$ 65,322.00

Subdivision 13d.

RAILROAD COMMISSION
SCALE INSPECTION (SPECIAL)

Clerkhire:

Chief inspector -----	\$ 3,600.00
Foreman inspector -----	3,240.00
Assistant inspectors -----	6,000.00
Clerks & stenographers -----	3,654.00
Postage -----	1,000.00
Office supplies -----	400.00
License plates, seals, etc. -----	1,400.00
Furniture & fixtures -----	250.00

Field testing equipment -----	1,000.00
Printing -----	800.00
Refunds -----	125.00
Miscellaneous, (includes insurance, etc.) -----	600.00
Trucks & maintenance -----	3,250.00
Travel expense -----	9,000.00
Total -----	\$ 34,319.00

Subdivision 13e.

RAILROAD COMMISSION
LIVESTOCK DIVISION (SPECIAL)

Clerkhire:	
Clerk -----	\$ 2,400.00
Inspector -----	2,400.00
Postage -----	250.00
Office supplies -----	50.00
Furniture and fixtures -----	100.00
Printing -----	250.00
Miscellaneous -----	100.00
Travel expense -----	2,300.00
Refunds -----	200.00
Totals -----	\$ 8,050.00

Subdivision 14.

LAND COMMISSIONER

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	3,584.00
Office deputy -----	3,072.00
Bookkeeper -----	2,620.00
Cashier -----	2,620.00
Manager bond and mortgage dept. -----	2,620.00
Collection manager -----	2,784.00
Leasing manager -----	3,360.00
Supervisor buildings and repairs -----	2,400.00
Field agent -----	2,784.00
Patent clerk -----	2,400.00
Two secretary stenographers -----	4,080.00
Stenographers -----	10,000.00
Allotment clerk -----	2,160.00
Postage -----	3,500.00
Office supplies -----	500.00
Furniture and fixtures -----	500.00
Printing -----	2,000.00
Miscellaneous -----	600.00
Travel expense -----	15,000.00
Leasing -----	3,000.00

Premium on bonds	600.00
Inspection and supervision at \$125.00 per month and expenses leased & uncl. sch. ld.....	16,000.00
Sales and collections	5,000.00
Surveying island	1,000.00
Total	\$ 98,128.00

Subdivision 15a.

TAX COMMISSIONER

Salary—commissioner	\$ 5,600.00
Clerkhire:	
Deputy tax comm'r.....	5,400.00
Estate tax deputy	5,040.00
Income tax deputy	4,200.00
Clerk, stenographers	31,080.00
Income tax field auditors	10,800.00
Postage	7,500.00
Office supplies	1,500.00
Furniture and fixtures, available July 1, 1939.....	2,500.00
Printing	10,000.00
Miscellaneous	2,000.00
Travel	3,000.00
Income tax field auditors—travel.....	3,000.00
Special services in tax litigation.....	2,000.00
State Relief and Debt Survey Commission expenses..	10,000.00
Total	\$ 104,220.00

Subdivision 15b.

TAX COMMISSIONER — SALES TAX, BEER, CIGARETTE
& SNUFF DIVISION (SPECIAL)

Clerkhire:	
Deputy (sales tax)	\$ 4,800.00
Deputy (cigarette, beer & snuff)	4,800.00
Clerks, stenographers	80,000.00
Field auditors	53,000.00
Postage	12,000.00
Office supplies and revenue stamps	18,000.00
Furniture & fixtures, available July 1, 1939.....	5,500.00
Printing	8,000.00
Miscellaneous	6,000.00
Travel	45,000.00
Insurance and bonds	5,000.00
Telephone and telegraph	2,000.00
Total	\$ 244,100.00

Subdivision 16a.

BOARD OF ADMINISTRATION

Salary	\$ 14,400.00
Clerkhire:	
Executive secretary	3,584.00
Chief clerk	2,620.00
Auditor	4,000.00
Stenographer (ass't auditor)	2,400.00
Purchasing agent	3,072.00
Voucher clerk	2,280.00
Supply clerk	2,000.00
Postage	500.00
Office supplies	450.00
Furniture and fixtures	250.00
Printing	1,000.00
Miscellaneous	1,500.00
Travel expense	2,000.00
Emergency fund for institutions	20,000.00
Total	\$ 60,056.00

Subdivision 16b.

BOARD OF ADMINISTRATION—STATE CAPITOL

Salaries	\$ 83,000.00
Fuel	15,000.00
Light	12,000.00
Water	2,000.00
Boiler room supplies	2,000.00
Janitor supplies	7,500.00
Carpenter shop	750.00
Yard, including trees, shrubbery, plants and extra help for watering	3,000.00
Truck maintenance	750.00
Governor's residence	2,500.00
Improvements and repairs	4,000.00
Elevator maintenance contract	5,280.00
Miscellaneous (insurance, Workmen's Compensation, telephone, etc.)	8,500.00
Deairator for water system	2,500.00
Total	\$ 148,780.00

Subdivision 16c.

STATE SEED DEPARTMENT. AT FARGO. (SPECIAL)

Deputy seed commissioner	\$ 6,000.00
Seed analyst	4,800.00
Travel, including maintenance of State owned automobiles	1,000.00

Postage -----	700.00
Stationery, printing & supplies -----	500.00
Telephone and telegraph -----	500.00
Freight and express -----	500.00
Workmen's Compensation -----	1,000.00
Total -----	\$ 15,000.00

There is also hereby appropriated from any funds in the State Treasury to the credit of the State Seed Department at Fargo arising from any unexpended balance which may remain on June 30, 1939 or from any fees which may be paid into said treasury by said department for the biennium commencing July 1, 1939 and ending June 30, 1941, the following sums for the following purposes, to-wit:—

Administration -----	\$ 8,000.00
Deputy seed commissioner -----	6,000.00
Deputy seed commissioner -----	6,000.00
Seed analyst assistant -----	2,400.00
Secretary-treasurer -----	3,600.00
Secretary potato division -----	2,880.00
Stenographer -----	1,800.00
Field supervising inspector -----	3,600.00
Field supervising inspector -----	3,600.00
25 to 40 grade inspectors, laboratory, office, greenhouse and field assistants on part time or car basis	46,995.00
Travel, including maintenance of State owned automobiles -----	27,645.00
Postage -----	985.00
Test plots including fertilizer, rent and miscellaneous -----	5,900.00
Furniture, fixtures & equipment -----	1,200.00
Stationery, printing & supplies -----	4,055.00
Telephone & telegraph -----	1,085.00
Freight and express -----	700.00
Tags and seals -----	9,000.00
Bureau of Agricultural Economics (under Federal-State inspection cooperative agreement) -----	5,000.00
Workmen's Compensation -----	1,000.00
Automobiles (less trade-ins) -----	1,300.00
Miscellaneous (including reserve) -----	10,755.00
Total -----	\$ 153,500.00

Subdivision 17a.

STATE SECURITIES COMMISSION

Clerkhire -----	\$ 600.00
Postage -----	200.00
Office supplies -----	100.00

Printing -----	100.00
Miscellaneous -----	150.00
Travel expense -----	300.00
Total -----	\$ 1,450.00

Subdivision 17b.

STATE INDUSTRIAL COMMISSION

Clerkhire -----	\$ 1,140.00
Postage -----	100.00
Office supplies -----	75.00
Printing -----	150.00
Miscellaneous -----	200.00
Total -----	\$ 1,665.00

Subdivision 18.

STATE LIBRARY COMMISSION

Salary -----	\$ 3,200.00
Clerkhire:	
Traveling library -----	2,620.00
Reference librarian -----	2,280.00
Stenographer -----	1,920.00
Clerk -----	1,560.00
Clerk -----	1,320.00
Postage -----	700.00
Office supplies -----	500.00
Furniture and fixtures -----	300.00
Printing -----	300.00
Miscellaneous -----	500.00
Travel expense -----	400.00
Aid to libraries -----	150.00
Books -----	3,000.00
Preparation -----	200.00
Binding -----	500.00
Total -----	\$ 19,450.00

Subdivision 19.

STATE ENGINEER

Salary -----	\$ 4,400.00
Clerkhire -----	1,920.00
Postage -----	100.00
Office supplies -----	200.00
Furniture and fixtures -----	200.00
Printing -----	300.00
Miscellaneous -----	200.00
Travel expense -----	1,000.00

Field assistants -----	1,200.00
Water cons. irri. and hydrographic survey-----	3,000.00
Total -----	\$ 12,920.00

Subdivision 20.

STATE PRINTER

Salary -----	\$ 3,840.00
Clerkhire -----	1,800.00
Postage -----	200.00
Office supplies -----	100.00
Furniture and fixtures-----	100.00
Printing -----	350.00
Miscellaneous -----	250.00
Travel expense -----	300.00
Total -----	\$ 6,940.00

Subdivision 21.

ADJUTANT GENERAL

Salary -----	\$ 4,600.00
Clerkhire:	
Assistant adjutant general-----	3,592.00
Stenographers -----	4,560.00
Clerk, vet's grave reg. foreign war, '37 Sess.----	1,020.00
Stenographer and clerk of USP & DO.-----	1,020.00
Postage -----	250.00
Office supplies-----	350.00
Furniture and fixtures-----	300.00
Printing -----	300.00
Miscellaneous -----	200.00
Travel expense -----	300.00
Total -----	\$ 16,892.00

Subdivision 22.

NATIONAL GUARD

Maintenance -----	\$ 70,000.00
Total -----	\$ 70,000.00

There is also hereby appropriated out of any funds received from the sale of timber, stone or other material taken from the Rock Island Military Reservation and paid into the Treasury the sum of \$2,000 to be used in accordance with Section 2432a, Compiled Laws of 1913, for the biennium of 1939-1941.

Subdivision 23.

TWENTY-SEVENTH LEGISLATIVE ASSEMBLY

Mileage & per diem members.....	\$ 57,000.00
Mileage & per diem officers and employees.....	20,000.00
Printing	35,000.00
Miscellaneous	7,500.00
Deficit — Twenty-sixth Legislative Assembly.....	14,000.00
Total	\$ 128,500.00

Subdivision 24.

PARDON BOARD

Secretary's salary	\$ 600.00
Salary of P. B. members and other misc. exp.....	900.00
Total	\$ 1,500.00

Subdivision 25.

STATE BUDGET BOARD

Per diem and other expenses of every kind incurred by the State Budget Board as prescribed by Sec- tions 710a1 to 710a6 incl., of the Supp. to the 1913 Comp. L. of N. D., and Chap. 93, Sess. L. for the year 1929	\$ 2,240.00
Total	\$ 2,240.00

Subdivision 26.

REWARD FOR APPREHENSION OF CRIMINALS

Reward for the apprehension of criminals.....	\$ 1,000.00
Total	\$ 1,000.00

Subdivision 27.

STATE EXAMINER

Salary	\$ 4,800.00
Clerkhire:	
Chief deputy	3,840.00
Deputy examiners	38,400.00
Clerkhire	7,200.00
Postage	1,500.00
Office supplies	700.00
Furniture & fixtures.....	600.00
Printing	1,200.00
Miscellaneous	1,000.00
Travel expense	20,000.00
Bonds for examiners.....	750.00
Total	\$ 79,990.00

Subdivision 28.

HIGHER EDUCATION

Salary—commissioner	\$ 6,000.00
Secretary	4,000.00
Members (7) per diem.....	7,000.00
Clerk and stenographer.....	2,400.00
Postage	600.00
Office supplies	500.00
Furniture and fixtures.....	1,000.00
Printing	500.00
Miscellaneous	500.00
Travel expense—board members.....	3,000.00
Travel expense—commissioner and executive secretary	1,200.00
Emergency	20,000.00

Total\$ 46,700.00

GRAND TOTAL\$2,111,257.41

Less special appropriations: 6c; 6d; 11c; 13c, d and e;

15b, c & d, and 16c..... 546,251.00

GRAND TOTAL OF BUDGET GENERAL FUND-\$1,565,006.41

§ 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court, or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

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

Approved March 18, 1939.

CHAPTER 24

H. B. No. 31—(Committee on Appropriations)

BOYS' AND GIRLS' CLUB WORK

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

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,500.00 for the year 1939, and a like sum for the year 1940, in equal shares, at the following named State and district fairs of the State of North Dakota:

North Dakota State Fair Association for Fargo;

North Dakota State Fair Association for Grand Forks;

Northwest Agricultural Livestock and Fair Association at Minot; and the

Missouri Slope Agricultural and Fair Association at Mandan; for the use and benefit of the boys' and girls' club premium and expenses as held and conducted at said fairs.

Approved March 7, 1939.

CHAPTER 25

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

COAL MINE INSPECTOR

An act making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the Department of Coal Mine Inspection.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, in the Coal Mine Inspection Fund, not otherwise appropriated, the sum of \$9,510.00, or so much thereof as may be necessary to pay salary, clerkhire, per diem and general expenses in carrying out the provisions of Chapter 168, Session Laws of 1919, the same being Sections 3084a1 to 3084a89 of the Supplement to the 1913 Compiled Laws of North Dakota, and amendments thereto, relative to mine inspection, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:—

Salary	\$4,200.00
Clerkhire	2,160.00

Postage	300.00
Office supplies	200.00
Furniture & fixtures	75.00
Printing	500.00
Miscellaneous	200.00
Travel expense	1,500.00
Examining board	300.00
Board of auditors	75.00
Total	\$9,510.00

Approved March 7, 1939.

CHAPTER 26

H. B. No. 22—(Committee on Appropriations)

STATE CONTINGENCY FUND

An act making an appropriation to provide a State contingency fund to be placed at the disposal of the State Emergency Commission to be used as provided by Chapters 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$25,000.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to provide funds for the State Emergency Commission and which fund shall be known as the State Contingency Fund and be for the purposes authorized under Chapter 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 7, 1939.

CHAPTER 27

H. B. No. 157—(Gray)

CRIMINAL IDENTIFICATION BUREAU DEFICIENCY

An act making an appropriation for the maintenance and operation of the North Dakota State Criminal Identification Bureau for the period from January 1st, 1939, to June 30th, 1939, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$3,086.35, or so much thereof as may be necessary to pay the maintenance and operation and other expenses of the North Dakota State Criminal Identification Bureau for the period beginning January 1st, 1939 and ending June 30th, 1939, to-wit:

Salaries and wages:

- | | |
|------------------------------|------------|
| 1. Officer in charge | \$1,000.00 |
| 2. Finger print expert | 655.10 |

Operating expense:

- | | |
|---|--------|
| 1. Travel expense | 550.00 |
| 2. Radio service & special bulletins..... | 512.50 |
| 3. Telephone & telegraph | 150.00 |
| 4. Equipment and supplies | 93.75 |
| 5. Postage and printing | 125.00 |

Total maintenance	\$3,086.35
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§ 2. EMERGENCY.] This act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 28

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

STATE EMPLOYMENT SERVICE

An act making an appropriation for the State Employment Service provided for in Section 13 and Section 14b, Chapter 232, Session Laws of 1937, in cooperation with the Social Security Act of Congress.

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

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

sum of \$33,000.00, or so much thereof as may be necessary, for the operation, maintenance, equipment, fixtures and miscellaneous expenses for the State Employment Service, provided for in Section 13 and Section 14b, Chapter 232, Session Laws of 1937; a division of the North Dakota Unemployment Division, which is under the Workmen's Compensation Bureau, in accordance with the Social Security Act of Congress, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to wit:

Office Supplies -----	\$ 4,000.00
Travel expense -----	4,640.00
Rent -----	23,280.00
Bismarck -----	\$2,520.00
Devils Lake -----	2,760.00
Dickinson -----	2,280.00
Fargo -----	3,600.00
Grand Forks -----	3,600.00
Jamestown -----	2,520.00
Minot -----	3,000.00
Williston -----	3,000.00
Light (Fargo, Grand Forks and Minot) -----	1,080.00
Total -----	\$33,000.00

Approved March 14, 1939.

CHAPTER 29

S. B. No. 239—(Committee on Appropriations)

STATE EQUALIZATION FUND

An act making an appropriation to pay for a portion of the current operating expense of our public school system as provided for in the State Equalization Fund Law, as provided for by Senate Bill No. 237 as passed by the 1939 Session of the Legislature.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$4,510,000.00 or so much thereof as may be necessary to make the payments provided for under the State Equalization Fund Law as provided for in Senate Bill No. 237 as passed by the 1939 Session of the Legislature for the biennium beginning July 1, 1939, and ending June 30, 1941, provided, however, that payments authorized for the school year ending on or about June 1, 1941, may be made from this fund up to October 1, 1941, to-wit:

(1) High school correspondence work.....	\$ 100,000.00
(2) Vocational education	40,000.00
(3) Emergency fund	500,000.00
(4) Non-resident high school tuition.....	1,100,000.00
(5) Teacher unit payment	1,770,000.00
(6) Per pupil payment	1,000,000.00
	<hr/>
	\$4,510,000.00

Approved March 14, 1939.

CHAPTER 30

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

FEEBLE MINDED — STATE AT LARGE

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,080.00, or so much thereof as may be necessary to care for the feeble minded whose residence cannot be determined, and whose care must be borne by the State, for the biennium beginning July 1st, 1939, and ending June 30th, 1941.

Approved March 3, 1939.

CHAPTER 31

H. B. No. 21—(Appropriations)

INSURANCE TAX TO FIRE DEPARTMENTS

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$65,000.00, or so much thereof as may be necessary to comply with the provisions of Section 3993 to 3998, inclusive, of the Com-

piled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various fire departments, for the biennium beginning July 1st, 1939, and ending June 30th, 1941.

Approved March 3, 1939.

CHAPTER 32

S. B. No. 68—(Committee on Insurance)

INVESTIGATIONS FIRE INSURANCE RATES

An act to amend and re-enact Section 4 of Chapter 152 of the Session Laws of 1929, relating to an appropriation for the necessary costs of investigations, etc., of fire insurance rates.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 152 of the Session Laws of 1929 be and the same is hereby amended and re-enacted to read as follows:

§ 4. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of two thousand dollars (\$2,000.00), or so much thereof as is needed, to pay salaries, traveling and other expenses necessarily incurred by the Commissioner of Insurance and his department in the administration of this act.

Approved March 18, 1939.

CHAPTER 33

S. B. No. 248—(Committee on Appropriations)

STATE FIRE AND TORNADO FUND

An act making an appropriation for the purpose of operating and maintaining the State Fire and Tornado Fund for the biennium beginning July 1st, 1939.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the monies in the State Fire and Tornado Fund the sum of one hundred and eighty-seven thousand, four hundred and sixty-one dollars, and seventy-four cents (\$187,461.74), or so much thereof as

may be necessary to maintain and operate the State Fire and Tornado Fund of the State of North Dakota during the biennium beginning July 1, 1939, and ending June 30, 1941, to-wit:

Salaries -----	\$ 28,000.00
Postage -----	2,000.00
Office supplies -----	800.00
Furniture and fixtures -----	600.00
Printing -----	2,000.00
Fire school -----	3,000.00
Miscellaneous -----	7,000.00
Risk inspection -----	2,500.00

Total for the biennium-----\$ 45,900.00

Expenditures, other than operating expenses:

Excess re-insurance (fire) -----	\$112,443.85
Excess re-insurance (tornado) -----	21,330.89
Refunds and rebates (fire) -----	5,594.85
Refunds and rebates (tornado) -----	384.85
Adjusting expense (fire)-----	1,040.07
Adjusting expense (tornado)-----	767.23

Total -----\$141,561.74

Approved March 18, 1939.

CHAPTER 34

H. B. No. 58—(Ista, Williams of Richland, Holthusen and Mittag)

FORT ABERCROMBIE

An act making an appropriation to the State Historical Society for the purchase of materials and supplies to be used in the reconstruction of Fort Abercrombie; and declaring an emergency.

WHEREAS, Fort Abercrombie was one of the most important military posts in North Dakota, and its history makes it one of the historic shrines of North Dakota, and

WHEREAS, approximately two thousand dollars has been raised by popular subscription to purchase the land from the site, which land with the deed thereto has been turned over to the State Historical Society, and to purchase materials to begin construction, and

WHEREAS, the Federal Government stands ready to proceed with the completion of the reconstruction of the fort upon purchase by the State of the necessary supplies and materials, therefore;

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

§ 1. APPROPRIATION.] There is hereby appropriated to the State Historical Society out of any moneys in the State Treasury not otherwise appropriated, the sum of two thousand dollars (\$2,000.00), or so much thereof as may be necessary, to be used when and in such manner as the State Historical Society may direct, for the purchase of materials and supplies necessary in the reconstruction of Fort Abercrombie.

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

Approved March 14, 1939.

CHAPTER 35

H. B. No. 163—(Erickson)

FORT UNION AND FORT BUFORD

An act making an appropriation to the State Historical Society for the purchase of materials and supplies to be used in the reconstruction of Fort Union and Fort Buford.

WHEREAS, Fort Union, located at the junction of the Yellowstone and Missouri Rivers, and Fort Buford, located adjacent to Fort Union, were two of the most important military posts in North Dakota, and their history makes them historic shrines of North Dakota, and

WHEREAS, the sites have been acquired and private persons have undertaken to raise \$2,000.00 by popular subscription and

WHEREAS, the Federal Government stands ready to proceed with the reconstruction of said forts, upon purchase by the State of the necessary supplies and materials,

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

§ 1. APPROPRIATION.] There is hereby appropriated to the State Historical Society out of any monies in the State Treasury not otherwise appropriated, the sum of \$2,000.00 or so much thereof as may be necessary, to be used when and in such manner as the State Historical Society may direct, for the purchase of materials and supplies necessary in the reconstruction of Fort Union and Fort Buford.

§ 2. EMERGENCY.] This act is hereby declared to be an emer-

gency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

CHAPTER 36

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

ARREST AND RETURN OF FUGITIVES FROM JUSTICE

An act making an appropriation to provide funds for the arrest and return of fugitives from justice as provided by Section 11162, Compiled Laws of 1913, as amended and re-enacted by Chapter 160, Laws of 1915, the same being Section 11162 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to provide funds for the arrest and return of fugitives from justice as provided by Section 11162, Compiled Laws of 1913, as amended and re-enacted by Chapter 160, Laws of 1915, the same being Section 11162 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 7, 1939.

CHAPTER 37

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

GAME AND FISH DEPARTMENT

An act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Game and Fish Fund, not otherwise appropriated, the sum of \$119,800.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department,

and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the Game and Fish Commissioner, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary, Comm'r, deputy & chief game warden.....	\$ 12,800.00
Clerkhire	6,500.00
Postage	1,500.00
Office supplies	600.00
Furniture & fixtures	300.00
Printing (general)	3,000.00
Miscellaneous	3,000.00
Travel	15,000.00
District wardens	20,000.00
Mtce., game farms & hatcheries.....	10,000.00
Rewards	2,000.00
Propagation	13,200.00
Junior wardens	2,500.00
Audit & Compensation.....	2,400.00
Match Federal funds (25%).....	15,000.00
Special bulletin printing fund	2,000.00
Construction	10,000.00
Total	\$119,800.00

Approved March 14, 1939.

CHAPTER 38

H. B. No. 36—(Committee on Appropriations)

STATE GEOLOGICAL SURVEY

An act making an appropriation for salaries and expenses of the State Geological Survey and for co-operation of United States Geological Survey.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$12,530.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the State Geological Survey and of the amount necessary to be paid to the United States Geological Survey for its co-operation in making of topographic maps and measurements of ground water levels in the work of the State Geological Survey, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries: State Geologist, ass't State Geologist, field ass't & common labor -----	\$ 2,250.00
Stenographer -----	1,080.00
Travel and subsistence -----	1,300.00
Material and supplies -----	400.00
Apparatus and equipment -----	500.00
Publications -----	800.00
Chemical work -----	200.00
Co-operation with U. S. Geological Survey for matching Fed. funds for ground water investigation -----	6,000.00
Total -----	\$12,530.00

Approved March 14, 1939.

CHAPTER 39

H. B. No. 4—(Appropriations)

GLANDERS AND DOURINE FUND

An act making an appropriaiton for the Glanders and Dourine Indemnity Fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$500.00, or so much thereof as may be necessary to indemnify the owners of animals afflicted with the disease known as glanders and dourine, for the biennium beginning July 1st, 1939, and ending June 30th, 1941.

Approved March 3, 1939.

CHAPTER 40

S. B. No. 255—(Committee on Appropriations)

STATE HAIL INSURANCE DEPARTMENT

An act making an appropriation for the operation and maintenance of the State Hail Insurance Department, for the biennium beginning July 1st, 1939.

Minot, North Dakota,
March 18, 1939.

Hon. James D. Gronna,
Secretary of State,
Bismarck, North Dakota.

MY DEAR SECRETARY:

I transmit herewith, Senate Bill No. 255 entitled "An act making an appropriation for the operation and maintenance of the State Hail Insurance Department, for the biennium beginning July 1st, 1939."

I have approved this act in part; as to certain items in this bill I have withheld my approval.

I believe that the legal business of the State should and must be conducted through the office of the Attorney General of the State of North Dakota.

For this reason, I disapprove of the item of \$3,000.00 appropriated for the services of an attorney. I also disapprove of the item of \$3,200.00 set up for the payment of a secretary and further of the item of \$3,000.00 allowed for extra clerkhire, for the reason that these appear to me to be unnecessary.

As to the rest of Senate Bill No. 255, I approve thereof.

Respectfully yours,

✓

JOHN MOSES,

Governor of the State of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the State Hail Insurance Fund, in the State Treasury, the sum of two hundred one thousand five hundred dollars (\$201,500.00), or so much thereof as may be necessary for the operation and maintenance and expenses of the State Hail Insurance Department of the State of North Dakota for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary for the manager-----	\$ 6,600.00
Chief accountant -----	4,800.00
Attorney -----	3,000.00
Chief clerk -----	4,600.00
Tax recording clerk -----	4,000.00
Assistant tax recording clerk -----	3,200.00

Application clerk	4,000.00
Assistant application clerk	3,200.00
Secretary	3,200.00
Certification clerk	2,880.00
Chief inspector	4,000.00
Clerk hire	15,120.00
Extra clerk hire	3,000.00
Salary, deputy inspectors	15,000.00
Salaries of adjusters	8,000.00
Postage	3,000.00
Office supplies	2,000.00
Furniture & fixtures	800.00
Printing	3,600.00
Miscellaneous	2,500.00
Travel expense	4,000.00
Annual audit	4,000.00
Auditors & assessors listing fees.....	20,000.00
Travel for inspectors and adjusters.....	15,000.00
Advertising	1,000.00
Legal services	600.00
Legal publication	400.00
Emergency fund	60,000.00
Total	\$201,500.00

Approved March 18, 1939.

CHAPTER 41

H. B. No. 158—(Myers)

STATE HAIL INSURANCE FUND REIMBURSEMENT

An act to amend and re-enact Chapter 30 of the Session Laws of North Dakota for the year 1937; making an appropriation of one million dollars to the State Hail Insurance Department from the State Equalization Fund; repealing all acts or parts of acts in conflict herewith.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the State Equalization Fund, the sum of one million dollars, (the sum of thirty-eight thousand, eight hundred and sixty-five dollars and forty-one cents, "\$38,865.41" having been paid out of said fund July 15th, 1938) for the purpose of returning said sum to the State Hail Insurance Fund, the said sum having been diverted from said State Hail Insurance Fund to said State Equalization Fund by Chap-

ter 155 of the Session Laws of North Dakota for 1935; and it shall become the duty of the proper officers, upon the taking effect of this act, to transfer from and to pay from said State Equalization Fund to said State Hail Insurance Fund, the sum of one million dollars in ten equal, annual installments, the first installment to be paid July 15th, 1939.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith, are hereby repealed.

Approved March 14, 1939.

CHAPTER 42

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

PUBLIC HEALTH DEPARTMENT

An act making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the Department of Public Health.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$58,420.00, or so much thereof as may be necessary to pay the salary, clerkhire and all miscellaneous items and expenses for the Department of Public Health, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary—State health officer.....	\$ 6,000.00
Clerkhire:	
Epidemiologist	6,000.00
Vital statistician	2,640.00
Sanitary engineer	5,000.00
Chief clerk	3,000.00
Stenographers	8,640.00
Clerks	3,840.00
Postage	2,000.00
Office supplies	1,500.00
Furniture & fixtures	800.00
Printing	2,500.00
Miscellaneous	1,000.00
Travel expense	7,000.00
Card indexing—Tabulating, filing & binding, birth, death & marriage certificates	3,000.00
Arsenicals	5,000.00

Balance for turning in 1937 Plymouth business coupe on a
new car ----- 500.00

Total ----- \$58,420.00

Approved March 14, 1939.

CHAPTER 43

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

PUBLIC HEALTH DEPARTMENT DIVISION OF CHILD HYGIENE

An act making an appropriation for the purpose of paying salaries, clerk-hire and general expenses of the Division of Child Hygiene.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$42,945.00, or so much thereof as may be necessary to pay the salaries, clerkhire and all miscellaneous items and expenses for the Division of Child Hygiene, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary, director ----- \$ 6,000.00

Clerkhire:

Supervisor, public health nursing-----	4,800.00
Ass't supervisor, public health nursing-----	4,200.00
Consultant, venereal disease nursing -----	3,865.00
Physician, pre-school conferences -----	3,000.00
Stenographers -----	6,480.00
Postage -----	800.00
Office supplies -----	600.00
Furniture & fixtures-----	300.00
Printing -----	2,000.00
Miscellaneous -----	400.00
Travel expense -----	8,000.00
Biologicals -----	2,500.00

Total ----- \$42,945.00

Approved March 14, 1939.

CHAPTER 44

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

PUBLIC HEALTH LABORATORIES

An act making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the Public Health Laboratories.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$34,590.00, or so much thereof as may be necessary to pay the salary, clerkhire and all miscellaneous items and expenses of the Public Health Laboratories, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Bismarck Laboratory:

Serologist	\$ 5,000.00
Technician	2,800.00
Chemist	3,200.00
Stenographer	1,920.00
Dishwasher	800.00

Grand Forks Laboratory:

Serologist	5,000.00
Technician	2,800.00
Stenographer	1,920.00
Dishwasher	500.00
Postage	1,500.00
Office supplies	400.00
Furniture & fixtures	1,200.00
Printing	800.00
Miscellaneous	1,400.00
Laboratory supplies	4,000.00
Travel expense	350.00
Emergency	1,000.00
Total	\$34,590.00

Approved March 14, 1939.

CHAPTER 45

S. B. No. 238—(Committee on Appropriations)

STATE HIGHWAY DEPARTMENT

An act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the State Highway Department.

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

§ 1. APPROPRIATION FOR ADMINISTRATIVE EXPENSES.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, and accruing from the "Motor Registration Fund," as created by Section 30 of Chapter 179 of the 1927 Session Laws as amended by Chapter 160 of the 1933 Session Laws, the sum of two hundred thousand (\$200,000.00) dollars, or so much thereof as may be necessary, for the purpose of defraying the expenses of administration and operation of the division of the State Highway Department known as the Highway Division, and in carrying out the provisions and purposes of the State Highway Department Law and cooperating with the Federal Government under the Act of Congress known as the "Federal Highway Act," for the biennium period beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary of Highway Commissioner.....	\$ 6,400.00
Salary of chief engineer	8,000.00
General administrative expenses, postage, printing, furniture and fixtures and other miscellaneous administrative expenses of department	185,600.00
Total	\$200,000.00

§ 2. ADDITIONAL APPROPRIATION FOR ADMINISTRATION EXPENSES.] In addition to the amount hereinbefore appropriated and in addition to the limitation set forth in Section 7 of Chapter 125 of the Session Laws of 1933 there is hereby appropriated out of said Motor Registration Fund, and the Highway Department is hereby authorized on proper requisition to transfer, and to have transferred to the operating fund from the monies allocated to the State Highway Department out of the Motor Vehicle Registration Fund, a sum not exceeding three per cent of the cost of construction, reconstruction, maintenance and all other work undertaken in whole or in part from Federal, county and State funds to cover additional cost of administration of said department.

§ 3. ADDITIONAL APPROPRIATION FOR MAINTENANCE AND CONSTRUCTION.] In addition to the above amounts allowed for office and administrative expenses of said department there is hereby appropriated out of any funds available to the State Highway Depart-

ment not otherwise appropriated such part thereof as may be necessary to expend during said biennium period for the construction, reconstruction and maintenance of public roads, including necessary expenses of labor, equipment and other costs and expenses allowed by statute and required for such construction, reconstruction and maintenance.

Approved March 14, 1939.

CHAPTER 46

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

HIGHWAY PATROL AND DRIVER'S LICENSE

An act making an appropriation out of the Motor Patrol Fund in the State Treasury, for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the Motor Patrol Branch.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Motor Patrol Fund in the State Treasury, not otherwise appropriated, the sum of \$116,700.00, or so much as is necessary thereof, for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the Motor Patrol Branch of the State Highway Departments, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary:

Superintendent	\$ 4,000.00
Assistant superintendent	3,600.00
Clerkhire:	
Stenographer	2,400.00
Clerks (2)	4,320.00
Bookkeeper	2,400.00
Patrolmen	42,600.00
4 clerks for drivers' license division.....	2,160.00
Postage & express charges.....	600.00
Office supplies	600.00
Printing	2,500.00
Miscellaneous	600.00
Travel expense	22,590.00
Patrolmen's new equipment	2,000.00
Patrolmen's repair on uniforms	276.00
Telephone & telegraph	450.00
Educational program	600.00

Car accessories	400.00
Car expenses	17,739.80
5 new cars	4,364.20
Workmen's Compensation & bonds	2,000.00
Audit	500.00
Total	\$116,700.00

Approved March 14, 1939.

CHAPTER 47

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

STATE HISTORICAL SOCIETY

An act making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the State Historical Society.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$14,270.00, or so much thereof as may be necessary to pay the salary, clerkhire and miscellaneous expenses of the State Historical Society for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary—Superintendent	\$ 3,520.00
Clerkhire:	
Librarian	2,400.00
Secretary-stenographer and museum assistant	2,200.00
Newspaper clerk	1,800.00
Postage	350.00
Office supplies	400.00
Furniture & fixtures	400.00
Printing	800.00
Miscellaneous	400.00
Travel expense	600.00
Museum	700.00
Books & periodicals	400.00
Binding newspapers	300.00
Total	\$14,270.00

Approved March 14, 1939.

CHAPTER 48

S. B. No. 222—(Committee on Appropriations)

STATE HISTORICAL SOCIETY

An act making an appropriation for \$4,045.05 for payment of fire and tornado insurance premiums upon the Transient Camp buildings, located at Lake Metigoshe, belonging to the State Historical Society.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of four thousand, forty-five dollars and five cents (\$4,045.05), or so much thereof as may be necessary, for the use of the State Historical Society of the State of North Dakota in paying the premiums on fire and tornado insurance on the Transient Camp buildings located at Lake Metigoshe, Bottineau County, North Dakota.

Approved March 14, 1939.

CHAPTER 49

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

HISTORICAL SOCIETY—STATE PARKS BOARD

An act making an appropriation for acquiring and maintaining State parks as provided for in Chapter 216, Session Laws of 1935.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,500.00, or so much thereof as may be necessary for the purpose of acquiring and maintaining State parks as provided for in Chapter 216, Session Laws of 1935, for the biennium beginning July 1st, 1939, and ending July [June] 30th, 1941, to-wit:
Mtce. & operation of N. D. parks and park camps:

Fort Lincoln State Park	\$ 2,000.00
Lake Metigoshe State Park	2,000.00
Turtle River State Park	2,000.00
De Mores State Park	2,000.00
International Peace Gardens	2,000.00
Development & mtce. of historical sites.....	500.00
Total	\$10,500.00

Approved March 7, 1939.

CHAPTER 50

H. B. No. 28—(Appropriations)

INSANE PATIENTS—STATE AT LARGE

An act making an appropriation for the care of insane patients whose residence cannot be determined and whose care must be borne by the State.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$85,000.00, or so much thereof as may be necessary, to care for the insane patients whose residence cannot be determined and whose care must be borne by the State, for the biennium beginning July 1st, 1939, and ending June 30th, 1941.

Approved March 3, 1939.

CHAPTER 51

S. B. No. 3—(Committee on Appropriations)

SCHOOL FOR THE BLIND

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

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

§ 1. APPROPRIATIONS.] There is hereby appropriated the sum of \$20,000.00 out of the Interest and Income Fund of the institution hereafter named, and the sum of \$27,659.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary, to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School for the Blind at Bathgate, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to wit:

Salaries and wages:

1. Administration	\$ 4,800.00
2. Faculty	9,082.08
3. Other employees	9,226.92

Operating expense:

1. Fuel (including freight)	5,000.00
2. Light, power, water, gas	1,000.00

3. Telephone, telegraph, postage -----	400.00
4. Freight & express -----	150.00
5. Insurance, bonds, etc., available July 1, 1939-----	1,000.00
6. Printing -----	75.00
7. Travel -----	250.00
8. Office supplies -----	75.00
9. Educational supplies -----	600.00
10. Power house supplies -----	350.00
11. Janitor's supplies -----	150.00
12. Students' welfare -----	300.00
13. Food (including meats, etc.) -----	8,000.00
14. Clothing -----	200.00
15. Hospital and medical services -----	500.00
16. Laundry cost -----	250.00
17. Garden and grounds -----	1,200.00
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Total maintenance -----	\$42,609.00
Improvements and repairs:	
1. General -----	\$ 1,700.00
Equipment:	
1. Kitchen utensils, dishes and refrigerator -----	600.00
2. Furniture, beds and bedding -----	400.00
3. Books and musical instruments -----	150.00
4. Replacements, plumbing and steamfitting -----	200.00
5. New 10 kw. alternating current dynamo, item 5 above, to become available July 1, 1939-----	900.00
6. Water softener -----	400.00
Miscellaneous items:	
1. Care of blind children -----	300.00
2. Auto cost and transportation -----	300.00
3. Purchase of dairy cows -----	100.00
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Total -----	\$47,659.00

Approved March 16, 1939.

CHAPTER 52

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

NORTH DAKOTA CHILDREN'S HOME AND AID SOCIETY

An act making an appropriation for the North Dakota Children's Home and Aid Society of Fargo, North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the North Dakota Children's Home and Aid Society in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said North Dakota Children's Home and Aid Society toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

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

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

Approved March 14, 1939.

CHAPTER 53

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

FLORENCE CRITTENTON HOME

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

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its directors apportioned to the Florence Crittenton Home, a corporation, of Fargo, North Dakota, being a maternity home now licensed in this State, to be paid to the said Florence Crittenton Home in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or physical condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

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

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

Approved March 14, 1939.

CHAPTER 54

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

EVANGELICAL LUTHERAN GOOD SAMARITAN SOCIETY

An act making an appropriation for the Evangelical Lutheran Good Samaritan Society at Fargo, North Dakota, for the care and education of crippled children, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION AND METHOD OF EXPENDITURE.] There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of ten thousand (\$10,000.00) dollars for the biennium beginning July 1, 1939, and ending June 30, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the Evangelical Lutheran Good Samaritan Society at Fargo, North Dakota, in the following manner, to-wit: The sum of ten (\$10.00) dollars per month shall be paid to the said Evangelical Lutheran Good Samaritan Society toward the education, support and maintenance of each poor and indigent crippled child while its age or general condition necessitates its remaining as a charge of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said Evangelical Lutheran Good Samaritan Society shall make monthly reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in its institution for the education and care of crippled children at Fargo, North Dakota, and the State Auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] The said institution for the education and care of crippled children maintained by the said Evangelical Lutheran Good Samaritan Society at Fargo, North Dakota, shall be subject to the supervision and inspection of the State Board of Administration as provided in the Child Welfare Act.

Approved March 14, 1939.

CHAPTER 55

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

NORTH DAKOTA HOUSE OF MERCY

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

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the North Dakota House of Mercy, of Fargo, North Dakota, being a maternity home now licensed in this State, to be paid to said North Dakota House of Mercy in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or general condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

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

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

Approved March 14, 1939.

CHAPTER 56

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

LUTHERAN WELFARE SOCIETY OF NORTH DAKOTA

An act making an appropriation for the Lutheran Welfare Society of North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the Lutheran Welfare Society of North Dakota in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said Lutheran Welfare Society of North Dakota toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said Lutheran Welfare Society of North Dakota shall make monthly reports to the State Auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of charges of said society and the State Auditor shall thereupon pay the said society the sum for each charge as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said Lutheran Welfare Society of North Dakota shall be subject to the supervision and inspection of the State Board of Administration as provided in the Child Welfare Act.

Approved March 14, 1939.

CHAPTER 57

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

ST. JOHN'S ORPHANAGE

An act making an appropriation for St. John's Orphanage of Fargo, North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the St. John's Orphanage in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said St. John's Orphanage toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges in said Home, as determined by the superintendent or superior in charge.

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

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

Approved March 14, 1939.

CHAPTER 58

S. B. No. 2—(Committee on Appropriations)

SCHOOL FOR THE DEAF

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

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

§1. APPROPRIATION.] There is hereby appropriated the sum

of \$20,000.00 out of the Interest and Income Fund of the institution hereafter named and in the sum of \$149,707.58 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the School for the Deaf at Devils Lake, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries and wages:

1. Administration -----	\$ 9,951.08
2. Faculty -----	53,755.92
3. Other employees -----	22,645.58

Operating expenses:

1. Fuel -----	15,000.00
2. Light, power, water, (gas) -----	1,700.00
3. Telephone, telegraph, postage -----	1,000.00
4. Trades building supplies -----	1,900.00
5. Insurance, bonds, etc., available July 1, 1939-----	4,100.00
6. Printing -----	1,550.00
7. Travel -----	400.00
8. Office supplies -----	450.00
9. Educational supplies -----	2,200.00
10. Power house supplies-----	600.00
11. Janitor's supplies -----	2,000.00
12. Students' welfare & travel -----	1,200.00
13. Food (including meats, etc.) -----	22,000.00
14. Laundry supplies -----	700.00
15. Hospital & medical services-----	1,500.00
16. Farm & garden -----	3,500.00
17. Automobile & bus upkeep-----	700.00
18. Kitchen supplies -----	700.00
19. Bedding, linen & drygoods -----	1,600.00

Total maintenance ----- \$149,152.58

Improvements and repairs:

1. Heating & plumbing -----	\$ 2,000.00
2. Electrical wiring & supplies-----	1,000.00
3. Painting -----	600.00
4. General repairs of buildings -----	1,500.00
5. Nursery stock & campus -----	400.00
6. Repairing power house -----	535.00
7. Replace Old Main walk-----	300.00
8. Repr. farm house & enl. implement shed-----	600.00
9. Add hospital sun porch complete -----	1,000.00

Equipment:

1. Library & text books-----	1,000.00
2. Furniture -----	3,500.00

3. Laundry equipment	1,200.00
4. Shops equipment	3,000.00
5. Power house equipment	1,100.00
6. Farm equipment	70.00
7. Playground equipment	250.00
8. Bus and car	2,100.00
9. Campus equipment	400.00
Total	\$169,707.58

Approved March 16, 1939.

CHAPTER 59

S. B. No. 4—(Committee on Appropriations)

GRAFTON STATE SCHOOL

An act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous items for the Grafton State School at Grafton, North Dakota.

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

§1. APPROPRIATION.] There is hereby appropriated the sum of \$335,000.00 out of the County Care and Institutional Collection funds of the institution hereafter named and the sum of \$185,006.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the Grafton State School at Grafton, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries and wages:

1. Administration	\$ 6,000.00
2. Faculty	11,148.00
3. Other employees	180,000.00

Operating expense:

1. Fuel (including freight)	68,000.00
2. Repairs	6,000.00
3. Telephone, telegraph, postage	2,700.00
4. Incidentals	3,000.00
5. Insurance, bonds, etc., available July 1, 1939	8,000.00
6. Printing	1,250.00
7. Travel	800.00
8. Office supplies	1,500.00
9. Educational supplies	4,000.00
10. Power house supplies	3,500.00

11. Janitor's supplies -----	4,500.00
12. Patient's welfare -----	4,000.00
13. Food (including meats, etc.) -----	100,000.00
14. Clothing -----	35,000.00
15. Hospital and medical service -----	7,500.00
16. Farm and garden -----	7,500.00
17. Laundry supplies -----	6,500.00
18. Kitchen supplies -----	3,200.00
19. Beds and bedding -----	7,000.00
20. Furnishings -----	5,000.00

Total maintenance ----- \$476,098.00

Improvements and repairs :

1. Paints and painting -----	\$ 1,500.00
2. Building repairs -----	4,200.00
3. Ash conveyor and well -----	10,000.00
4. Farm and garden -----	3,500.00
5. Refrigeration plant addition -----	1,000.00
6. Drainage project, Sunset Hall -----	1,000.00
7. Collector sewer and new laterals -----	5,000.00

Equipment :

1. Kitchen -----	4,000.00
2. Laundry -----	5,000.00
3. Hospital -----	2,200.00
4. Janitor supplies -----	2,500.00

Miscellaneous items :

1. Land rental -----	5,508.00
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Total ----- \$520,006.00

Approved March 16, 1939.

CHAPTER 60

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

STATE INSTITUTIONS OF HIGHER LEARNING

An act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State institutions of higher learning of the State of North Dakota, and providing for offsets for Federal aid granted to said institutions and the subdivisions thereof.

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

§ 1. APPROPRIATIONS FOR THE STATE INSTITUTIONS OF HIGHER LEARNING AND PROVIDING FOR OFFSETS FOR FEDERAL AID GRANTED TO SAID INSTITUTIONS AND THE SUBDIVISIONS THEREOF.]

1. State University & School of Mines at Grand Forks with their substations.
2. (a) State Agricultural College.
(b) Experiment Station and
(c) Extension Division, at Fargo, North Dakota with their substations.
3. School of Science at Wahpeton.
4. (a) State Normal Schools & Teachers Colleges at Valley City
(b) Mayville,
(c) Minot and
(d) Dickinson
5. Normal & Industrial School at Ellendale.
6. School of Forestry at Bottineau.

The sums hereafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, for the purpose specified in the following sections of this act, to each of the institutions hereinafter named out of the State Treasury as follows:

1. State University -----	\$683,107.00
2. State Agricultural College -----	386,971.40
3. Agricultural College Experiment Station -----	125,010.52
4. Agricultural College Extension Division -----	60,076.74
5. School of Science -----	98,570.00
6. Valley City Normal -----	241,791.33
7. Mayville Normal -----	139,685.00
8. Minot Normal -----	229,048.00
9. Dickinson Normal -----	158,969.00
10. Ellendale Normal and Industrial School -----	94,076.00
11. School of Forestry -----	73,668.10

and out of the institutional interest and income, tuition fees and collections the following sums to each of said institutions as follows:

1. State University	\$248,870.00
2. State Agricultural College	434,370.68
3. Agricultural College Experiment Station	293,351.52
4. Agricultural College Extension Division	728,267.30
5. School of Science	115,000.00
6. Valley City Normal	80,000.00
7. Mayville Normal	47,500.00
8. Minot Normal	70,000.00
9. Dickinson Normal	30,000.00
10. Ellendale Normal and Industrial School	40,000.00
11. School of Forestry	20,000.00

and in addition thereto there is hereby appropriated to each of the institutions hereinafter named all other incidental income, collections and fees that such institutions may collect and receive, and such incidental income, collections and fees shall be used by each institution for such miscellaneous purposes as may be necessary for the maintenance and operation of the institution.

§ 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1939, and ending June 30th, 1941.

§ 3. APPROPRIATIONS.]

Subdivision 1.

STATE UNIVERSITY

1. Educational service:	
a. (1) College of Engineering	\$ 88,644.00
(2) St. wide serv. on natural resources	21,822.00
b. College of Science, Literature and Arts	211,131.00
c. School of Commerce	42,200.00
d. School of Education	111,400.00
e. School of Law	29,800.00
f. School of Medicine	60,000.00
g. Military training	1,950.00
h. Physical education for men	9,020.00
i. Library	27,700.00
j. General educational service	7,000.00
k. Office of dean of women	6,860.00
l. U. placement and vocational guid. bureau	2,000.00
2. Correspondence study courses and emergency fund	21,910.00

3. Maintenance—administration :	
1. President's office -----	13,780.00
2. Business office -----	19,780.00
3. Registrar's office -----	16,660.00
4. Stenographic bureau -----	10,820.00
5. Telephones, switch-b. telegraph & tolls-----	6,000.00
6. Student employment bureau-----	4,600.00
7. Publications, general printing, etc. -----	3,090.00
4. Maintenance—property :	
1. Grounds and property -----	8,196.00
2. Bldg. mainten., incl. janitors, repairs, etc.-----	41,482.00
3. Power plant, direct -----	88,000.00
4. Power plant, indirect-----	2,200.00
5. Office of supt. bldgs. & grounds, incl. plumber, carpenter, painter, electr., etc.-----	32,502.00
Total maintenance -----	\$888,547.00
Less local income (proposed) :	
a. Student fees -----	\$150,000.00
b. Dormitory rents -----	16,870.00
c. Corres. study fees-----	7,600.00
d. Miscellaneous -----	17,400.00
e. Land income -----	57,000.00
	<u>248,870.00</u>
Net maintenance -----	\$639,677.00
5. Improvements and repairs -----	9,000.00
6. Equipment -----	12,000.00
7. Miscellaneous -----	22,430.00
Total -----	<u>\$683,107.00</u>

Subdivision 2a.

AGRICULTURAL COLLEGE

1. Administration :	
1. President's office -----	\$ 17,100.00
2. Business office -----	21,500.00
3. Registrar -----	14,000.00
4. Telephone exchange -----	6,500.00
5. Publications -----	3,500.00
2. Education :	
1. (a) Agriculture -----	114,000.00
(b) Animal hygiene -----	4,750.00
2. (a) Engineering -----	66,100.00
(b) Chemistry -----	31,900.00
3. Home economics -----	38,000.00

4.	(a) Science and literature	126,000.00
	(b) Education	16,000.00
	(c) Pharmacy	15,000.00
5.	Library	20,000.00
6.	Music	4,045.00
7.	Physical education, men	5,000.00
8.	Physical education, women	4,000.00
9.	Military	2,304.00
10.	Student's welfare	1,200.00
11.	Gen. ed. exp.	12,300.00
12.	Extension course	2,000.00
13.	Farm folks schooling	3,000.00
14.	Carpentry	2,000.00
15.	Placement personnel	4,000.00
3.	Physical plant :	
1.	Power plant	20,000.00
2.	Fuel	60,000.00
3.	Plumbing and heating	7,700.00
4.	Buildings and grounds	49,271.00
5.	Institutional exp.	6,700.00
6.	Gas, light, water and power	33,500.00
7.	Campus upkeep	1,000.00
8.	Campus police	2,160.00
9.	Student help	4,000.00
10.	Girls' dormitory	10,970.68
	Total maintenance	\$729,501.08
	Less estimated income	434,370.68
	Net maintenance	\$295,130.40
4.	Improvements and repairs :	
1.	Streets and walks	6,000.00
2.	Vent. system, Chem. bldg.	1,000.00
3.	Ptg. and glazing, Ext. Agric. bldg.	800.00
4.	Chem. lab.	3,000.00
5.	Rebldg. steps, Agri. bldg.	150.00
6.	Barracks bldg.	5,000.00
5.	Equipment :	
1.	Mechanic arts	4,000.00
2.	Botany and zoology	2,400.00
3.	Agriculture	3,500.00
4.	Geology	700.00
5.	Pharmacy	1,100.00
6.	Chemistry	3,500.00
7.	Musical instruments	491.00
6.	Public service	7,500.00

7. Miscellaneous :	
1. Livestock offset -----	10,000.00
2. Carpentry supplies -----	2,000.00
8. Fixed assessments :	
1. Ins. bldgs., Work. Comp. Bureau-----	25,200.00
2. Sewage disposal -----	6,000.00
3. Sewer, water and highway -----	6,500.00
4. Special assessment for water main-----	3,000.00
Total -----	\$386,971.40

Subdivision 2b.

AGRICULTURAL COLLEGE—EXPERIMENT STATION

1. Salaries, wages and operating expenses :	
1. Administration -----	\$ 8,400.00
2. Station staff, etc. -----	164,134.42
3. Labor and operating expense -----	119,122.90
4. Light, power, water, gas -----	4,000.00
5. Telephone, telegraph, postage -----	1,700.00
6. Freight and express -----	1,900.00
Total maintenance -----	\$299,257.32
Less estimated income-----	293,351.52
Net maintenance -----	\$ 5,905.80
2. Improvements and repairs :	
1. General repairs -----	5,000.00
3. Equipment :	
1. Wheat milling equipment -----	1,500.00
4. Miscellaneous :	
1. Heat, light, water, power & campus serv.-----	40,000.00
2. Fire and tornado insurance -----	1,159.00
3. Workmen's Com. insurance -----	4,000.00
4. Investigations improved varieties-----	5,000.00
5. Printing -----	2,000.00
6. Travel -----	1,900.00
7. Office supplies -----	1,150.00
8. Livestock -----	500.00
9. Library -----	700.00
10. Tools, machinery and appliances -----	5,100.00
11. Special economic investigation in marketing--	6,000.00
12. Scientific supplies -----	7,000.00
13. Feed stuffs, experimental animals -----	3,933.60
14. Furniture -----	500.00
15. Scientific equipment -----	8,162.12
Total, main station-----	\$ 99,510.52

5. Branch stations:	
1. Dickinson, maintenance -----	5,000.00
2. Edgeley, maintenance -----	6,500.00
3. *Hettinger, repairs and maintenance -----	1,000.00
4. Langdon, maintenance -----	6,500.00
5. Williston, maintenance -----	6,500.00

Total ----- \$125,010.52

*Attention: Hettinger abolished Chpr. 185 S. L. 1937.

Subdivision 2c.

AGRICULTURAL COLLEGE—EXTENSION DIVISION

1. County agents -----	\$443,571.38
2. Field agents (agriculture) -----	93,833.32
3. Field agents (home economics) -----	50,550.00
4. Boys' and girls' club work -----	42,640.00
5. Home demonstration -----	75,020.00
6. Publicity and publications -----	31,807.34
7. Administration -----	21,262.00
8. Neighborhood activities in county districts -----	2,150.00
9. Rural young people -----	8,470.00
10. Forestry -----	5,040.00
11. Maintenance -----	10,000.00
12. Workmen's Compensation Bureau -----	4,000.00

Total ----- \$788,344.04

Estimated income:

Federal -----	\$483,067.30
County -----	241,420.00
Walsh Co. A. Sch. -----	1,260.00
Forestry -----	2,520.00

Total ----- 728,267.30

Net maintenance ----- \$ 60,076.74

STATE SCHOOL OF SCIENCE

1. Salaries and wages:	
1. Administration -----	\$ 14,073.00
2. Faculty and additional trade instructor -----	104,337.00
3. Other employees -----	13,960.00
2. Operating expense:	
1. Fuel (including freight) -----	14,000.00
2. Light, power, water, gas -----	8,000.00
3. Telephone, telegraph, postage -----	1,750.00
4. Freight and express -----	1,000.00
5. Insurance, bonds, etc. -----	1,200.00

6. Printing	2,000.00
7. Travel	600.00
8. Office supplies	600.00
9. Educational supplies	9,000.00
10. Power house supplies	500.00
11. Janitor's supplies	1,200.00
12. Students' welfare	1,000.00
13. House rent (girls' dorm.)	2,700.00
14. Trade supplies	10,000.00
15. Miscellaneous	5,000.00
16. Contingent	4,000.00
Total maintenance	\$194,920.00
Less estimated income, all sources	115,000.00
Net maintenance	\$ 79,920.00
3. Improvements and repairs:	
1. General	3,300.00
2. Roof on Burch Hall	700.00
4. New buildings:	
1. New heating plant	6,000.00
5. Equipment:	
1. Trades	5,000.00
2. Library	1,200.00
3. Class room	850.00
6. Miscellaneous:	
1. Sewage disposal rental	600.00
2. W.P.A. material & supplies	1,000.00
Total	\$ 98,570.00

VALLEY CITY NORMAL

1. Salaries and wages:	
1. Administration	\$ 18,072.00
2. Faculty	165,258.80
3. Other employees	42,734.20
2. Operating expense:	
1. Fuel (including freight and hauling)	33,200.00
2. Light, power, water, gas, etc.	2,500.00
3. Telephone, telegraph, postage	2,500.00
4. Freight & express	500.00
5. Insurance, bonds, etc.	6,426.33
6. Printing	1,500.00
7. Travel	400.00
8. Office supplies	600.00
9. Educational supplies	6,500.00
10. Power house supplies	1,500.00

11. Janitor's supplies -----	3,000.00
12. Students' welfare -----	1,250.00
13. Rural training -----	5,500.00
14. Trucks and care -----	1,000.00
15. Miscellaneous -----	2,000.00
16. Physical education -----	1,000.00
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Total maintenance -----	\$295,441.33
Less estimated income, all sources -----	80,000.00
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Net maintenance -----	\$215,441.33
3. Improvements and repairs :	
1. General -----	5,000.00
2. Heating and ventilating -----	1,500.00
3. Grounds, walks, drives -----	800.00
4. Rewiring and lighting—special -----	2,000.00
5. Special bldg. & repairs (WPA) -----	5,000.00
6. Plumbing—special -----	1,500.00
4. Equipment :	
1. Books and periodicals -----	4,500.00
2. Furniture—dormitory -----	500.00
3. Furniture, apparatus, machinery -----	500.00
4. Typewriter renewal contract -----	750.00
5. Filing equipment -----	500.00
6. Transmission cable -----	500.00
5. Miscellaneous :	
1. Special assessments -----	3,300.00
<hr/>	
Total -----	\$241,791.33

MAYVILLE NORMAL

1. Salaries and wages :	
1. Administration -----	\$ 13,982.00
2. Faculty -----	99,747.00
3. Other employees -----	17,806.00
2. Operating expense :	
1. Fuel (including freight) -----	13,500.00
2. Light, power, water, gas -----	6,500.00
3. Telephone, telegraph, postage -----	1,200.00
4. Freight & express -----	800.00
5. Insurance, bonds, etc. -----	2,900.00
6. Printing, including bulletins -----	1,200.00
7. Travel—administration & faculty -----	400.00
8. Office supplies, including stationery -----	650.00
9. Educational supplies -----	2,500.00
10. Power house supplies -----	1,000.00
11. Janitor's supplies -----	1,300.00

12. Students' welfare -----	1,000.00
13. Library supplies -----	300.00
14. Grade and H. S. practice teaching -----	1,500.00
15. Rural practice teaching -----	1,500.00
16. Grounds -----	200.00
17. Car, truck, bus maintenance -----	1,200.00
18. Commencements (inc. dipls and covers) -----	200.00
19. Short course—farm boys and girls -----	1,000.00
20. Miscellaneous operating expense -----	400.00
Total maintenance -----	\$170,785.00
Less estimated income, all sources -----	47,500.00
Net maintenance -----	\$123,285.00
3. Improvements and repairs:	
1. Plumbing, heating, ventilating -----	1,200.00
2. General repairs -----	1,000.00
3. Painting—general -----	300.00
4. To complete wiring & plbg., West Hall -----	800.00
5. Repairing Main Building -----	6,000.00
6. To complete re-shingling all bldgs. -----	1,500.00
4. Equipment:	
1. Replacement equipment (general) -----	800.00
2. Typewriters (contract renewals) -----	400.00
3. Bks. & periodicals—Chg. Desk—Lib. -----	2,000.00
4. Filing equipment -----	100.00
5. Physical education -----	500.00
6. Classrooms & offices -----	500.00
7. Furniture (all buildings) -----	500.00
8. Science -----	400.00
9. Replacement thermostate -----	200.00
5. Miscellaneous items:	
Items not budgeted -----	200.00
Total -----	\$139,685.00

MINOT NORMAL

1. Salaries and wagies [wages]:	
1. Administration -----	\$ 19,000.00
2. Faculty -----	178,500.00
3. Other employees -----	36,048.00
2. Operating expense:	
1. Fuel (including freight) -----	22,200.00
2. Light, power, water, gas -----	1,000.00
3. Telephone, telegraph, postage -----	2,500.00
4. Freight & express -----	600.00
5. Insurance, bonds, etc. -----	1,400.00

6. Printing -----	1,500.00
7. Travel -----	400.00
8. Office supplies -----	800.00
9. Educational supplies -----	7,000.00
10. Power house supplies -----	1,000.00
11. Janitor's supplies -----	3,000.00
12. Students' welfare -----	800.00
13. Campus maintenance -----	800.00
15. Dormitory -----	750.00
16. Operating car & truck -----	1,500.00
17. Library supplies -----	300.00
18. Commencement supplies & expenses -----	200.00
19. Laboratory supplies -----	500.00
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Total maintenance -----	\$279,798.00
Less estimated income, all sources -----	70,000.00
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Net maintenance -----	\$209,798.00
3. Improvements and repairs:	
1. General -----	2,500.00
2. Water system -----	900.00
4. Equipment:	
1. Library books and periodicals -----	5,000.00
2. General -----	3,500.00
3. Fire escapes Harrison Bldg. -----	400.00
4. Truck -----	750.00
5. Power lawn mower -----	150.00
6. Lamp posts -----	150.00
7. Typewriters (exchange 30) -----	900.00
8. Trees -----	100.00
9. Physical ed. equipment -----	300.00
10. Science equipment -----	200.00
5. Miscellaneous:	
1. Taxes and special improvements -----	3,000.00
2. Refunds -----	800.00
3. Miscellaneous—other items -----	200.00
4. American Association -----	100.00
5. Inventory -----	300.00
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Total -----	\$229,048.00

DICKINSON NORMAL

1. Salaries and wages:	
1. Administration -----	\$ 13,400.00
2. Faculty -----	108,974.00
3. Other employees -----	16,995.00

2. Operating expense :	
1. Fuel (including freight) -----	12,000.00
2. Light, power, water, gas -----	7,000.00
3. Telephone, telegraph, postage -----	1,800.00
4. Freight & express -----	500.00
5. Insurance, bonds, etc. -----	1,550.00
6. Printing -----	1,200.00
7. Travel -----	250.00
8. Office supplies -----	500.00
9. Educational supplies -----	1,000.00
10. Power house supplies -----	1,400.00
11. Janitor's supplies -----	2,000.00
12. Students' welfare -----	2,000.00
13. Contract renewal of typewriters -----	800.00
14. Rural school transportation -----	1,200.00
15. Maintenance of dormitories -----	800.00
	<hr/>
Total maintenance -----	\$173,369.00
Less estimated income, all sources -----	30,000.00
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Net maintenance -----	\$143,369.00
3. Improvements and repairs :	
1. Trees, shrubs, drv. & grounds -----	300.00
2. General repairs & upkeep -----	2,500.00
3. Reline firebrick, two old boilers -----	400.00
4. Repairing walks -----	400.00
4. Equipment :	
1. Gymnasium & physical education -----	800.00
2. Office -----	200.00
3. Library -----	200.00
4. Manual trng. & home economics -----	600.00
5. Classroom -----	250.00
6. Laboratory equip & supplies -----	1,200.00
7. Commercial department -----	200.00
8. Libr. bks. & perid. & sup. -----	3,700.00
9. Rural school car -----	500.00
10. Dump truck -----	800.00
11. Power mower & plow -----	500.00
5. Miscellaneous items :	
1. Appraisal -----	50.00
2. Miscellaneous items -----	3,000.00
	<hr/>
Total -----	\$158,969.00

ELLENDALE NORMAL AND INDUSTRIAL SCHOOL.

1. Salaries and wages:

1. Administration -----	\$ 10,040.00
2. Faculty -----	63,118.00
3. Trade instructor -----	5,000.00
4. Other employees -----	16,318.00

2. Operating expense:

1. Fuel (including freight) -----	9,750.00
2. Light, power, water, gas -----	1,300.00
3. Telephone, telegraph, postage -----	1,100.00
4. Freight & express -----	500.00
5. Insurance, bonds, etc. -----	1,750.00
6. Printing -----	1,600.00
7. Travel -----	200.00
8. Office supplies -----	400.00
9. Educational supplies -----	2,000.00
10. Power house supplies -----	650.00
11. Janitor's supplies -----	1,000.00
12. Students' welfare -----	1,250.00
13. Practice teaching -----	1,900.00
14. Car and truck -----	950.00
15. Miscellaneous, shops, piano tun. etc. -----	500.00

Total maintenance ----- \$119,326.00

Less estimated income, all sources ----- 40,000.00

Net maintenance ----- \$ 79,326.00

3. Improvements and repairs:

1. General -----	4,000.00
2. Power plant (flues & traps) special -----	1,000.00
3. Sweet water well -----	500.00
4. Rewiring (special) -----	500.00
5. Ground, walks, etc. (special) -----	400.00

4. Equipment:

1. Library -----	1,500.00
2. Laboratories -----	600.00
3. Commercial -----	1,200.00
4. Dormitory -----	750.00
5. Farm machinery equipment, M.A. -----	1,800.00
6. New equipment -----	1,000.00
7. General: chairs, toilets, lockers -----	1,000.00

5. Miscellaneous items:

1. Assembly room, seats & curtains (spec.) -----	500.00
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Total ----- \$ 94,076.00

SCHOOL OF FORESTRY

1. Salaries and wages:	
1. Administration -----	\$ 9,470.00
2. Faculty -----	33,273.10
3. Other employees -----	4,400.00
2. Operating expense:	
1. Fuel (including freight) -----	3,500.00
2. Light, power, water, gas -----	1,400.00
3. Telephone, telegraph, postage -----	900.00
4. Freight & express -----	500.00
5. Insurance, bonds, etc. -----	425.00
6. Printing -----	700.00
7. Travel -----	200.00
8. Office supplies -----	600.00
9. Educational supplies -----	1,800.00
10. Janitor's supplies -----	700.00
11. Students' welfare -----	200.00
12. Truck mtce. -----	350.00
13. Dormitory maintenance -----	600.00
14. State forest nursery -----	21,000.00
15. Forestry extension -----	6,500.00
16. Main Building maintenance -----	850.00
Total maintenance -----	\$ 87,368.10
Less estimated income, all sources -----	20,000.00
Net maintenance -----	\$ 67,368.10
3. Improvements and repairs:	
1. General -----	1,000.00
2. Remodel dormitory -----	1,500.00
4. Equipment:	
1. Library books and supplies -----	850.00
2. School and laboratory -----	1,000.00
3. Nursery machinery -----	200.00
4. Contract renewal of typewriters -----	400.00
5. Athletics -----	50.00
6. Physical education supplies -----	100.00
7. Classroom equipment -----	200.00
8. Dormitory -----	400.00
5. Miscellaneous items:	
1. Special assessment taxes -----	400.00
2. Gym rental -----	200.00
Total -----	\$ 73,668.10

§ 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed

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

Approved March 16, 1939.

CHAPTER 61

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

STATE HOSPITAL FOR THE INSANE

An act making an appropriation for the general maintenance, and miscellaneous expenses of the State Hospital for the Insane at Jamestown, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$1,185,000.00 out of the County Care, Institutional Collections and Interest Collection Funds of the institution hereafter named, or so much thereof as may be necessary to pay the general maintenance and miscellaneous expenses of the State Hospital for the Insane at Jamestown, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries and wages:

1. Administration	\$ 20,000.00
2. Assistant physicians	30,000.00
3. Other employees	380,000.00

Operating expense:

1. Printing and office supplies	1,500.00
2. Postage, telegraph and telephone	6,000.00
3. Travel expense	1,000.00
4. O. T. expense	6,000.00
5. Auto and trucks	9,000.00
6. Water filtration plant	24,000.00
7. Operation farm:	
(a) Stock	10,000.00
(b) Feed	30,000.00
(c) Seeds	7,000.00
(d) Repair	5,000.00
(e) Equipment	8,000.00
8. Oils, paints, glass and misc.	8,000.00
9. Electrical supplies and repairs	8,000.00

10. Engine room supplies and repairs -----	6,000.00
11. Heating and plumbing supplies -----	8,000.00
12. Building material including hardware, carpenter shop supplies and repairs -----	30,000.00
13. Blacksmith and machine shop supplies and re- pairs -----	6,000.00
14. Fuel cost, including freight -----	115,000.00
15. Clothing and footwear -----	60,000.00
16. Meats, foods and tobacco -----	290,000.00
17. Dining rooms, kitchen and butcher supplies and repairs -----	12,000.00
18. Furniture, furnishings, beds and bedding -----	10,000.00
19. Janitor supplies -----	15,000.00
20. Laundry supplies and repairs -----	8,000.00
21. Drugs, dental and X-ray supplies -----	35,000.00
22. Religious services, patients' welfare and patients' wages -----	11,000.00
23. Barber and beauticians supplies -----	4,000.00
24. Insurance, bonds, etc., available July 1, 1939---	11,500.00
25. Extraordinary:	
(a) Fire equipment, etc. -----	4,000.00
(b) Mortuary supplies -----	4,000.00
(c) Irrigation equipment -----	2,000.00
Total -----	\$1,185,000.00

Approved March 14, 1939.

CHAPTER 62

H. B. No. 385—(Delayed Bills Committee)

DEFICIENCY APPROPRIATION STATE HOSPITAL

An act making an appropriation for the operating, administration, salaries and other expenses for the State Hospital for the Insane at Jamestown, North Dakota and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies paid by counties for care of patients at the State Hospital, which is now in the State Treasury, not otherwise appropriated, the sum of \$115,500.00 or so much thereof as may be necessary to pay the administration costs and salaries of assistant physicians and other employees, operating and other expense of the State Hospital for the Insane at Jamestown, North Dakota from January 1, 1939, to July 1, 1939.

§ 2. EMERGENCY.] The salary appropriations for employees at the State Hospital for the Insane being entirely depleted, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1939.

CHAPTER 63

S. B. No. 6—(Committee on Appropriations)

STATE PENITENTIARY

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

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$4,000.00 out of the Coffin Manufacturing Fund, the sum of \$50,000.00 out of the Miscellaneous Earnings and the sum of \$33,000.00 out of the Institutional Collection Fund of the institution hereafter named and the sum of \$311,485.04 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Penitentiary, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries and wages:

1. Administration -----	\$ 13,740.00
2. Faculty -----	808.00
3. Other employees -----	82,766.64

Operating expense:

1. Fuel (including freight) -----	26,000.00
2. Light, power, water, gas -----	10,000.00
3. Telephone, telegraph, postage -----	1,700.00
4. Freight & express -----	1,000.00
5. Insurance, bonds, etc., available July 1, 1939-----	13,000.00
6. Printing and office supplies -----	900.00
7. Travel -----	300.00
8. Educational supplies -----	100.00
9. Power house supplies -----	2,500.00
10. Janitor's supplies -----	7,000.00
11. Inmates' welfare -----	2,100.00
12. Food (including meats, etc.) -----	68,000.00
13. Clothing -----	14,000.00

14. Hospital and medical service	18,000.00
15. Bertillion [Bertillon] & escapes	1,000.00
16. Transportation & clothes	9,000.00
17. Mtce. autos, & trucks	5,000.00
18. Inmates wages	18,000.00
19. Mtce. farm & shops	16,000.00
20. Coffin factory	4,000.00
21. Tag plant	50,000.00
Total maintenance	\$364,914.64
Improvements and repairs :	
1. General	6,500.00
Equipment :	
1. Kitchen	800.00
2. Farm	1,000.00
3. Hospital	200.00
4. Plumbing, carpenter, blacksmith shop	650.00
5. Office	400.00
6. Laundry	10,000.00
Miscellaneous items :	
1. Rent of land	1,500.00
Total	\$385,964.64
State Criminal Identification Bureau :	
1. Officer in charge	4,000.00
2. Finger-print expert	2,620.00
3. Travel expense	2,200.00
4. Workmen's Compensation	175.00
5. Radio service & special bulletins	2,050.00
6. Telephone & telegraph	600.00
7. Equipment & supplies	375.00
8. Postage & printing	500.00
Total	\$398,485.04

Approved March 16, 1939.

CHAPTER 64

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

NORTH DAKOTA SOLDIERS' HOME

An act making an appropriation for the North Dakota Soldiers' Home at Lisbon, North Dakota: providing for reports and deductions.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$15,000.00, and such moneys as may come to the Interest and Income and Federal Aid funds or so much thereof as may be necessary not to exceed the sum of \$40,274.00, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary, for the maintenance and support of the North Dakota Soldiers' Home located at Lisbon, North Dakota, said sum to be paid as follows: one quarter or \$13,818.50 to be payable July 1st, 1939 and each additional quarter to be payable at the end of each succeeding six months thereafter.

§ 2. The appropriation herein provided for the biennium July 1, 1939, to June 30, 1941, shall be used for the following:

Expense and per diem of board members.....	\$ 1,400.00
Salaries, staff members	9,960.00
Expense and per diem, auditor	144.00
Employees and Home members employed	9,600.00
Maintenance and operation	34,170.00
Total.....	\$55,274.00

§ 3. REPORTS AND CERTIFICATES. PAYMENTS.] The superintendent in charge of said home shall make semi-annual reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the amount of money remaining unexpended and estimating the amount of money which shall be required for the succeeding six months, and, if it shall appear from said report and estimate that the full amount appropriated for the succeeding six months exceeds the amount of the estimate, then the amount to be paid shall be reduced to the amount of said estimate.

Approved March 7, 1939.

CHAPTER 65

S. B. No. 7—(Committee on Appropriations)

STATE TRAINING SCHOOL

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

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$15,000.00 out of the Interest, Income and Institutional Collections Fund of the institution hereafter named and the sum of \$258,637.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:
Salaries and wages:

1. Administration	\$ 11,808.00
2. Faculty	22,360.00
3. Other employees	51,669.00

Operating expense:

1. Fuel (including freight)	18,000.00
2. Light, power, water, gas	5,300.00
3. Telephone, telegraph, postage	2,500.00
4. Freight ' express	1,000.00
5. Insurance, bonds, etc., available July 1, 1939	4,000.00
6. Printing	800.00
7. Travel	2,000.00
8. Office supplies	500.00
9. Educational supplies	3,500.00
10. Power house supplies	4,000.00
11. Janitor's supplies	2,500.00
12. Students' welfare	5,000.00
13. Food (including meats, etc.)	55,000.00
14. Clothing	20,000.00
15. Hospital & medical service	12,000.00
16. Students' wage	600.00
17. Farm & garden maintenance	10,000.00
18. Laundry supplies	1,800.00
19. Grounds	800.00
20. Carpenter & plb'ing shop, auto, truck repairs, gas & oil, etc.	7,000.00

Total maintenance\$241,637.00

Improvements and repairs:

1. Rebuild boilers	2,900.00
2. Reroof, repaint Main Bldg.....	2,000.00
3. Reroof & extension Dak. & Dev. Halls.....	2,800.00
4. Replacement of hot water boilers.....	1,000.00
5. Repairs for Dacotah Hall.....	6,000.00

Equipment:

1. Trade school	4,500.00
2. Carpenter shop	1,000.00
3. Plumbing shop	400.00
4. Library	800.00
5. Households	2,000.00
6. School	2,000.00
7. Institutional tools	1,000.00
8. Office	400.00
9. Farm	1,000.00
10. Trade-in on car	700.00

Miscellaneous items:

1. Burial expense & reward.....	600.00
2. Land rental	2,000.00
3. Fencing	400.00

Total\$267,637.00

Approved March 16, 1939.

CHAPTER 66

S. B. No. 5—(Committee on Appropriations)

STATE TUBERCULOSIS SANATORIUM

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

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$349,602.08 out of the County Care and Institutional Collection Funds of the institution hereafter named and the sum of \$139,884.80 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary for paying the general maintenance, improvements and repairs, new buildings and equipment of the Tuberculosis Sanatorium at San Haven, North Dakota, for the

biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salaries and wages:

1. Administration	\$ 9,399.84
2. Other employees	175,678.00

Operating expenses:

1. Fuel (including freight)	38,340.00
2. Auto and truck maintenance	4,260.00
3. Telephone, telegraph, postage	2,000.00
4. Freight & express	2,400.00
5. Insurance, bonds, etc.	11,114.54
6. Printing	950.00
7. Travel	750.00
8. Office supplies	800.00
9. Power house supplies	5,000.00
10. Janitor's supplies	5,000.00
11. Patient's welfare	2,000.00
12. Food (including meats, etc.)	150,000.00
13. Clothing, bedding and linen	7,500.00
14. Hospital and medical service	30,000.00
15. Farm, dairy, and poultry maintenance	15,000.00
16. Garden, greenhouse and grounds	500.00
17. Laundry and water softener supplies	6,000.00
18. Dishes, crockery and utensils	2,500.00
19. Refunds	1,000.00

Total maintenance\$470,192.38

Improvements and repairs:

1. General imp. & rep.	5,000.00
2. Steam line to proposed milk house	1,500.00

New buildings:

1. Milk house	1,155.00
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Equipment:

1. Meat refrigerator, refectory bldg.	4,500.00
2. New well and pump	1,500.00
3. Hospital	3,500.00
4. Farm	300.00
5. Dietary	1,114.00
6. Furniture and replacement	400.00
7. Office	100.00
8. Steam exhaust condenser	225.50

Total\$489,486.83

Approved March 16, 1939.

CHAPTER 67

H. B. No. 160—(Committee on Appropriations)

UNIVERSITY—SPECIAL

An act making a special appropriation to pay for the general maintenance of the school of medicine at the State University, Grand Forks, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$25,000.00, or so much thereof as may be necessary to pay the general maintenance of the School of Medicine at the State University, Grand Forks, North Dakota, for the biennium beginning July 1st, 1939, and ending June 30th, 1941.

Approved March 16, 1939.

CHAPTER 68

H. B. No. 131—(Morland, Ritter, Scholl, Ireland and Schauss)

SCHOOL OF MINES

An act appropriating money for the school of mines at the University of North Dakota, to supplement Works Progress Administration and United States Bureau of Mines Funds for the investigation and development of the lignite resources within the bounds of the State of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of five thousand dollars (\$5,000.00), or so much thereof as may be necessary to be spent by the School of Mines of the University of North Dakota, for experimentation and investigation and for equipment and supplies and to supplement Federal Works Progress Administration and United States Bureau of Mines funds for investigation of the lignite resources of the State of North Dakota, for the biennium beginning July 1st, 1939 and ending June 30th, 1941, to-wit:

To stimulate further use of lignite in the State of North Dakota, and to continue a co-operative investigation with the United States Bureau of Mines on the drying of lignite without disintegration of the fuel; the United States Bureau of Mines having already appropriated four thousand dollars (\$4,000.00) to aid in equipping a co-

operative research laboratory on the campus of the University of North Dakota; the Federal Works Progress Administration having provided labor for this investigation and are providing a supplementary project to further the investigation.

§ 2. The aforementioned appropriation shall be supplemental and in accordance with Section 1573 of the Compiled Laws of North Dakota for 1913, which provides for the fostering and development of mineral resources and allied industries under the director of the School of Mines at the University of North Dakota.

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

Approved March 7, 1939.

CHAPTER 69

S. B. No. 94—(Guenther, Thatcher, Gronvold and Lemke)

INTERNATIONAL PEACE GARDEN

An act appropriating five thousand dollars (\$5,000.00) to the State Historical Society for the development of the International Peace Garden, American section, in Rolette County, North Dakota.

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

WHEREAS, title to the lands comprising the American section of the International Peace Garden is in the State of North Dakota; and

WHEREAS, the State Historical Society is the trustee of the State of North Dakota in all State matters, and by Chapter 211, Laws of North Dakota, 1935, were [was] given general supervision of the lands comprising the International Peace Garden within the State of North Dakota, and were [was] empowered to cooperate in the establishment, promotion and development of the International Peace Garden; and

WHEREAS, the National Park Service of the United States has heretofore undertaken the development of the International Peace Garden as a State park, and since 1934 has maintained a Civilian Conservation Corps camp at the International Peace Garden and has expended large sums of money for the establishment and maintenance of such camp, and for the development of the International Peace Garden; and

WHEREAS, preliminary work requiring mostly labor has now been completed, and development has been undertaken in the con-

struction of buildings and specific projects, and in the development of the formal area, which construction and development required large sums of money for the purchase of materials; and

WHEREAS, the sums appropriated by Congress and by the National Park Service is inadequate to permit the purchase of needed materials for such construction; and

WHEREAS, the State of North Dakota did in 1937 appropriate a sum of money which was used for the purchase of logs, lumber, building supplies, plumbing supplies, electrical supplies and pumps which permitted the construction of the lodge building, and other substantial developments; and

WHEREAS, in order to retain a Civilian Conservation camp at the International Peace Garden and assure proper development in the formal area at the International boundary line and other needed substantial construction which may be undertaken by such camp, it is necessary that the State of North Dakota contribute a small sum each year to be used for the purchase of needed supplies and materials in order to get the full benefits from such camp, and a proper development of said project; and

WHEREAS, because of the number of North Dakota boys gainfully employed at the Peace Garden, and the money expended on this project by the Federal Government, it is essential that the State should contribute to the continuance and the maintenance of said camp and said project;

§ 1. APPROPRIATION.] Now, Therefore, It is hereby appropriated out of the General Fund of the State of North Dakota not otherwise appropriated, the sum of five thousand dollars (\$5,000.00), or so much thereof as may be necessary to the State Historical Society of the State of North Dakota, to be used exclusively for the purpose of contributing and supplying materials and supplies for the development of the International Peace Garden by the Civilian Conservation camp assigned to the International Peace Garden by the National Park Service of the United States, for the biennium ending June 30, 1941.

Approved March 7, 1939.

CHAPTER 70

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

LEGISLATIVE PRINTING DEFICIENCY

An act making an appropriation to provide for the payment of a deficit in the appropriation for printing expense of the Twenty-fifth Session of the Legislative Assembly of the State of North Dakota, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated the sum of two thousand two hundred seventy-five dollars and forty-two cents (\$2,275.42) for the purpose of paying a deficit in the legislative printing expense incurred by the Twenty-fifth Session of the Legislative Assembly of the State of North Dakota.

§ 2. EMERGENCY.] This act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved March 14, 1939.

CHAPTER 71

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

LIQUOR CONTROL FUND

An act making an appropriation out of the Liquor Fund in the State Treasury, for the operation, maintenance and enforcement of the State Liquor Control Act.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Liquor Control Fund in the State Treasury, not otherwise appropriated, the sum of \$39,200.00, or so much thereof as may be necessary for the operation, maintenance, equipment, supplies, enforcement, travel and other miscellaneous expenses for the State liquor control, beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Clerkhire	\$10,000.00
Postage	500.00
Office supplies.....	500.00
Furniture & fixtures.....	500.00
Printing	1,000.00
Miscellaneous	500.00

Travel expense	1,000.00
Liquor stamps	25,000.00
Mtce. of machines	200.00
Total	\$39,200.00

Approved March 7, 1939.

CHAPTER 72

H. B. No. 3—(Committee on Appropriations)

LIVESTOCK SANITARY BOARD

An act making an appropriation for the per diem, salaries and general expenses of the State Livestock Sanitary Board.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$2,400.00 out of the Pullorum Fund of the State Livestock Sanitary Board and the sum of \$22,160.00 out of the State Treasury, not otherwise appropriated or so much thereof as may be necessary to pay the general expenses of the State Livestock Sanitary Board for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary—executive office and State veterinarian.....	\$ 4,800.00
Clerkhire—stenographer	2,160.00
Postage	400.00
Office supplies	150.00
Furniture and fixtures	200.00
Printing	650.00
Miscellaneous	300.00
Services & expenses board's agents.....	12,000.00
Insurance Workmen's Compensation Bureau and bonds.....	700.00
Compensation & expenses board members.....	800.00
Expense pullorum disease	2,400.00
Total	\$24,560.00

Approved March 14, 1939.

CHAPTER 73

H. B. No. 34—(Committee on Appropriations)

STATE MISCELLANEOUS

An act making an appropriation for inquest and burial of penal inmates, headstones for soldiers and sailors, actions to release insane and list of new taxable lands.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$500.00, or so much thereof as may be necessary to pay for the inquest and burial of inmates of penal institutions, erection of headstones for soldiers and sailors, action to release insane patients and list of new taxable lands, for the biennium beginning July 1st, 1939 and ending June 30th, 1941; provided that any charges against the above appropriation must have the approval of the State Auditor and the State Auditing Board.

Approved March 3, 1939.

CHAPTER 74

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

REGISTRAR OF MOTOR VEHICLES

An act making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Department of the Registrar of Motor Vehicles.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Motor Registration Fund, not otherwise appropriated, the sum of \$174,700.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Department of the Registrar of Motor Vehicles for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary	\$ 4,200.00
Clerkhire	66,000.00
Postage	42,000.00
Office supplies	2,000.00
Furniture & fixtures	2,000.00
Printing	12,000.00

Miscellaneous -----	4,000.00
Travel expense -----	2,500.00
License plates -----	37,000.00
Refunds -----	3,000.00
Total -----	\$174,700.00

Approved March 14, 1939.

CHAPTER 75

S. B. No. 277—(Committee on Delayed Bills)

SPECIAL APPROPRIATIONS MOTOR VEHICLE AND DAIRY DEPARTMENTS

An act making an appropriation to provide funds for the payment of salary and expenses due inspectors of the Motor Vehicle Registrar Department and making an appropriation in the sum of \$1,240.51 from the general funds of the State of North Dakota to compensate O. P. Shelstad for the moneys paid out of his own fund for the necessary expenses incurred as State Dairy Commissioner, for the payment of which there was no appropriation: and declaring an emergency.

WHEREAS, it appears that the former Registrar of the Motor Vehicle Department employed several inspectors contrary to and in disregard of Section 9 of Chapter 199 of the Session Laws of North Dakota for 1933, for the purpose of investigating and reporting violations of laws requiring the registration of all motor vehicles; and

WHEREAS, it appears that all of said inspectors so employed rendered the services and paid expenses required of them to be performed during the months of January and up to February 15, 1939, inclusive, when they were dismissed and discharged from such employment; and that there is now due to such inspectors for services and paid expenses so rendered by virtue of their said employment the sum of two thousand four hundred fifty-nine dollars and eighty-four cents (\$2,459.84); and

WHEREAS, it appears that there is no authority in law to warrant the payment of said inspectors out of the Motor Vehicle Registration Fund and that the State Auditing Board has no authority to approve or allow for payment the claims of such inspectors for salaries and expenses due them; and that it will be necessary to make an appropriation in the aforesaid sum for salaries and expenses due such inspectors that remain unpaid; therefore

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of moneys in the State Treasury in the Motor Vehicle Registration Fund, not otherwise appropriated, the sum of two thousand four hundred fifty-nine dollars and eighty-four cents (\$2,459.84) for the purpose of paying the salaries and expenses of inspectors employed by the former Registrar of the Motor Vehicle Department for services and paid expenses rendered by them pursuant to such employment.

§ 2. There is appropriated out of any funds of the State of North Dakota, not otherwise appropriated, the sum of one thousand two hundred forty dollars and fifty-one cents (\$1,240.51) or so much thereof as may be necessary to pay the expenses incurred by the said O. P. Shelstad in conducting the office of the State Dairy Commissioner of North Dakota for the period of from July 1, 1933 to December 31, 1934, as shown by the vouchers of such expenses filed by the said O. P. Shelstad with the Auditor of the State of North Dakota, and which have not been paid by the auditor.

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

Approved March 14, 1939.

CHAPTER 76

S. B. No. 124—(Committee on Appropriations)

PENSION MINOR CHILDREN OF JOHN CRITES

An act making an appropriation for a pension for Patricia Ann Crites and Dennis Duane Crites, minor children of National Guardsman John E. Crites.

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

§ 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of five hundred and twenty-eight dollars (\$528.00), or so much thereof as may be found necessary for paying a pension to Patricia Ann Crites and Dennis Duane Crites, minor children of John E. Crites, in accordance with Section 2423 of the Compiled Laws of 1913, and for the reason that Private John E. Crites, of the North Dakota National Guard, died from a gunshot wound accidentally received while in the performance of his duties as a National Guardsman, during the month of June, 1935, said appropriation to cover pension of twenty-two dollars (\$22.00) per month from July 1st, 1939 to July 1st, 1941.

Approved March 14, 1939.

CHAPTER 77**H. B. No. 39—(Committee on Appropriations)**

PRESIDENTIAL ELECTORS

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$200.00, for the biennium, or so much thereof as may be necessary to pay the expenses and per diem of Presidential electors as prescribed by Section 1038 of the Compiled Laws of North Dakota for 1913.

Approved March 3, 1939.

CHAPTER 78**S. B. No. 211—(Thatcher)**

APPROPRIATION FOR VALUATION OF PUBLIC UTILITIES

An act appropriating money for the use of the Board of Railroad Commissioners for the purpose of the valuation and re-valuation of public utilities by the Board of Railroad Commissioners, as provided by Chapter 253 Session Laws of 1935.

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

§ 1. APPROPRIATION.] There is hereby appropriated to the use of the Board of Railroad Commissioners of the State of North Dakota, all moneys collected from public utilities, for expenses incurred in connection with the valuation or revaluation of such utilities, pursuant to Chapter 253 of the Session Laws of 1935, Chapter 203 Session Laws of 1937 and Chapter 205 Session Laws of 1937, in the General Fund of the State of North Dakota not exceeding the sum of \$40,000.00, or so much thereof as may be necessary, to be used by the Board of Railroad Commissioners for the purpose of valuation or revaluation, or both, of the properties of public utilities, as provided by the said statutes.

Approved March 14, 1939.

CHAPTER 79H. B. No. 25—(Committee on Appropriations)

MISCELLANEOUS REFUNDS

An act making an appropriation for the purpose of refunding money erroneously paid into or credited to the General Fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$2,000.00, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, or so much thereof as may be necessary for the purpose of making certain refunds out of the General Fund and which is known as the Miscellaneous Refund Account, used for the purpose of refunding money erroneously paid into or credited to the General Fund.

Approved March 3, 1939.

CHAPTER 80

S. B. No. 141—(Committee on Appropriations)

APPROPRIATION GENERAL RELIEF

An act making an appropriation for relief to destitute and necessitous persons for the biennium beginning July 1, 1939 and ending June 30, 1941, defining the powers and duties of the Public Welfare Board in relation thereto, and providing for allocation of funds to counties for relief purposes and for other specified relief expenditures and costs of administration.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to the State Public Welfare Fund, created by Section 3 of Chapter 214 of the Session Laws of 1937, the sum of \$2,500,000.00, or so much thereof as may be necessary for the purpose of carrying out and effectuating the purposes of this act, including the payment of the costs of administration for the period beginning July 1, 1939 and ending June 30, 1941.

§ 2. Disbursements under this act are made for the purpose of relieving the distress of destitute and necessitous persons and their families and dependents by furnishing them with means of support compatible with decency and health and also in carrying out the provisions of Chapter 221, Session Laws of 1935.

The Public Welfare Board is hereby authorized to make distribution from the amount herein appropriated for relief to destitute and necessitous persons, among the county governments of North Dakota from month to month after taking into consideration the number of relief cases to be cared for, the ability of each county to finance the costs of necessary relief, and other facts which, in the opinion of the Public Welfare Board, should be taken into account in order to do justice and equity among the counties, also to pay for institutional care for indigent, unmarried mothers, and for the care of transients having State but not county residence; sponsorship of a State-wide surplus commodity distribution and work relief projects producing commodities for distribution to relief clients.

§ 3. That of the sum of \$2,500,000.00 hereby appropriated, the sum of \$92,150.00, or so much thereof as may be necessary may be used by the Public Welfare Board for the costs of administration, which shall include the costs of supervision of the referral, certification and selection of persons to the Works Progress Administration, Farm Security Administration, National Youth Administration, and Civilian Conservation Corps, which are now, except for referral, certification and selection, entirely financed by Federal funds, and in the supervision of any other relief program which may hereafter be devised by the Federal Government and which may be entirely financed by Federal funds, as herein itemized, viz.:

Salaries and wages	\$50,000.00
Travel	10,400.00
Postage	3,600.00
Telephone and telegraph	2,400.00
Printing	13,000.00
Office supplies	3,600.00
Other operating expense	1,750.00
Purchase of equipment	2,400.00
Expense of board members	5,000.00
Total	<u>\$92,150.00</u>

Approved March 14, 1939.

CHAPTER 81

H. B. No. 74—(Public Welfare)

DEFICIENCY RELIEF APPROPRIATION

An act making a deficiency emergency appropriation for relief of destitute and necessitous persons of the State of North Dakota for the months of December 1938, and January and February, 1939, as provided by Chapter 214 of the Session Laws of 1937, declaring an emergency.

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

§ 1. Whereas, according to the report submitted to the Appropriations Committee of the Senate by the executive secretary of the State Welfare Board, all funds that were appropriated by the 25th Legislative Assembly for relief purposes have been expended, and whereas, it is not the intent of the legislature to deprive the needy of the State.

§ 2. That there is hereby appropriated from the State Treasury in the Retail Sales Tax Fund created by Chapter 249, Laws of 1937 not otherwise appropriated to the State Welfare Fund as a deficiency emergency appropriation for disbursement by the Public Welfare Board for the purpose of relieving the distress of destitute and necessitous persons and their families and dependents by furnishing them with means of support compatible with health and decency for the months of December, 1938, and January and February, 1939, the sum of \$380,473.17. That said sum shall be disbursed by the Public Welfare Board in the manner provided by Chapter 214 of the Session Laws of 1937, to-wit:

1. General Relief Expenditures:

a. Direct assistance payments	\$297,675.00
b. Sponsorship of special relief activities.....	33,750.00
c. Service costs for investigation and referral of cases to F. E. R. A.....	43,200.00
d. Administration of gen. relief.....	28,350.00

2. Relief Expenditures:

a. Sponsorship of special relief activities.....	7,856.75
b. Administration:	
1. Administrative and supervisory salaries	\$4,714.42
2. Travel	785.58
3. Communication:	
Postage	589.42
Telegraph and telephone.....	255.75
4. Printing	1,177.00
5. Office supplies.....	255.75
6. Other operating expense.....	313.50

7. Purchase of equipment.....	156.75
8. P. W. Board members expense.....	393.25
Total administrative expense.....	8,641.42
Total expenditure	\$419,473.17
Balance on hand	39,000.00
Net appropriation	\$380,473.17

§ 3. EMERGENCY.] An emergency is hereby declared and this act shall take effect upon its passage and approval.

Approved February 21, 1939.

CHAPTER 82

H. B. No. 143—(Committee on Appropriations)

GENERAL RELIEF—DEFICIENCY APPROPRIATION

An act making a deficiency emergency appropriation for relief of destitute and necessitous persons of the State of North Dakota for the months of March, April, May and June, 1939, as provided by Chapter 214 of the Session Laws of 1937, declaring an emergency.

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

§ 1. That there is hereby appropriated from any moneys in the State Treasury, not otherwise appropriated to the State Welfare Fund for disbursement by the Public Welfare Board for the purpose of relieving the distress of destitute and necessitous persons and their families and dependents by furnishing them with means of support compatible with health and decency for the months of March, April, May and June, 1939, the sum of \$547,450.00 (five hundred forty-seven thousand and four hundred fifty dollars). That said sum shall be disbursed by the Public Welfare Board in the manner provided by Chapter 214 of the Session Laws of 1937, and more specifically as follows, viz.:

1. General Relief Expenditures:

a. Direct assistance payments	\$396,900.00
b. Sponsorship of special relief activities	45,000.00
c. Service costs for investigation and referral of cases to Federal Emergency Relief agencies.....	51,200.00
d. Administration of general relief	33,600.00

Sub-total (Item 1)

\$526,700.00

2. Relief Expenditures by Public Welfare Board:

- | | |
|--|--------------|
| a. Special relief activities | \$ 10,287.00 |
| b. Administration : | |
| 1. Administrative and supervisory salaries | \$5,486.00 |
| 2. Travel | 915.00 |
| 3. Communication : | |
| (1) Postage | 772.00 |
| (2) Telegraph and telephone..... | 334.00 |
| 4. Printing | 1,545.00 |
| 5. Office supplies | 334.00 |
| 6. Other operating expense..... | 413.00 |
| 7. Purchase of equipment..... | 207.00 |
| 8. P. W. Board members expense..... | 457.00 |

Total administrative expense----- **10,463.00**

Sub-total (Item 2) -----\$ 20,750.00

Total appropriation	\$547,450.00
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§ 2. EMERGENCY.] An emergency is hereby declared and this act shall take effect upon its passage and approval.

Approved March 14, 1939.

CHAPTER 83

S. B. No. 123—(Committee on Appropriations)

NEEDY AGED

An act making an appropriation to the State Public Welfare Fund, established by Section 3 of Chapter 214 of the Session Laws of 1937, for the biennium beginning July 1, 1939, and ending June 30, 1941; to be expended by the Public Welfare Board in providing public assistance to the needy aged, as provided by Chapter 211 of the Session Laws of 1937, and for necessary costs of administration.

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

§ 1. There is hereby appropriated from any moneys in the State Treasury, not otherwise appropriated, to the State Public Welfare Fund, created and established by Section 3 of Chapter 214 of the Session Laws of 1937, the sum of \$1,414,700.00, or so much thereof as may be necessary for the biennium beginning July 1, 1939 and ending June 30, 1941, to be expended by the Public Welfare Board in providing public assistance for the needy aged, as provided in Chapter 211 of the Session Laws of 1937.

§ 2. Of the \$1,414,700.00 hereby appropriated to provide for public assistance for the needy aged, the sum of \$127,900.00 or so much thereof as may be necessary for efficient administration may be used by the Public Welfare Board for the costs of administration of the Old Age Assistance Act, provided, however, that said sum hereby appropriated for administrative expense shall be reduced by such sums as shall be contributed and paid by the Federal Government for administrative expenses for administration of Old Age Assistance.

Salaries and wages	\$ 90,000.00
Travel	16,800.00
Postage	8,000.00
Telephone and telegraph	600.00
Printing	4,800.00
Office supplies	1,500.00
Rental of equipment	600.00
Operating expense	1,000.00
Purchase of equipment	3,600.00
Board member expense	1,000.00
Total	\$127,900.00

Approved March 14, 1939.

CHAPTER 84

S. B. No. 140—(Committee on Appropriations)

APPROPRIATION FOR AID TO NEEDY BLIND AND TO DEPENDENT CHILDREN

An act making an appropriation for the biennium beginning July 1, 1939 and ending June 30, 1941 to the Public Welfare Fund, created and established by Section 3 of Chapter 214 of the Session Laws of 1937, for disbursement by the Welfare Board in providing public assistance to the needy blind and to dependent children, as provided by Chapters 209 and 210 of the Session Laws of 1937, and in providing child welfare services and services to crippled children in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government, as provided by Chapter 221 of the Session Laws of 1935.

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

§ 1. There is hereby appropriated for the biennium beginning July 1, 1939 and ending June 30, 1941, from any moneys in the State Treasury, not otherwise appropriated, to the State Public Welfare Fund, created and established by Section 3 of Chapter 214 of the Session Laws of 1937, the sum of \$1,040,000.00, or so much

thereof as may be necessary to be expended by the Public Welfare Board in providing public assistance for the needy blind and for dependent children, as provided by Chapters 209 and 210 of Session Laws of 1937, and for child welfare services and services to crippled children in carrying out and effectuating such programs in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government, as provided by Chapter 221 of the Session Laws of 1935.

§ 2. Disbursements under this act shall be made for the purpose of providing aid to dependent children and aid to the needy blind as provided by Chapters 209 and 210 of the Session Laws of 1937 and also in providing child welfare services and services to crippled children, in coordination with the Federal Government, as provided by Chapter 221 of the Session Laws of 1935, under the provisions of the Social Security Act, and in payment of the costs of administration of each of these programs.

§ 3. Of the amount so appropriated, the sum of \$907,000.00, or so much thereof as may be necessary may be disbursed for the purpose of providing aid to dependent children, as provided by Chapter 209 of the Session Laws of 1937.

§ 4. Of the amount so appropriated, the sum of \$55,000.00, or so much thereof as may be necessary, may be disbursed for the purpose of providing aid to the needy blind, as provided by Chapter 210 of the Session Laws of 1937.

§ 5. Of the amount so appropriated, the sum of \$23,000.00, or so much thereof as may be necessary may be disbursed for the purpose of providing for child welfare services, as provided by Chapter 221 of the Session Laws of 1935, in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government.

§ 6. Of the amount so appropriated, the sum of \$65,000.00, or so much thereof as may be necessary may be disbursed for the purpose of providing services to crippled children, as provided by Chapter 221 of the Session Laws of 1935, in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government.

§ 7. That of the total sum of \$1,040,000.00 hereby appropriated to provide for the four programs above named, the sum of \$88,473.00, or so much thereof as may be necessary may be used by the Public Welfare Board for the costs of administration of such four programs, as herein itemized, viz.:

Administrative and supervisory salaries -----	\$67,286.00
Travel -----	9,474.00

Communication :	
(a) Postage -----	2,170.00
(b) Telegraph and telephone -----	825.00
Printing -----	2,347.00
Office supplies -----	1,430.00
Purchase of equipment -----	2,144.00
Rental of equipment -----	400.00
Other operating expense -----	1,397.00
Board member expense -----	1,000.00
	<hr/>
Total -----	\$88,473.00

Approved March 14, 1939.

CHAPTER 85

H. B. No. 97—(Twitchell and Scholl)

ROBERT ROTERING, FUNERAL EXPENSE

An act making an appropriation of \$362.00 for the purpose of paying the funeral expenses of Representative Robert Rotering of Slope County; and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of three hundred and sixty-two dollars (\$362.00) to pay the funeral expenses of Representative Robert Rotering of Slope County, North Dakota.

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

Approved March 3, 1939.

CHAPTER 86**S. B. No. 132—(Senators Morrison, Guthrie and Aandahl)**

SOIL CONSERVATION COMMITTEE

An act to make an appropriation for the financing of the operations of the State soil conservation committee or the activities of the State soil conservation districts.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of two thousand dollars (\$2,000.00) or so much as may be necessary for the purpose of financing the operations of the office of the State Soil Conservation Committee or the activities of the State soil conservation districts for the biennium ending June 30, 1941, to-wit:

Publishing legal notices.....	\$ 500.00
Printing and stationery	100.00
Office supplies for State committee and district supervisors, stamps, etc.	200.00
Actual travel expense of boards of supervisors (twelve dis- tricts)	1,200.00
Total	<hr/> \$2,000.00

Approved March 14, 1939.

CHAPTER 87**H. B. No. 38—(Committee on Appropriations)**

STATE LABORATORIES DEPARTMENT

An act making an appropriation for salaries, operation, maintenance, general and miscellaneous expenses for the State Laboratories Department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$277,256.00, or so much thereof as may be necessary to pay salaries, operation, maintenance, improvements and repairs, fixtures and equipment, travel expense and miscellaneous expenses for the State Laboratories Department, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Laboratories :

Director	\$ 5,400.00
Chemists—foods	19,700.00
Chemists—drugs	9,550.00
Chemists—cosmetics	4,350.00
Chemists—beverages	10,130.00
Chemists—feeds and fertilizers	9,600.00
Bacteriologists and microscopists	7,800.00
Chemists—paint and varnish	7,450.00
Laboratory assistants—oil	44,190.00
Incidental helpers	10,080.00

Office :

Bookkeeper	3,600.00
Private secretary	2,700.00
Clerk	2,430.00
3 stenographers	6,750.00
2 typists	3,840.00

Field :

Representative—supervisory	5,250.00
Representative—drugs	4,350.00
2 Representatives—oil and feed	6,900.00
6 Representatives—foods and sanitation	20,700.00

Travel :

Mileage	21,000.00
Meals and lodging	15,000.00

General expenses :

Samples	1,200.00
Rent	3,666.00
Telephone and telegraph	600.00
Postage	7,000.00
Ice, gas and electricity	1,800.00
Freight, dray and express	13,000.00
Supplies, equipment, furniture and fixtures	12,600.00
Printing	12,000.00
Library	620.00
State car and miscellaneous expense	4,000.00

Total\$277,256.00

Approved March 16, 1939.

CHAPTER 88

S. B. No. 253—(Committee on Appropriations)

THE STATE MILL AND ELEVATOR

An act making an appropriation for the purpose of defraying the expense of the maintenance and operation of the State of North Dakota doing business as the North Dakota Mill and Elevator Association.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the North Dakota Mill and Elevator Association Fund the sum of \$1,029,800.00, or so much thereof as may be necessary to pay the general maintenance, repairs, salaries, operating expenses, equipment and miscellaneous items, of the North Dakota Mill and Elevator Association for the biennium beginning July 1, 1939 and ending June 30, 1941, to-wit:

1. Manager	\$ 10,000.00
2. Plant labor	375,000.00
3. Plant maintenance and repairs	65,000.00
4. Office payroll, including local elevator and salesmen	150,000.00
5. Printing and supplies	15,000.00
6. Postage	6,500.00
7. Telephone and telegraph	8,300.00
8. Plant and salesmen travel expense	60,000.00
9. Advertising	25,000.00
10. Fuel	120,000.00
11. Workmen's compensation	10,000.00
12. Insurance	42,000.00
13. Laboratory expense	4,000.00
14. Truck and auto expense	6,000.00
15. Truck and auto maintenance	3,000.00
16. Industrial and commission expense	3,000.00
17. Interest	30,000.00
18. Miscellaneous, mill	17,000.00
19. Audit fees	20,000.00
20. Sundry expense, terminal elevator	10,000.00
21. Emergency fund	50,000.00
Total	\$1,029,800.00

Approved March 16, 1939.

CHAPTER 89

H. B. No. 392—(Scholl and Twitchell)

IGNATZ STICKA, FUNERAL EXPENSE

An act making an appropriation of three hundred forty-three dollars (\$343.00) for the purpose of paying the funeral expenses of Representative Ignatz Sticka of Stark County, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of three hundred forty-three dollars (\$343.00) to pay the funeral expenses of Representative Ignatz Sticka of Stark County, North Dakota.

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

Approved March 3, 1939.

CHAPTER 90

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

TEACHERS INSURANCE AND RETIREMENT FUND

An act making an appropriation out of the Teachers Insurance and Retirement Fund in the State Treasury for operation and maintenance, equipment, supplies, travel and miscellaneous expenses for the Teachers Insurance and Retirement Fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Teachers Insurance and Retirement Fund in the State Treasury, not otherwise appropriated, the sum of \$5,420.00, or so much thereof as is necessary for the purpose of operation, maintenance, equipment, supplies, travel and miscellaneous expenses of the Teachers Insurance and Retirement Fund beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary—secretary	\$2,400.00
Postage	500.00
Printing & stationery	500.00
Express & freight	10.00
Telephone & telegraph	10.00
Office supplies	100.00

Audit	800.00
Travel expense	300.00
Miscellaneous, including card index	800.00
Total	\$5,420.00

Approved March 7, 1939.

CHAPTER 91

S. B. No. 245—(Committee on Appropriations)

TWINE AND CORDAGE PLANT

An act making an appropriation for the general maintenance and operation of the North Dakota Twine and Cordage Plant at the State Penitentiary.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Twine Plant Operating Fund, the sum of \$1,259,053.75 or so much thereof as may be necessary to pay the general maintenance, improvements, repairs, salaries, operating expenses, equipment and miscellaneous items of the North Dakota Twine and Cordage Plant, for the biennium beginning July 1st, 1939 and ending June 30th, 1941, to-wit:
Salaries and wages:

1. Foremen	\$ 50,000.00
2. Office	9,000.00
3. Salesman	3,000.00

Operating expense:

1. Insurance	17,000.00
2. Freight	10,000.00
3. Maintenance, repairs, sundry supplies	10,000.00
4. Inmates labor	21,000.00
5. Fuel, light and water	12,000.00
6. Officers & inmates maintenance	50,000.00
7. Miscellaneous office expense	100.00
8. Telephone, telegraph, postage	400.00
9. Stationery & office supplies	350.00
10. Freight expense	25.00
11. Advertising	500.00
12. Traveling expense	3,400.00
13. Truck expense	550.00
14. Unmanufactured hemp	600,000.00

15. Stores -----	100,000.00
16. Emergency for purchase of raw material only --	150,000.00
17. Accounts payable due penitentiary -----	23,718.75
18. Bank loans -----	177,000.00
19. Interest -----	14,160.00
20. Repairs on buildings -----	750.00
21. Machinery replacements -----	2,700.00
22. Furniture and fixtures -----	100.00
23. Trucks (trade in) -----	700.00
24. Miscellaneous selling expense -----	200.00
25. Quantity discount -----	400.00
26. Sales tax -----	1,000.00
Total -----	\$1,259,053.75

Approved March 18, 1939.

CHAPTER 92

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

VETERANS' SERVICE COMMISSIONER

An act providing an appropriation for the paying of salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and as amended by Chapter 254 of the Session Laws of 1937.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,360.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to pay salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and as amended by Chapter 254 of the Session Laws of 1937:

Salary -----	\$ 4,800.00
Clerkhire -----	2,760.00
Postage -----	600.00
Office supplies -----	300.00
Furniture & fixtures -----	150.00
Printing -----	150.00
Miscellaneous -----	300.00

Travel expense	1,000.00
Rent	300.00
Total	\$10,360.00

Approved March 7, 1939.

CHAPTER 93

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

VETERINARY MEDICAL EXAMINERS

An act making an appropriation to pay the expenses of the State Board of Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of North Dakota for the year 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$640.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and miscellaneous expenses of the State Board of Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of 1913, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary	\$240.00
Clerkhire	20.00
Postage	20.00
Printing	60.00
Travel expense	300.00
Total	\$640.00

Approved March 7, 1939

CHAPTER 94

H. B. No. 7—(Committee on Appropriations)

VOCATIONAL EDUCATION AND REHABILITATION

An act making an appropriation for the purpose of carrying out the provisions of Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 of the Supplement to the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated the sum of \$31,200.00, or so much thereof as may be necessary to pay the expenses of carrying out the provisions of Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 of the Supplement to the Compiled Laws of 1913, relative to vocational education and vocational rehabilitation, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary	\$ 2,000.00
Clerkhire	800.00
Postage	150.00
Office supplies	100.00
Printing	400.00
Miscellaneous	250.00
Travel expense	1,500.00
Voc. rehab. of physically handicapped persons.....	26,000.00
Total	\$31,200.00

Approved March 3, 1939.

CHAPTER 95

H. B. No. 32—(Committee on Appropriations)

WATER CONSERVATION COMMISSION

An act making an appropriation into the Administrative Fund for general administrative and operative expenses of the Water Conservation Commission, according to Chapter 255, Session Laws of 1937 and Section 31 thereof, providing for reimbursement and providing for validity.

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

§ 1. APPROPRIATION.] There is hereby appropriated into the Administrative Fund out of any moneys in the State Treasury, not

otherwise appropriated, the sum of \$111,000.00; provided, however, that such appropriation shall be deemed and held valid notwithstanding the provisions of the Budget Act. All general administrative expenses of the commission, the compensation and expenses of its employees, and the cost of investigations, planning, surveying, as authorized by this act, shall be paid from the Administration Fund and, also, the cost of all preliminary work on any project and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the Administrative Fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission, its employees and of the cost of investigation as shall be properly chargeable, in the opinion of the commission to such projects, shall be reimbursed to the Administration Fund upon the receipt of the proceeds of revenue bonds issued and sold pursuant to this act. No liability or obligation shall be incurred under the provisions of this act beyond the extent to which money shall have been provided under its authority. The commission shall have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value, to be held, used, and applied for the purposes in this act provided, to-wit:

1. Commissioners per diem -----	\$ 4,200.00
2. Administration -----	30,000.00
3. Construction bond guarantee fund -----	50,000.00
4. Operation Lewis & Clark irrigation ex. farm -----	4,000.00
5. Sponsor's share, maintenance existing dams in connection with work relief projects -----	7,000.00
6. Engineering and soils surveys -----	1,000.00
7. Designs and reports Missouri River diversion -----	500.00
8. Goose River diversion investigations -----	500.00
9. James River-Lake Travers div. inv. -----	1,600.00
10. Investigations and surveys of diversion routes including diversion from Fort Peck reservoir and pumping from Missouri River -----	3,000.00
11. Evaluation economic benefits -----	1,000.00
12. Reports and attendance at conferences with War Dept., congressional committees and other Federal agencies -----	1,000.00
13. Tri-State Waters-Red River Basin program N. Dak. portion of administrative expenses Tri-State Water conferences -----	5,600.00
14. Independent inv. and reports by the N. Dak. State Water Conservation Commission -----	1,600.00
Total -----	\$111,000.00

Approved March 14, 1939.

CHAPTER 96**H. B. No. 6—(Committee on Appropriations)**

WOLF, COYOTE AND MAGPIE BOUNTY

An act making an appropriation for the purpose of paying a bounty on wolves and coyotes as provided for under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913 as amended by Chapter 283, Session Laws of 1927 and as amended by Chapter 9, Session Laws of 1933, and as amended by Chapter 7, Session Laws of 1935, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota; and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$40,000.00, or so much thereof as may be necessary for the purpose of paying the bounty on wolves and coyotes as prescribed under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 283, Session Laws of 1927, and as amended by Chapter 9, Session Laws of 1933, and as amended by Chapter 7, Session Laws of 1935, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota.

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

Approved March 7, 1939.

CHAPTER 97**H. B. No. 42—(Committee on Appropriations)**

WORKMEN'S COMPENSATION BUREAU

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Workmen's Compensation Fund, not otherwise appropriated, the sum of \$159,920.00, or so much thereof as may be necessary for the payment of salaries of the members of the bureau, of the secretary and all actuaries,

accountants, inspectors, examiners, experts, clerks, physicians, stenographers, and other assistants, and all other expenses of the bureau authorized in the Workmen's Compensation Acts, and the premium on the bond of the State Treasurer, for the biennium beginning July 1st, 1939, and ending June 30th, 1941, to-wit:

Salary	\$ 13,440.00
Clerkhire	79,680.00
Postage	13,000.00
Office supplies	4,000.00
Furniture & fixtures	4,000.00
Printing	4,800.00
Miscellaneous	5,000.00
Travel expense	6,000.00
Automobile equipment & maintenance	2,000.00
Safety work	8,000.00
Legal expense	12,000.00
Actuary	5,000.00
Medical director	3,000.00
Total	<u>\$159,920.00</u>

Approved March 16, 1939.

ATHLETICS

CHAPTER 98

H. B. No. 172—(Byrne and Schimke)

STATE ATHLETIC COMMISSION AMENDMENTS

An act to amend and re-enact Sections 5, 6, 7, 8 and 9 of Chapter 91 of the 1935 Session Laws, relating to an act creating the State Athletic Commission, prescribing its powers and duties, providing penalties for violations and repealing all acts or parts of acts in conflict therewith; and providing an appropriation therefor.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 91 of the 1935 Session Laws of North Dakota be and the same is hereby amended and reenacted to read as follows:

§ 5. The State Athletic Commission shall have charge and supervision of all boxing, sparring and wrestling exhibitions held in the State of North Dakota and shall have power:

(1) To provide such rules and regulations governing the conduct of boxing, sparring and wrestling exhibitions.

(2) To issue licenses to individuals or organizations desiring to promote or conduct such exhibitions and to suspend or revoke such licenses at pleasure. Every application for such license shall designate the territory in which he intends to operate, and the license granted shall entitle the licensee to conduct such exhibition in such territory and no other, provided no person or organization with license to promote or conduct such exhibitions shall directly or indirectly engage in the managing of any boxer or wrestler.

(3) To collect 5% of the gross receipts from admission to boxing, sparring and wrestling exhibitions held within the State, and all moneys so collected shall be paid by the commission into the State Treasury.

(4) Provided, however, that the provisions of this act shall not apply to any boxing, sparring or wrestling exhibitions, the net proceeds of which are to be devoted to charitable purposes.

§ 2. AMENDMENT.] That Section 6 of Chapter 91 of the 1935 Session Laws of North Dakota be and the same is hereby amended and reenacted to read as follows:

§ 6. All moneys collected by the commission shall be paid into the State Treasury and shall only be disbursed in the same manner as other State funds are by law disbursed. The 5% collected by the said commission as provided in Section 5, Sub-division 3, shall be paid into the State Treasury at such times and in such manner as the State Treasurer may direct.

§ 3. AMENDMENT.] That Section 7 of Chapter 91 of the 1935 Session Laws of North Dakota be and the same is hereby amended and reenacted to read as follows:

§ 7. Unless revoked by the commission, licenses granted hereunder shall authorize the individuals or organizations receiving the same to conduct boxing, sparring and wrestling exhibitions in the community designated therein for the period of time specified, subject to the rules and regulations of the commission and to such restrictions as the commission may in its discretion incorporate therein. No boxing, sparring or wrestling exhibitions shall be held on Sunday and no boxing or sparring or wrestling match shall be of more than fifteen rounds duration, said rounds not to exceed three minutes each.

§ 4. AMENDMENT.] That Section 8 of Chapter 91 of the 1935 Session Laws of North Dakota be and the same is hereby amended and reenacted to read as follows:

§ 8. The commission shall have authority to collect and re-

quire the payment of an annual license fee for the license above mentioned, pursuant to the following schedule:

For cities of ten thousand or more population.....	\$35.00
For cities of from five thousand to ten thousand population....	15.00
For cities of from five [one] thousand to one [five] thousand population	10.00
For cities of less than one thousand population.....	5.00

The commission shall require the payment of said annual license fee at the time of the issuance of the license. The money so derived by the commission shall be paid to the State Treasurer and together with the 5% tax hereinbefore set forth shall be disbursed only in the manner by law provided. The commission shall also have authority to license all boxers, wrestlers, managers and referees, and may, in its discretion, require them to pay an annual fee, not to exceed the sum of \$5.00 per year. All moneys so collected by the commission shall be paid into the State Treasury and shall only be disbursed as in the manner by law provided.

§ 5. AMENDMENT.] That Section 9 of Chapter 91 of the 1935 Session Laws of North Dakota be and the same is hereby amended and reenacted to read as follows:

§ 9. The commission shall make rules and regulations to govern the holding of amateur and professional boxing and wrestling exhibitions within the State, and such rules and regulations shall conform, wherever practicable, to the rules and regulations prescribed by the New York Boxing Commission. The promoter or holder of any bout for which any charge is made or money collected, shall be liable for 5% of the gross receipts as hereinbefore provided.

§ 6. APPROPRIATION.] For the purposes of carrying out the provisions of this act there is hereby appropriated the sum of \$1500.00 or as much thereof as may be necessary to pay salaries, travel and incidental expenses for the biennium beginning July 1, 1939, and ending June 30, 1941, to-wit:

Salary, boxing commissioner	\$ 1200.00
Travel, trophies, and incidental expenses	300.00

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

Approved March 16, 1939.

BANKS AND BANKING

CHAPTER 99

H. B. No. 211—(Bergesen)

BUILDING AND LOAN ASSOCIATIONS AMENDMENT

An act to amend and re-enact Section 45 of Chapter 94 of the Session Laws of 1931 relating to building and loan associations and making provision for appointment of Federal Savings and Loan Insurance Corporation as receiver or co-receiver of associations in liquidation which are insured by said insurance corporation.

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

§ 1. AMENDMENT.] That Section 45 of Chapter 94 of the Session Laws of 1931 be and the same is hereby amended and re-enacted to read as follows:

§ 45. ILLEGAL, UNAUTHORIZED, UNSAFE OR FRAUDULENT PRACTICES. INSOLVENCY, PROVIDING FOR RECEIVER OR CO-RECEIVER.] Whenever the State Examiner, as the result of any examination, of [or] from any report made to him or to the shareholders, shall find that any association, licensed by him, is violating the provisions of its charter or of the laws of this State provided for its government, or is conducting its business in an unsafe or unauthorized manner, he may, by an order addressed to the association, so offending, direct a discontinuance of such violations or unsafe practices and a conformity with all requirements of law; and if such association shall refuse or neglect to comply with such order within the time specified therein, or if it shall appear to the examiner that such association is in unsafe condition, or is conducting its business in an unsafe manner, such as to render its further proceeding hazardous to the public, or to those having funds in its custody; or if he shall find that its assets are impaired to such an extent that after providing for all liabilities other than to shareholders, they do not exceed in volume the dues or principal payments paid in by shareholders and accredited to or on account of all classes of shares issued and outstanding, he shall in order to prevent waste and diversion of assets, assume and take charge of the affairs and business of such association, and possession of all books, records, and assets of every description of such association, and hold and retain the possession of same pending the further proceedings herein specified. Should the board of directors, secretary or person in charge of such association refuse to permit the State Examiner to take possession as aforesaid, the State Examiner shall communicate such fact to the Attorney General whereupon it shall become the duty of the Attorney General at once to institute such proceedings as may be

necessary to place the State Examiner in immediate possession of the property of such association. Upon taking possession of the effects of the association as aforesaid, the State Examiner shall prepare a full and true statement of the affairs and condition of such association, including an itemized statement of its assets and liabilities and shall receive and collect all debts, dues and claims belonging to it, and pay the immediate and reasonable expenses of his trust. When the condition of such association has been fully ascertained, and it shall appear that the affairs of said association are in fact in an unsound condition, the State Examiner shall at once notify, in writing, the board of directors of such association of his decision, giving them twenty days in which to restore the affairs of such association to a sound condition. Meanwhile, the State Examiner shall remain in charge of the books, records, and assets of every description of such association, attend, or be represented, at all directors' and shareholders meetings held, suggest such steps as he may deem necessary to restore such association to a sound condition; and if same is not done within such twenty days, he may report the facts to the Attorney General, and it shall thereupon become the duty of the Attorney General to institute proceedings in the district court of the county in which such association has its principal place of business, for the appointment of a receiver. Such receiver shall be authorized to collect all moneys due such association, and to do such other acts as are necessary to conserve its assets and business, and he shall, after having furnished a good and sufficient surety bond, proceed to liquidate its affairs. He shall have general power and authority, except as otherwise limited by the terms of this Act, to do any and all acts, to take any and all steps necessary, or, in his discretion desirable, for the protection of the property and assets of such association and the speedy economical liquidation of its assets and affairs and the payment of its creditors, or for the reopening and resumption of business of said association where that is practicable or desirable. He may institute in his name as receiver, or in the name of the association, such suits, actions and other legal proceedings as he deems expedient for such purposes, and by making application to the district court of the county in which such association is located, or to the judge thereof, in chambers, may upon proper and sufficient showing of cause therefor, procure an order to sell, compromise or compound any bad or doubtful debt or claim, and to sell and dispose of any or all the assets, which sale, with the consent of the court, may be made to shareholders, officers, directors, or others interested in such association. On such proceedings the association shall be made a party by notice on order of the court or judge in lieu of summons, but served in like manner, and the hearing of any such application or petition by the receiver may be had at any time either in term or vacation in court, or in chambers, as the court may order, after said association has had five days notice of such application.

If such association is an insured institution within the provisions of Title IV of the National Housing Act, as now or hereafter amended, a signed and sealed copy of each order and certificate of the State Examiner mentioned in this section shall be promptly sent by the State Examiner by registered mail to the Federal Savings and Loan Insurance Corporation, Washington, D. C., and if such association has such insurance protection, the Federal Savings and Loan Insurance Corporation is empowered at its option to act as receiver or co-receiver in the liquidation of the association, and shall be appointed as such receiver, or as co-receiver with the State Examiner. If it shall serve as receiver or co-receiver it shall have all rights, privileges and powers granted to the State Examiner as receiver and shall have all the rights, privileges and powers conferred upon it by Federal statutes now or hereafter enacted, and may advance money and make loans on the security of assets in liquidation or may purchase such assets or any part thereof at public or private sale and bid for and purchase at any receiver's sale, and may otherwise liquidate or sell, any part of the assets of the association of which it is receiver or co-receiver. In the event of purchase by said Federal Savings and Loan Insurance Corporation of any of such assets, it shall bid and pay a fair and reasonable price for them. Whether or not said insurance corporation shall serve as receiver or co-receiver of any such insured association in liquidation, whenever it shall pay or provide funds for payment of all or any part of the liabilities of such association, it shall be subrogated to the rights of those benefited by or receiving such payments and it may acquire and have transferred to it all or any part of any shares, share account, or account insured by it, and shall thereupon be subrogated to all the rights of the transferors thereof. Such transfer of such shares, share account or account shall not affect any of the transferor's rights in any uninsured or untransferred portion thereof or his rights to participate in the distribution of the net proceeds of the disposition and liquidation of the assets of such association, in proportion to his interest not so transferred; and the rights of the investors and creditors of such an association shall be determined in accordance with the applicable provisions of the laws of this State.

Approved March 13, 1939.

CHAPTER 100

H. B. No. 176—(Bergesen and Shure)

EXAMINATION OF BUILDING AND LOAN ASSOCIATIONS

An act to amend and re-enact Section 34, Chapter 94, Session Laws of 1931, pertaining to examination of building and loan associations.

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

§ 1. AMENDMENT.] That Section 34, Chapter 94, Session Laws of 1931, pertaining to examination of building and loan associations is hereby amended and re-enacted to read as follows:

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

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

Approved March 15, 1939.

CHAPTER 101

H. B. No. 210—(Bergesen and Shure)

**AUTHORIZING CERTAIN INVESTMENTS BY FIDUCIARIES,
TRUSTS, INSURANCE COMPANIES AND BANKS**

An act to amend and re-enact Section 14 of Chapter 94, Session Laws of 1931, providing for investment in shares of building and loan associations by fiduciaries, trusts, insurance companies and banks.

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

§ 1. AMENDMENT.] That Section 14 of Chapter 94, Session Laws of 1931, be and the same is hereby amended and re-enacted to read as follows:

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

(b) Administrators, executors, guardians, trustees, and other fiduciaries of every kind and nature, insurance companies, banks and other financial institutions, charitable, educational, eleemosynary and public corporations and organizations, and municipalities and other public corporations and bodies, and public officials, are authorized to invest funds held by them, without any order of any court, in shares, certificates of deposit and investment certificates of savings and building and loan associations which are under State supervision, and shares of Federal savings and loan associations organized under the laws of the United States and under Federal supervision, and such investment shall be deemed and held to be legal investments for such funds. Whenever under the laws of this State or otherwise, a deposit of securities is required, for any purpose, the securities made legal investments by this section shall be acceptable for such deposits, and whenever, under the laws of this State or otherwise, a bond is required with security, such bond may be furnished and the securities made legal investments by this section in the amount of such bond, when deposited therewith, shall be acceptable as security without other security. The provisions of this section are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations and officials referred to in this section and the laws relating to the deposit of securities and the making and filing of bonds for any purposes.

Approved March 7, 1939.

CHAPTER 102

S. B. No. 149—(Morgan)

SECURITIES FOR PUBLIC DEPOSITS

An act to amend and re-enact Section 714a7 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, relating to securities for public deposits.

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

§ 1. Section 714a7 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

"§714a7. SUPP. BOND OF DEPOSITORY; APPROVAL OR DISAPPROVAL.] Except as provided in Chapter 99 of the Session Laws of North Dakota for the year 1937, before any deposit shall be made in any depository, except the Bank of North Dakota, by or in behalf of any public corporation, such depository shall furnish a bond payable to the public corporation making such deposit in an amount that shall at least equal the largest deposit that may at any time be in such depository; said bond shall be approved as to form by the State's attorney and as to amount and sufficiency by the board. If the board fails or refuses to approve any such bond the same may be presented to the judge of the district court, upon three days notice to the clerk of the board of the public corporation to which such bond was submitted, and in case of cities involving deposits of municipal funds, the city auditor, respectively, and the judge shall forthwith proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond the said bank shall be declared a depository of the funds of such public corporation. The sureties on all bonds required by public corporations according to the provisions of this law shall justify as required by law in arrest and bail proceedings; provided, however, that in lieu of such personal bond, the board of public corporation involved may require such bank designated as a depository to file a surety bond for a sum equal to the amount of funds such bank may receive according to the provisions of this act. Such bond, when approved, shall be deposited with the county auditor. Such bond shall be continuing bond and shall continue binding until the proper board of the public corporation shall require a new or different bond, but in no case involving the deposit of funds of public corporations shall such bond be continued without a renewal thereof for a longer period than four years."

Provided, however, that the board of any public corporation, may accept from any banking corporation, as security for repayment of such deposits, a pledge of securities in lieu of a personal or

surety bond. Securities that shall be eligible for such pledge or pledges, shall be notes or bonds issued by the United States Government, its agencies, or instrumentalities, all bonds and notes guaranteed by the United States Government; Federal Land Bank bonds; bonds issued by any State of the United States, or bonds issued by the corporation making such deposit.

Provided, further, that such securities shall be delivered to and held by such trustee as the depository and the public corporation may agree upon, and/or the State Treasurer. It shall be the duty of the State Treasurer to receipt for securities deposited with him and to issue his trust receipt therefor, jointly to the depository and the public corporation.

Provided, further, that all interest that becomes due and is paid on such securities, shall be paid over to the depository bank until such time as it shall default in the repayment of the funds of the public corporation deposited as provided herein. After 30 days from such default, upon demand in writing made by the public corporation involved, the trustee shall sell said securities in the usual manner, delivering to the said public corporation the amount due to it under said pledge, if the net proceeds of the sale of the securities be sufficient, and to pay to the depository banking corporation the residue of the net proceeds of said securities. The State Treasurer shall make no charge for receiving, keeping and selling said securities; other than the expense necessary and incident to the sale of the said securities, if it becomes necessary to sell them.

It shall be the duty of the board of the public corporation, upon the acceptance of any of the within described securities as a pledge for repayment of deposits, to make a complete and detailed record of such acceptance and approval and preserve the same with their other records, and such securities shall be re-approved by the board at least semi-annually.

Whenever any depository banking corporation desires to terminate the liability for any deposits of any public corporation, for which such depository has given a bond and/or pledged assets for the repayment, it shall notify the board of the public corporation affected of such desire. Thereupon such public corporation shall immediately withdraw such funds from such depository and upon withdrawal, shall immediately release and surrender to such depository banking corporation, the bonds and/or securities which are pledged for the repayment of such deposit.

Approved March 13, 1939.

BEVERAGES

CHAPTER 103

H. B. No. 328—(Gus Schauss)

BEER LAW AMENDMENT

An act to amend and re-enact Section 6 of that certain initiated measure adopted by the electors of the State of North Dakota on September 22nd, 1933, relating to the manufacture, sale and distribution of beer, as amended by Chapter 98 of the Session Laws of North Dakota for the year 1935, and Chapter 98 of the Session laws of North Dakota for the year 1937; repealing all acts and parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 6 of that certain initiated measure adopted by the electors of the State of North Dakota on September 22nd, 1933, relating to the manufacture, sale and distribution of beer, as amended by Chapter 98 of the Session Laws of North Dakota for the year 1935, and Chapter 98 of the Session Laws of North Dakota for the year 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 6. ADDITIONAL STATE REVENUE. THE AMOUNT THEREOF AND HOW COLLECTED.] From and after the taking effect of this act there is hereby levied and assessed and there shall be collected and paid to the State Treasurer upon all beer sold in North Dakota to consumers, the following taxes, to be paid prior to the sale and delivery thereof to the consumer and at the time said beer is delivered to the retailer; on all beer sold a tax of \$2.48 per barrel of 31 gallons, or pro rata proportion thereof in accordance with the size of the bulk container. All beer sold in this State under the provisions of the initiated beer measure of 1933, being an act approved September 22, 1933, and acts amendatory thereof, shall be put up in bottles, kegs or other containers, so that the stamps can be affixed thereto in the manner hereinafter provided. The stamps representing the payment of said tax shall be provided by the commissioner and purchased from him. The proceeds of the sale of such stamps to be turned over to the Treasurer of the State of North Dakota and such stamps shall be affixed to the kegs, cartons or other bulk containers containing said beer in such manner that the opening of the container breaks the stamps, thereby preventing the use of the stamps a second time.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after the first day of April, 1939.

Approved March 7, 1939.

CHAPTER 104

H. B. No. 263—(Committee on State Affairs)

BEVERAGE INSPECTION ACT AMENDMENT

An act to amend and re-enact Sections 10169a4 and 10169a5 of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, of the North Dakota Beverage Inspection Act, to include alcoholic beverages, defining the beverages coming within the provisions of that act, and fixing the license fee required to be paid, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 10169a4 of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, is hereby amended and re-enacted to read as follows:

§ 10169a4. WHAT IS INCLUDED.] There shall be included as coming under the provisions of this act, all beverages, as intoxicating liquors, soda water, carbonated and non-carbonated, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, grape juice, tomato juice, and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made, and mineral or spring water sold under private label.

§ 2. AMENDMENT.] Section 10169a5 of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, is amended and re-enacted to read as follows:

§ 10169a5. LICENSE REQUIRED.] Before any beverage, concentrate or essence from which any beverage is to be made can be sold, exposed for sale or held with intent to sell within this State, the manufacturer, importer, jobber or retailer shall furnish a suitable sample of each and every product to the State Food Commissioner and Chemist for inspection and chemical analysis. If, after examination, it shall be found to comply with all requirements of law it shall be licensed and may then be sold within this State. If it does not meet all requirements of law, the State Food Commissioner and Chemist shall refuse to license it and prevent its sale. Said sample shall be furnished annually to the State Food Commissioner and Chemist and the license fee paid annually during the

month of December of every year or prior to placing such beverage on the market, and said license shall expire December 31 next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his own use from a product already licensed.

At the time of submitting the sample for analysis, there shall be paid to the State Food Commissioner and Chemist a license fee according to the following schedule:

Soda water, ginger ale, root beer, pop—brand or class	-----\$ 10.00
Concentrated extracts, essences, nectars, cordials, syrups—	
Single product	----- 10.00
Brand or class	----- 50.00
Fruit juices, apple cider, grape juice, tomato juice, true—	
brand	----- 20.00
Fruit juices, apple cider, grape juice, imitation or compound—	
brand	----- 20.00
Mineral and spring water—brand	----- 20.00
Cereal beverages and malts—brand	----- 50.00
Wines—brand	----- 25.00
Whiskey, rum, brandy, liquors, liqueurs and other distilled	
liquors—first brand	----- 150.00
Each addition[al] brand	----- 50.00

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall become operative from the date of its passage and approval.

Approved March 16, 1939.

CHAPTER 105

H. B. No. 102—(Levin, Ritter & Schimke)

FERMENTED MALT BEVERAGES

An act forbidding the sale of fermented malt beverages in the State of North Dakota which are manufactured with less than sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of barley malt.

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

§ 1. DEFINITION.] Fermented malt beverages which for the purpose of this act will mean any liquor or liquors kept or being used for beverage purposes made by the alcoholic fermentation of an infusion of potable water of barley malt and hops with or with-

out all malt grains of decorticated and degerminated grain or sugar containing more than one-half of one percent of alcohol by volume.

§ 2. No fermented malt beverages as herein defined shall be sold in the State of North Dakota after the taking effect of this act unless sixty-six and two-thirds percent (~~66%~~^{66 2/3}%) or more of the grain used in the manufacture consists of barley malt.

§ 3. VIOLATION. PENALTY.] Any person, firm or corporation violating the provisions of this act shall, upon conviction be subject to a fine not to exceed one hundred and no/100 dollars, (\$100.00) or by imprisonment in the county jail not to exceed thirty days (30) or both of such fine and imprisonment, and his or their license shall be cancelled.

§ 4. REPEAL.] All acts or parts of acts inconsistent or in conflict with the provisions hereof are hereby repealed.

Approved February 15, 1939.

BONDS

CHAPTER 106

S. B. No. 170—(Committee on Education)

REDEMPTION OF STATE LAND DEPARTMENT BONDS

An act to amend Section 4037a of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 4037a of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 4037a. The Board of University and School Lands and the State Treasurer are hereby authorized and directed to allow any county, city, village, park district, township, or school district to redeem at any time after two years from the date of issue at part with accrued interest, any bond or bonds issued by it, which the State may have purchased and holds as an investment of any of the permanent school funds of the State.

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

Approved March 15, 1939.

CHAPTER 107

H. B. No. 291—(Committee on Irrigation and Drainage)

STATE WATER CONSERVATION COMMISSION BONDS

An act declaring that revenue bonds legally and validly issued by the State Water Conservation Commission are legal and valid investments by banks, trust companies, insurance companies, investment companies, building and loan associations and of similar financial institutions; and declaring an emergency.

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

§ 1. That revenue bonds regularly and validly issued by the State Water Conservation Commission be, and the same are hereby declared to be, legal and valid investments of the funds of any bank, trust company, insurance company, investment company, building and loan association or similar financial institutions.

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

Approved March 15, 1939.

CHILD WELFARE

CHAPTER 108

H. B. No. 362—(Twichell)

CHILD PLACEMENT AGENCIES, DUTIES

An act amending and re-enacting Section 5099c8 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 relating to the duties of child placement agencies.

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

§ 1. AMENDMENT.] Section 5099c8 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 5099c8. DUTIES OF LICENSEES.] Every licensee shall keep a full record and social history of each child received for placement and a similar record and history of his family. No child shall be placed in any foster home until adequate investigation has been made as to the suitability of the proposed foster parents and their

home surroundings. The licensee shall report to the State board charged with the administration and enforcement of laws relating to the welfare of children the name and address of each child to be placed in a permanent foster home, the name and address of the proposed foster parents, and such other facts and information as shall be requested by the board. It shall be the duty of said licensee to visit the proposed foster home at frequent intervals and to make all necessary inquiries and investigation as may be necessary to determine whether said child will properly adjust in said home, and said licensee shall continue to visit and supervise such placement as often as may be required by said board and shall report in writing to said board the conditions as ascertained by such visits. Whenever said board is satisfied that a child has been placed in an unsuitable home the board may order in writing, its return to the agency which has placed it, and if such order is not obeyed within thirty days it may revoke the license of said child placement agency and shall, itself, take charge of, and provide for, said child.

And it is further provided that if any licensee shall make any false or misleading report to the board that such licensee shall be immediately suspended, and upon hearing before the board, if such false and misleading reports are found to have been made, the license shall be forthwith revoked.

Approved March 15, 1939.

CHAPTER 109

H. B. No. 184—(Public Welfare)

VITAL STATISTICS, ILLEGITIMATE CHILDREN

An act relating to vital statistics records of illegitimate children, and to provide for the making of a new certificate for a child legitimized by marriage of parents and for a child legitimized by adoption.

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

§ 1. All records of illegitimate children are to be kept in a separate file and not subject to public inspection and no copies shall be issued except to the child, or the mother of the child, or to the legal guardian or guardians of the child, or on order of a court of competent jurisdiction. Whenever it is alleged that the facts are not correctly stated in a certificate of an illegitimate child, the State Registrar shall require satisfactory evidence to be presented in the form of affidavits or otherwise as may be necessary to establish the alleged facts and upon the furnishing of such evidence it shall be attached to the certificate on file.

§ 2. A new certificate of birth shall be made whenever the State Registrar receives proof satisfactory to him:

(a) That the previously unwed parents of a person have intermarried subsequently to the birth of such person; or

(b) That a court of competent jurisdiction has entered a judgment, order or a decree relating to the parentage or adoption of a person.

Such new certificate for any person shall be in the form prescribed by the State Registrar, subject to the approval of the State Department of Health, and shall be prepared on the following basis: Such person shall be treated as having had at birth the status subsequently acquired or established and of which proof is submitted. Where such person is illegitimate and paternity has been established by legal proceedings the name of the father shall be inserted; where such person has been adopted the name of the child shall be fixed by the decree of adoption and the foster parents shall be recorded as the parents of such child.

§ 3. When a new certificate of birth is made, the State Registrar shall substitute the new certificate of birth for that then on file, if any. The State Registrar shall place the original certificate of birth and all papers pertaining to the new certificate of birth under seal. Such seal shall not be broken except on order of a court of competent jurisdiction. Thereafter when a certified copy of the certificate of birth of such person is issued, it shall be a copy of the new certificate of birth, except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

§ 4. It shall be the duty of the clerks of the several courts of this State to transmit to the State Registrar upon forms to be supplied by him a report of each decree of adoption or adjudication of paternity, and a report of the revocation of any such decree.

§ 5. Upon receipt of a certified copy of the annulment of an adoption, the State Registrar shall restore the original certificate of birth.

Approved March 3, 1939.

CODE REVISION

CHAPTER 110

S. B. No. 88—(Committee on State Affairs)

RECODIFICATION ACT

An act providing for a recodification and revision of the laws of North Dakota; authorizing the Supreme Court to create a Code Revision Commission; defining its powers and duties; making an appropriation therefor.

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

§ 1. CODE REVISION COMMISSION CREATED.] That the Supreme Court of North Dakota is hereby authorized and directed forthwith to select and employ not more than three persons resident of the State and learned in the law, to be known as the Code Revision Commission.

§ 2. DUTIES OF CODE REVISION COMMISSION.] It shall be the duty of such commission, acting under the supervision and direction of the Supreme Court, to continue to date the annotations of the Constitution of this State, and to prepare, annotate, and index a complete set of rules of practice and procedure for all the courts of this State, including all proceedings in which quasi-judicial functions are exercised by administrative offices and departments of the State government and also including rules and regulations for admission to and disbarment from the practice of law, and to make a report as herein required.

§ 3. POWERS OF CODE REVISION COMMISSION.] It shall also be the duty of such commission to revise, annotate, and index the laws of this State, and in effecting such revision, it shall eliminate all statutes that have been repealed either directly or by implication, or that are inoperative or that are special and limited in their nature, to reconcile all inconsistencies, to eliminate duplication, to eliminate or restate all useless, contradictory and confusing words and language, to incorporate all amendments and statutes of general application, to harmonize the statutory and the declaratory law so far as possible, and to revise all laws wherever it may deem it necessary to make a perfect, complete and consistent code of laws.

§ 4. PREPARATION AND ADOPTION.] The work of said commission and the preparation and arrangement of said code and rules shall be so done, arranged, printed and bound in such an approved and modern manner and form with the purpose and to the end of producing and securing a code of laws and rules of practice and procedure that will best and most economically serve the people for

a maximum period of time. The proposed code of political, criminal and substantive law and a code of practice and procedure shall become effective when enacted by the legislature; and such rules and regulations for admission to and disbarment from the practice of law shall become effective when promulgated by the Supreme Court.

§ 5. AID TO COMMISSION ; SUPERVISION OF COURT.] The commission shall, under the supervision and control of the Supreme Court, employ such experts and clerical assistance, and may contract for such technical services as, in its discretion, are necessary to efficiently carry out the purposes of this act. The commission may accept the advisory assistance of the Judicial Council, or any committee thereof, and of the State bar association, or any committee thereof. The Supreme Court may designate one or more of the district judges of the State to assist the commission in preparing a set of rules of practice and procedure as hereinbefore provided; and in such event such judge or judges shall receive no salary or compensation from the funds appropriated by this act other than their necessary and actual traveling and living expenses while on such duty away from their place of residence, but shall receive their judicial salaries and expense allowance. The Supreme Court shall determine the compensation of all persons appointed or employed, except as herein provided, and have power to discharge any commissioner or employee, and to fill any vacancy in the commission or staff. Said commission shall be provided with suitable office space and equipment and shall be provided with all necessary copies of the existing codes and session laws, and may purchase all necessary office supplies.

§ 6. COMPLETION OF WORK.] The work of said commission shall be done as quickly and expeditiously as possible, commensurate with the best results to be obtained; provided, however, that the report of said commission shall be completed and available for filing and delivery to the members of the legislature not later than January 1, 1941. If the proposed revision code is enacted by the legislature, said commission shall continue until such code is printed and bound according to contract; provided, further, that, if in the opinion of the commission, it is feasible to have the laws adopted by the Legislative Assembly of 1941 included and incorporated into said revised code, such commission may continue until such work is fully completed.

§ 7. OATH OF OFFICE.] The members of said commission, before entering upon the duties of their office, shall subscribe to an oath of office to be prescribed by the Supreme Court and said oaths of office filed in the office of the Clerk of the Supreme Court.

§ 8. CONTRACTS.] The Supreme Court shall have control over the making of all contracts and over the disbursement of all monies appropriated by this act, and no contract shall be made or be binding

upon the State, or the commission, unless and until it has been reduced to writing, signed by the parties and approved by the Chief Justice of the Supreme Court.

§ 9. REPORT.] Not later than January 1, 1941, the Code Revision Commission shall determine upon a style of printing and binding to be used in the code and rules, if adopted, and it shall advertise for bids for the printing of the report to be made to the legislature of 1941. Such report shall contain or have appended the proposed code and rules, with temporary bindings, and shall contain a table indicating the place in such proposed code and rules where the existing laws may be found, and indicating the existing laws which are amended or repealed. The advertisement of bids for the printing of such report and for the binding and delivery of said code of laws and rules of practice and procedure, when and if adopted, shall be made in four principal newspapers of the State once a week for four successive weeks before the letting of a contract. The Code Revision Commission shall accept the lowest bid which, in its opinion, is the best bid consistent with quality of printing, paper, binding, expeditious service and to the best interests of the State and which is approved by the Supreme Court, and such printing is declared to be of a special nature and is not subject to the provisions of the printing laws of the State except as the Supreme Court may determine.

§ 10. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$35,000.00, or so much thereof as may be necessary to carry out the provisions of this act; and such fund shall be known as the Code Revision Fund and shall be disbursed upon vouchers approved by the chairman of the Code Revision Commission and the Chief Justice of the Supreme Court.

Approved March 15, 1939.

CHAPTER 111

S. B. No. 256—(Fredrickson)

DISTRIBUTION STATE BAR FUNDS

An act to amend and re-enact Subdivision (1) of Section 811 of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 143 of the Session Laws of North Dakota for 1933, relating to the distribution of State Bar Funds to the Bar Association of North Dakota and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision (1) of Section 811 of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 143 of the Session Laws of North Dakota for 1933, be amended and re-enacted to read as follows:

§ 811. PROHIBITING UNLICENSED PRACTICE OF LAW.] No person shall be entitled to practice law or act as attorney or counsellor at law in this State unless such person shall secure first a certificate of admission to the bar. Such certificate shall be issued upon payment of the fee provided therefor, and in addition thereto the further payment of the annual license fee of ten dollars. Any member of the bar who has not first paid such license fee or any other person or corporation is hereby prohibited from engaging in the practice of law within the State; and upon so doing shall be guilty of a misdemeanor. The Clerk of the Supreme Court, in his ex-officio capacity, as the treasurer of said bar board, shall deposit all license fees with the State Treasurer to be by him kept in a fund known as the State Bar Fund, the same to be disbursed therefrom only in manner as follows, to-wit:

(1) To pay to the Bar Association of the State of North Dakota, the sum of six and 50/100 dollars for each licensed member of the bar. He shall also transfer to said association the sum of twenty-five hundred dollars (\$2500.00) from the State Bar Fund to said association immediately upon the taking effect of this act, to be used in defraying the necessary expenses of said association, including any expenses incurred in providing assistance to the Code Revision Commission.

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

Approved March 13, 1939.

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 112

Senate Concurrent Resolution No. 135—(Wog, Guthrie and Fowler)

COUNTY GOVERNMENT

A concurrent resolution providing for the amendment of Sections 167, 170, 172 and 173 and the repeal of Section 171 of the Constitution of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendments to Section 167, 170, 172 and 173, and repeal of Section 171 of the Constitution of the State of North Dakota, are agreed to and that the same be submitted to the qualified electors of the State of North Dakota for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 167 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing the county lines; but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than five thousand bona fide inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

The Legislative Assembly shall also provide by general law for the consolidation of counties, and for their dissolution, but no counties shall be consolidated without a fifty-five percent vote of those voting on the question in each county affected, and no county shall be dissolved without a fifty-five percent vote of the electors of such county voting on such question.

§ 2. AMENDMENT.] That Section 170 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 170. The Legislative Assembly shall provide by law for optional forms of government for counties, which forms shall be, in addition to that form provided by Sections 172 and 173 of the Constitution, and which forms shall specify the number, functions

and manner of selection of county officers, but no such optional form of government shall become operative in any county until submitted to the electors thereof at a special election or a general election, and approved by fifty-five per cent of those voting thereon. The manner of exercising the powers herein granted shall be by general laws, but such laws shall provide that the initiative for the submission of the question of the adoption of one of the optional forms of county government may be had either by a vote of not less than two-thirds of the county legislative body or upon petition of electors of the county equal to at least fifteen per centum of the total number of voters of the county who voted for Governor at the last general election. Among the optional forms of county government to be provided by the Legislative Assembly under this provision, at least one form shall provide for a county manager.

§ 3. REPEAL.] That Section 171 of the Constitution of the State of North Dakota be and the same is hereby repealed.

§ 4. AMENDMENT.] That Section 172 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 172. Until one of the optional forms of county government provided by the Legislative Assembly under Section 170 of the Constitution, as amended, be adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business, as shall be provided by law.

§ 5. AMENDMENT.] That Section 173 of the Constitution of the State of North Dakota, as amended, is hereby amended and re-enacted to read as follows:

§ 173. At the first general election after the adoption of this amendment, and every two years thereafter, there shall be elected in each county organized under the provisions of Section 172 of the Constitution, a register of deeds, county auditor, treasurer, sheriff, State's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold office until their successors are elected and qualified; provided in counties having fifteen thousand population, or less, the county judge shall also be clerk of the district court; provided further that in counties having a population of 6,000 or less, the register of deeds shall also be clerk of the district court and county judge. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Filed March 4, 1939.

CHAPTER 113

House Concurrent Resolution No. 91—(Bingenheimer, Page, Saumur
and Wambheim)

LEGISLATIVE POWER, INITIATIVE AND REFERENDUM

A concurrent resolution providing for the amendment of Section 25 of Article 2 of the Constitution of the State of North Dakota, relating to the legislative power of the State, and the initiative and referendum.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the following proposed amendment to Section 25 of Article 2 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the State for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 25 of Article 2 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 25. The legislative power of this State shall be vested in a legislature consisting of a Senate and a House of Representatives. The people, however, reserve the power, first to propose measures and to enact or reject the same at the polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislature.

The first power reserved is the initiative. Fifteen thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the Secretary of State not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Fifteen thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petition shall be filed with the Secretary of State not later than ninety days after the adjournment of the session of the legislature at which such measure was enacted. No initiative or referendum petition shall be circulated or filed during a regular or special session of the legislature.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the Secretary of State and shall be voted upon at any State-wide election designated in the petition, or at any special election.

called by the Governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

All initiated measures providing for the expenditure of public funds shall prescribe in such act when initiated a special levy or tax and the method by which such funds shall be raised to carry into effect the purpose of the measure so initiated.

Any measure, except an emergency measure submitted to the electors of the State shall become a law when approved by a majority of the votes cast thereon. Such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency measure, such measure shall be a law until voted upon by the electors, and if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure may be submitted to the electors at a special election if so ordered by the Governor or if the referendum petition filed against it shall be signed by thirty-five thousand electors at large, such special election may be called by the Governor and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the legislature.

The Secretary of State shall pass upon each petition, and if he finds it insufficient he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the Secretary of State in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the Secretary of State shall place the measure on the ballot, and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If the proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

If more than one measure, initiated or referred, is to be placed upon the ballot, the Secretary of State shall place all measures proposing amendments to the Constitution in one group and other measure in another group and shall number all measures consecutively.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petition, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title which shall fairly represent the subject matter of the measure and the

names of at least five electors who shall constitute the "committee for petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors, shall be: "Be it enacted by the people of the State of North Dakota." In submitting measures to the electors, the Secretary of State, and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the ones receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the legislature, except upon a ye and nay vote upon roll call of two-thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

Filed March 8, 1939.

CHAPTER 114

Senate Concurrent Resolution No. 148—(Stucke, Holl and Morrison)

RECALL

A concurrent resolution providing for the amendment of Article 33 of the Constitution of North Dakota, relating to the recall.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

That the following proposed amendment to Article 33 of the Constitution of the State of North Dakota is agreed to, and that the same be submitted to the qualified electors of the State for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended:

§ 1. AMENDMENT.] That Article 33 of the Constitution of North Dakota is hereby amended and re-enacted to read as follows:

The qualified electors of the State or of any county, or of any

congressional, judicial or legislative district may petition for the recall of any elective congressional, State, county, judicial or legislative officer by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall be signed by at least thirty per cent of the qualified electors who voted at the preceding election for the office of Governor in the State, county or district from which such officer is to be recalled, and shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held hereunder. The signatures to the petition need not all be appended to one paper, but the statement shall appear at the head of each separate paper or part of the petition, and shall be followed by the signature, legal residence, and date of signing of each petitioner written by the petitioner in ink or indelible pencil, and by the affidavit of the person in charge of the paper or part that the signatures have all been made in his presence by the persons whose names they purport to be, and are legal signatures to the best of his belief. The petition shall be filed within sixty days after the date of the earliest signature thereon, and the officer with whom such petition is filed shall call a special election to be held not less than forty nor more than forty-five days from the filing of such petition.

Upon the sample ballot there shall be printed, in not more than two hundred words, the reasons set forth in the recall petition for demanding the recall of the officer, and upon the same ballot in not more than two hundred words the officer may justify his course in office.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (individual name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "yes" and "no" on separate lines with a blank space at the right of each, in which the voter shall indicate by placing a cross (X) his vote for or against such recall. On such ballots, under each such question there shall also be printed the names of those persons who may be nominated in the manner as provided by law in primary elections as candidates to succeed the person recalled, in case he shall be removed from office by such recall election, but no vote shall be counted for any candidate for such office unless the voter also voted on the question of the recall of the person sought to be recalled from such office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

If a majority of those voting on the question of the recall of any incumbent from office shall vote "No" such incumbent shall

continue in such office. If a majority shall vote "Yes" such incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for such office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected. This article shall be self executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the right of recall.

Filed March 8, 1939.

COPYRIGHT

CHAPTER 115

S. B. No. 284—(Committee on Delayed Bills)

COPYRIGHT ACT

An act relating to copyrights and public performing rights in musical compositions and dramatico-musical compositions, requiring lists thereof to be filed, regulating the issue of licenses with respect thereto, prohibiting discrimination, providing for service of process, levying a privilege tax, providing penalties, and repealing inconsistent acts.

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

§ 1. As used in this act, "person" means any individual, resident or non-resident, of this State, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or indirectly performs or causes to be performed musical compositions for profit; the term "blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners; the term "blanket royalty or fee" includes any device

whereby prices for performing rights are not based on the separate performance of individual copyrights.

§ 2. It shall be unlawful for any person to sell, license the use of, or in any manner whatsoever dispose of, in this State, the performing rights in or to any musical composition or dramatico-musical composition which has been copyrighted, and is the subject of a valid existing copyright, under the laws of the United States, or to collect any compensation on account of any such sale, license or other disposition, unless such person:

(a) Shall first have filed with the Secretary of State a list in triplicate describing each such musical composition and dramatico-musical composition, the performing rights in which said person intends to sell, license or otherwise dispose of in this State, which description shall include the following: The name and title of the copyrighted composition, the date of the copyright, the number or other identifying symbol given thereto in the United States copyright office, the name of the author, the name of the publisher, the name of the present owner of the copyright to said composition, and the name of the present owner of the performing rights thereto. Additional lists of such copyrighted compositions may be filed by any such person from time to time, and shall be subject to all the provisions of this act. No payment or filing fee shall be required by the Secretary of State for filing any list under this act.

(b) Shall simultaneously file an affidavit which shall describe the performance rights to be sold, licensed or otherwise disposed of and shall state that the compositions so listed are copyrighted under the laws of the United States, that the facts contained in the list to which said affidavit relates are true, that affiant has full authority to sell, license or otherwise dispose of the performing rights in such compositions; and the affidavit shall set forth the name, age, occupation and resident of the affiant; and if an agent, the name occupation and residence of his principal.

§ 3. The list provided for in the preceding section shall be made available by the Secretary of State to all persons for examination, and taking copies, in order that any user of such compositions in this State may be fully advised concerning the performing rights therein, and avoid being over-reached by false claims of ownership of said performing rights, and also avoid committing innocent infringements of said works. A duplicate of any list so filed by any such person shall at his request be certified by the Secretary of State at the expense of the person or persons making the request and shall by the Secretary of State be given or delivered to such person, who shall exhibit the same on demand of anyone to whom such person seeks to sell, license or otherwise dispose of said performing rights.

§ 4. It shall be unlawful for two or more owners of the copy-

rights of musical compositions or dramatico-musical compositions to associate or combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their compositions upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such compositions within the State, at the option of the user, the right to perform publicly for profit each such copyrighted musical composition owned by him or it at a price established for each separate performance of each such composition. To this end, there shall be filed with the Secretary of State, either as a part of the list required by Section 2 hereof or as a separate document by such copyright owner, or by such association in behalf of such owner, a schedule of prices for the performing rights to each separate performance for profit of each such composition contained in such list, together with an affidavit of the copyright owner of such compositions that the price so stated has been determined by such copyright owner acting for himself and not either directly or indirectly in concert or by agreement with the owner or owners of any other copyrights. Such schedule of prices may contain reasonable classifications determined by use and function, or either, of the users of said compositions, with separate price for each classification, provided that there is equal treatment of all persons within each classification and that there is no unreasonable discrimination between classifications. Any copyright owner or such association acting in his behalf, may at his election fix one price which shall be applicable to each rendition of each of such compositions owned by him except to the extent that he elects to name specific compositions and to fix other prices for each rendition thereof; and said prices shall remain in force and effect until a new schedule of prices with respect to the performing rights to such compositions has been similarly filed in the office of the Secretary of State, at any time, at the election of such owner or such association acting in his behalf, changes in prices to become effective seven days from the date of filing thereof. Provided, however, it shall be unlawful for any person selling, licensing the use of, or in any manner whatsoever disposing of, or contracting to dispose of, in this State, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge, or to contract for or collect, any compensation, as a condition of using said performing rights, based in whole or in part, on any program not containing any such composition; and any such charge or contract for compensation shall be valid and enforceable only to the extent that it is based and computed upon a program in which such composition is rendered. The schedule of prices provided for herein shall be made

available by the Secretary of State to all persons for examination and the taking of copies.

§ 5. Any person issuing a blanket license for performance rights shall file with the Secretary of State within thirty days from the date such blanket license is issued a true and complete copy of each such license issued or sold with respect to performance within this State, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to performing rights.

§ 6. At the time of filing the information required in Sections 2 and 3, the owner of said performing rights shall likewise execute and deliver to the Secretary of State, on a form to be furnished by the Secretary of State, an authorization empowering the Secretary of State to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this act, and designating the address of such person until the same shall be changed by a new form similarly filed; and service of process may thereafter be effected in this State on such person in any such action or proceeding by serving the Secretary of State with duplicate copies of such process; and immediately upon receipt thereof the Secretary of State shall mail one of the duplicate copies by registered mail to the address of such person as stated on the authorization last filed by him.

§ 7. No person shall be entitled to commence or maintain any action or proceeding in any court with respect to such performing rights, or to collect any compensation on account of any sale, license or other disposition of such performing rights, in this State, except upon pleading and proving compliance with the provisions of this act.

Copies, certified by the Secretary of State as such, of each or all of the lists, license agreements, affidavits and other documents filed with the Secretary of State pursuant to the requirements of this act, shall be furnished by the Secretary of State at his direction and at the expense of any person requesting the same. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

§ 8. From and after the effective date of this act there is hereby levied, and there shall be collected, a tax, for the act or privilege of selling, licensing, or otherwise disposing of performing rights in such compositions in this State, in an amount equal to three per cent of the gross receipts of all such sales, licenses or other dispositions of performing rights in this State, payable to the State Treasurer, for the benefit of the General Fund of the State, on or before the fifteenth day of March, 1940, with respect to all such gross receipts for the portion of the calendar year 1939

after the effective date of this act, and annually thereafter, on or before the fifteenth of March of each succeeding year, with respect to the gross receipts of the preceding calendar year. The State Treasurer shall adopt and publish rules and regulations not in conflict herewith, as well as a form of return and any other forms to carry out the provisions of this section.

§ 9. It shall be unlawful for any person, without the consent of the owner thereof, if said owner shall have complied with the provisions of this act, publicly to perform for profit, in this State, any such composition, or for any person knowingly to participate in the public performance for profit of such composition, or any part thereof.

§ 10. Any violation of this act shall constitute a misdemeanor, to be punished as provided elsewhere in the laws of this State.

§ 11. All laws or portions thereof whether general, special or local, which relate to the same subject matter as this act and which are inconsistent with the provisions of this act, are hereby superseded by the provisions of this act to the extent that such inconsistency exists.

Nothing contained in this act shall be so construed as to impair or affect the obligation of any contract or license which was lawfully entered into prior to the effect date of this act.

§ 12. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this act, it being the intent of this legislature to enact each of the provisions of this act insofar as they conform to the Constitution of this State and of the United States.

Approved March 15, 1939.

CORPORATIONS

CHAPTER 116

S. B. No. 23—(Fredrickson)

CORPORATION DIRECTORS AND BY-LAWS

An act to amend and re-enact Sections 4535, 4538 and 4539 of Chapter 12 of the Compiled Laws of North Dakota for 1913; relating to election and terms of directors.

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

§ 1. AMENDMENT.] That Section 4535 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4535. SCOPE OF BY-LAWS.] A corporation may by its by-laws, when no other provision is specially made, provide:

1. The time, place and manner of calling and conducting its meetings.
2. The number of stockholders or members constituting a quorum.
3. The mode of voting by proxy.
4. The time and manner of election and the tenure of office of all officers, and the mode and manner of giving notice thereof.
5. The compensation and duties of officers; and
6. Suitable penalties for violation of by-laws, not exceeding in any case one hundred dollars for any one offense.

§ 2. AMENDMENT.] That Section 4538 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4538. ELECTON OF DIRECTORS.] The directors of a corporation must be elected by the stockholders or members at the annual meeting, unless otherwise expressly provided, and if no provision is made in the by-laws for the time of election, the election must be held on the first Tuesday in June. Notice of election of directors must be given for the same time and in the same manner as provided in Section 4534.

§ 3. AMENDMENT.] That Section 4539 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4539. SAME; TERMS; GROUPS.] At the first meeting at which by-laws are adopted, or at such subsequent meeting as may be designated, directors must be elected to hold their office for not

less than one nor more than three years, and until their successors are elected and qualified. If a longer period than one year, it shall be so arranged that the terms of an equal number thereof, as nearly as possible, shall expire each year.

Approved February 11, 1939.

CHAPTER 117

S. B. No. 234—(Senator Stucke)

CREDIT UNIONS, AMENDMENT

An act to amend and re-enact Section 6 of Chapter 108 of the Session Laws of 1935 as amended by Chapter 114 of the Session Laws of 1937 and Sections 9, 10, 17 and 18 of Chapter 108 of the Session Laws of 1935; repealing all inconsistent acts; and declaring an emergency.

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

§ 1. AMENDMENT.] Section 6 of Chapter 108 of the Session Laws of 1935 as amended by Chapter 114 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 6. TO BE UNDER BANKING BOARD.] Credit unions shall be under the supervision of the State Banking Board. They shall report to the State Examiner at least once annually, upon call of the State Examiner, on blanks supplied by the said examiner for that purpose. Additional reports may be required. Credit unions shall be examined at least annually by the said examiner. If it is determined through such examination that the credit union is violating the provisions of this act, or is insolvent, the State Banking Board may serve notice on the credit union of their intention to revoke the charter. If such violations continue for a period of fifteen days after such notice the said State Banking Board may revoke the charter and take possession of the business and property of such credit union and maintain possession until such time as they shall permit it to continue business or its affairs are finally liquidated. They may take similar action if any required report remains in arrears for more than fifteen days. The credit union shall pay to the State Examiner for examinations the same fee that are now required to be paid for such examinations by building and loan associations, provided, however, that the minimum fee for credit unions shall be five dollars (\$5.00).

§ 2. AMENDMENT.] Section 9 of Chapter 108 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 9. OFFICERS AND DIRECTORS.] At their first meeting the

directors shall elect from their own number a president, vice president, treasurer and clerk, of whom the last two named may be the same individual. The directors shall have general management of the credit union and it shall be their duty particularly to:

- (a) Act on applications for membership.
- (b) Determine interest rates on loans and deposits.
- (c) Fix, subject to the approval of the State Examiner, the amount of surety bond which shall be required of all officers and employees handling money.
- (d) Recommend dividends.
- (e) Transmit to the members recommendations for changes in the by-laws.
- (f) Fill vacancies on the board of directors and on the credit committee who shall serve until their successors are chosen and qualified.
- (g) Determine the maximum individual shareholdings and the maximum individual loans which can be made; provided that the maximum loan allowed by the board shall in no case exceed two hundred dollars (\$200), or ten per cent (10%) of the credit union's paid-in capital and surplus, whichever is the greater.
- (h) Supervise and control investments other than loans to members.
- (i) Establish a schedule of fines for delinquency in the payment of principle or interest, which schedule of fines the board shall impose at their discretion.

The duties of the officers shall be determined by the by-laws, provided, however, that the treasurer shall be the general manager. With the exception of the treasurer, no member of the board of directors or the credit committee shall receive any compensation. The board of directors may fix a reasonable compensation for the treasurer.

§ 3. AMENDMENT.] Section 10 of Chapter 108 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 10. CREDIT COMMITTEE TO PASS ON LOANS.] The credit committee shall have general supervision over all loans to members. Applications for loans shall be on a form approved by the credit committee and all applications shall set forth the purpose for which the loan is desired, the security which is offered if any, and such other data as may be required by the committee. No loan in excess of fifty (\$50) dollars shall be made without adequate security. Within the meaning of this section, security shall include assignments of shares or deposits, an indorsement of the note, and/or such other security as the credit committee may, in their discretion, deem adequate. At least a majority of the members of

the credit committee shall pass on all loans and the approval of those members passing on such loans shall be unanimous. The credit committee shall meet as often as may be necessary but such meetings shall be held at least once every month. Due notice must be given to each member of the committee before any meeting is held.

§ 4. AMENDMENT.] Section 17 of Chapter 108 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 17. RESERVE FUNDS.] Every credit union shall maintain a reserve fund which shall be used as a reserve against bad loans and other losses. Such fund shall not be distributed except upon liquidation. All entrance fees and fines shall be paid into such reserve fund. In addition thereto, each credit union shall annually, until such time as the reserve fund shall equal fifteen per cent (15%) of the assets of the credit union, transfer to such reserve fund ten per cent (10%) of its gross earnings. Thereafter there shall annually be added to such fund, at the end of each fiscal year, such per cent of the gross earnings as shall be required to maintain such reserve fund at fifteen per cent (15%) of the assets of the credit union.

§ 5. AMENDMENT.] Section 18 of Chapter 108 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 18. DIVIDENDS.] At the end of any fiscal year a credit union may, upon recommendation of the board of directors, declare a dividend which shall be paid on all outstanding and paid up shares. Such dividend must be paid from the net earnings of the union but shall in no case exceed six per cent (6%). Shares which become fully paid up during the year shall be entitled to their proportional part of such dividend calculated from the first day of the first month following the date of such payment in full.

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

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

Approved March 15, 1939.

CHAPTER 118

H. B. No. 332—(Morland, Brown and Hultstrand)

EXTENDING POWERS OF CREDIT UNIONS

An act to extend the powers of credit unions organized under Chapter 108 of the 1935 Session Laws, as amended by Chapter 113 and 114 of the 1937 Session Laws, and providing for the creation of a permanent fund; prescribing how obtainable, its limits, ownership, uses, to whom obtainable and other procedure thereunder.

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

§ 1. PERMANENT LOAN FUND.] Any credit union organized under Chapter 108, Session Laws of 1935, as amended by Chapters 113 and 114 of the 1937 Session Laws, may establish a permanent loan fund, if the members of the credit union so decide by a majority vote of the members present at any regular meeting or a special meeting regularly called for that purpose.

§ 2. FUNDS. HOW OBTAINED.] The credit union, may, whenever the reserve fund provided for in Paragraph 17, Chapter 108, Session Laws of 1935 has reached its limit, transfer not to exceed five per cent of its gross earnings, all entrance fees and fines to the permanent loan fund. The permanent loan fund shall also be open for donations or subscriptions from any person, persons, or cooperative organization; but all transfers, donations or subscriptions shall be permanent and irrevocable and no interest shall be paid to anyone whatsoever for any money transferred, donated or subscribed toward the permanent loan fund, nor shall anyone be entitled to any vote by virtue of such transfer, donations or subscription. The credit union shall not be permitted to borrow any money and transfer the amount so borrowed to the permanent loan fund.

§ 3. AMOUNT OF PERMANENT LOAN FUND AND DEFINING OWNERSHIP.] The amount or limit of the permanent loan fund shall be determined by the members of the credit union from time to time as they may decide on at any regular annual meeting and the permanent loan fund shall be the absolute property of the credit union.

§ 4. USE OF PERMANENT LOAN FUND, TO WHOM LOANED, AND DEFINING HOW LOANS SHALL BE MADE.] The permanent loan fund shall be loaned to members only and on approved security. Application for loans from the permanent loan fund shall be made to the credit union's credit committee and if granted, may be made for a term of not to exceed twelve months. No loans shall be made on first mortgages in excess of fifty per cent of the actual cash value of the security offered, nor in excess of seventy-five per

cent of the actual cash value of any commodity covered by a storage ticket issued by a bonded warehouse. Provided, further, that loans made on storage tickets shall be call loans and that the credit union may sell the commodity covered by the storage ticket or tickets any time it deems itself insecure and apply the proceeds of sale on the loan or loans, and remit the balance, if any, to the borrower.

§ 5. RATES OF INTEREST AND DEFINING WHAT INTEREST COLLECTED MAY BE USED FOR.] Rates of interest on any loans granted from the permanent loan fund of any duly organized credit union shall be the regular legal contract rate as provided by law from time to time. Any interest received by the credit union from loans made from their permanent loan fund shall be kept in a separate account or fund. To this account shall be charged all expenses connected with the permanent loan fund and the balance or any part of it may be transferred to the permanent loan fund. In case the permanent loan fund has reached the limit previously set by the members, then the surplus earnings may be distributed as provided in the by-laws.

§ 6. HOW RENEWABLE.] In case any loan made from the permanent loan fund becomes delinquent it may be renewed upon payment of interest due or loans may be renewed, including interest, providing the loan is approved by the credit union's credit committee and loan is not in excess of fifty per cent on first mortgage loans or seventy-five per cent on call loans. If, in the judgment of the loan committee, it is to the best interest of the credit union to foreclose the delinquent loan or loans, then they shall proceed to do so as provided by law.

§ 7. INSPECTION AND CONTROL.] The permanent loan fund shall be subject to the same inspection and control by the State Examiner and State Banking Board as provided for in Paragraph 6, Chapter 108, Session Laws of 1935, as amended by Chapters 113 and 114 of the Session Laws of 1937, and in case the credit union is ever dissolved or liquidated, the permanent loan fund shall be disposed of as other funds belonging to the credit union.

Approved March 15, 1939.

CHAPTER 119**S. B. No. 139—(Fredrickson)**

SERVICE OF SUMMONS, DOMESTIC CORPORATIONS

An act to amend and re-enact Subdivision 4 of Section 7426 of the Compiled Laws of North Dakota for 1913, relating to service of summons on a domestic corporation, and providing for service by publication on any domestic corporation, the charter of which has been forfeited.

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

§ 1. AMENDMENT.] Subdivision 4 of Section 7426, Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

4. If the defendant is a domestic corporation organized under the laws of the Territory of Dakota, or of this State, to the president, or other head of the corporation, secretary, cashier, treasurer, a director or managing or authorized agent thereof, and such service may be made within or without this State. In case the sheriff shall return the summons with his certificate that no such officer, director or agent can conveniently be found in his county, service may be made by leaving a copy of the summons at any office of such corporation within this State, with the person in charge of such office. In case a domestic corporation has forfeited its charter or right to do business in this State, upon the filing of an affidavit by the plaintiff or his attorney, showing such fact, service may be made by publication in the same manner as in the case of a non-resident defendant and in such case a copy of the summons and complaint shall be mailed to such defendant as provided in Section 7430, C. L., 1913, at its principal place of business as shown by the records of the Secretary of State.

Approved March 13, 1939.

CHAPTER 120**S. B. No. 260—(Bridston, Fowler and Blaisdell)**

INSTITUTIONAL HOLDING ASSOCIATION

An act amending and re-enacting Chapter 102, Session Laws of the State of North Dakota for the year 1929, and declaring an emergency.

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

That Chapter 102, Session Laws of the State of North Dakota

for the year 1929, is hereby amended and re-enacted to read as follows:

§ 1. Non-profit sharing corporations to be known as institutional holding associations may be formed in the manner, for the purposes and with the powers, obligations and limitations prescribed by Chapter 12 of the Civil Code of the Compiled Laws of 1913; except as herein otherwise provided.

§ 2. Such association shall have power (1) to erect, equip, operate, manage, lease or sell, as herein provided, dormitories and their necessary equipment and appurtenances, to be located either upon the campus of the State University, the Agricultural College, any of the normal schools or other State educational institutions, or upon sites in the vicinity of such campus, purchased or otherwise acquired by such association, or as an addition to an existing dormitory at any such educational institution, and to be at all times used and operated solely for educational purposes in connection with any of such educational institutions; (2) to borrow money or contract debts for any or all of the aforesaid purposes and to issue bonds or other evidences of indebtedness therefor; (3) to secure the payment thereof by mortgaging and pledging any or all of its property, real or personal, including income; (4) to perform all acts and to do all things necessary or convenient to carry out the powers herein granted, to obtain loans from the Reconstruction Finance Corporation or other Federal agencies upon such terms and conditions consistent with the law of this State as such corporation or agencies may impose, and to accomplish the purposes of this act; (5) to accept grants of money or materials or property of any kind from the United States of America or any agency thereof, upon such terms and conditions consistent with the law of this State as the United States or any such agency may impose, and the value of such grants shall be omitted from consideration in determining the cost for site, building and equipment as referred to in Section 2 (7) of this act.

Such association shall be subject to the following limitations and restrictions:

(1) Such dormitories, their equipment and appurtenances, shall only be erected and installed according to plans and specifications therefor first approved by the State Board of Administration, or successor, and at a cost for site, building and equipment to be fixed by it within the maximum limit hereinafter provided.

(2) Such dormitories, their equipment and appurtenances shall at all times be owned, managed, operated and conducted by such association, its successors or assigns, solely for the educational purpose herein provided in connection with one of such educational institutions and under the control and supervision of said Board of Administration and under and according to such rules and regu-

lations, including rental charges, as shall be prescribed by it; provided that such rental charges shall not be less than an amount sufficient to pay the interest on the bonded indebtedness and the serial bonds as they mature.

(3) Such association shall be non-profit sharing; no corporate stock shall be issued and no member shall have or acquire any divisional or other share or interest in any of its property.

(4) All of the income of such association shall be applied only to the payment of its debts and operating expenses, including necessary repairs and upkeep.

(5) When all of the debts against any site, dormitory thereon and equipment, are paid, all of the right, title and interest of such association, its successors or assigns therein shall immediately terminate and the same shall forthwith become the property of and be conveyed to the State.

(6) Any transfer or encumbrance of the property of such association, except as herein provided, is prohibited and shall be null and void.

(7) Until further authorization is granted by the Legislative Assembly of this State, dormitories shall only be erected at such educational institutions as follows:

One at or near the State University at a cost for site, building and equipment of not to exceed \$200,000.00;

One at or near the Agricultural College at a cost for site, building and equipment of not to exceed \$200,000.00;

And one at or near each of the normal schools located at Valley City, Mayville, Minot, and Dickinson at a cost for site, building and equipment of not to exceed \$150,000.00;

And one at or near the State School of Science at Wahpeton at a cost for site, building and equipment of not to exceed one hundred thousand (\$100,000.00) dollars; and one at or near the State School of Forestry at Bottineau at a cost for site, building and equipment of not to exceed fifty thousand (\$50,000.00) dollars, and one at or near the State Normal and Industrial School at Ellendale at a cost for site, building and equipment of not to exceed fifty thousand (\$50,000.00) dollars.

(8) No dormitory shall be erected upon the campus of any such educational institution until a written permit therefor shall first be granted and issued by the State Board of Administration to such association. Such permit shall describe the ground to be used, and shall provide that the dormitory to be erected thereon shall be erected, owned and operated by such association, its successors and assigns only as provided for and subject to all the restrictions and limitations imposed by this act. Such association or its successors and assigns shall acquire no right, title or interest

in and to such campus site, the dormitory erected thereon, or the equipment thereof, save and except the right to operate such dormitory solely for the educational purposes, in the manner and upon the terms and conditions herein provided.

(9) The amount of money borrowed or debts contracted by such association shall not exceed the aggregate cost of the site, dormitory and equipment as fixed by the State Board of Administration as herein provided and the terms and conditions of such loans or debts shall be fixed and approved by said board but the payment thereof shall not extend over a period of more than fifty years.

§ 3. The articles of incorporation of such association shall contain the following:

(1) The name of the association. (2) The place, within this State, where its business will be transacted and the name of the educational institution in connection with which it will operate. (3) The term for which it is to exist. (4) That it is formed pursuant to this act to carry out the objects and purposes hereof as provided, limited and restricted herein. (5) The number of its members and the condition of membership and succession therein. (6) The number of its trustees, who may or may not be members, and the names and residences of those who shall serve until their successors are elected and qualified.

§ 4. The Board of Administration of this State is hereby authorized, directed and empowered (1) to take all necessary and proper action and proceedings to carry out the terms and provisions of this act and to do and perform all of the acts and duties imposed upon said board hereby subject, however, to all the limitations and restrictions imposed herein. (2) to lease from such association, its successors or assigns, the site, dormitory and equipment, or any of them, for a term of not to exceed fifty years to be used and operated by said board or its successor solely for educational purposes in connection with one of such educational institutions. Such lease shall provide for the payment to such association, its successors or assigns, of a net cash annual rental of not to exceed fifteen per cent of the cost of such site, dormitory and equipment. Such lease shall also provide for the payment to such association, its successors or assigns, of a net cash annual rental at least equal to an amount sufficient to pay the interest on the bonded indebtedness and to retire the serial bonds as they mature. Said net cash annual rental shall be payable and paid solely and exclusively out of the income derived from the operation of such dormitory as herein provided, and it is hereby expressly provided that the State shall incur no liability whatever by reason of the exercise of the authority hereby granted to the said Board of Administration. (3) to purchase from such association, its successors or assigns, the

site, dormitory and equipment, or any of them at a price not to exceed the cost of such site, dormitory or equipment, to be used and operated by said board or its successor solely for educational purposes in connection with one of such educational institutions. Such purchase price shall be payable in not to exceed fifty years, in annual installments of not to exceed fifteen per cent of such purchase price, at a rate of interest of not to exceed five per cent per annum, payable semi-annually, and shall be payable and paid solely and exclusively out of the income derived from the operation of such dormitory as herein provided, and it is hereby expressly provided that the State shall incur no liability whatever by reason of the exercise of the authority granted to the said Board of Administration.

§ 5. Any site, dormitory, its equipment or appurtenances acquired, purchased, erected, installed, owned, operated or maintained by such association, its successors or assigns, as provided herein, and all bonds or other evidence of indebtedness issued by such association, under this act, shall be exempt from taxation.

§ 6. If any part of this act shall be declared invalid, such invalidity shall not be held or deemed to affect or impair the operation of the remainder of said act.

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

Approved March 13, 1939.

COUNTIES

CHAPTER 121

S. B. No. 50—(Wog and Raschko)

COUNTY CONSOLIDATION

An act to amend and re-enact Sections 1 and 13 of Chapter 92 of the Session Laws of 1933, providing for the consolidation of counties and parts of counties, the petition therefor, and the liabilities and debts of counties affected; and repealing all acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 92 of the Session Laws of 1933, be amended and re-enacted to read as follows:

§ 1. Whenever thirty per cent (30%) of the legal voters as determined by the vote cast for the office of Governor at the last preceding general election, residing in any county of this State, shall petition the board of county commissioners of their county for permission to have their county consolidated with and annexed to any adjoining or partly adjoining county, and shall also petition the board of county commissioners of the county to which they desire their county to be annexed or united, ninety (90) days before any election as hereinafter defined, and if such petitions are found to conform to the provisions of this act, it shall be the duty of the board of county commissioners of the counties so petitioned to submit to the voters of each of said counties the question of the consolidation of the county or parts of counties designated in the petition at the next State-wide primary election for the nomination of county and State officers. Provided, however, that a part or portion of a county may file a like petition with the boards of county commissioners as herein provided to have a part of a county consolidated with and annexed to an adjoining county, but such petition for the consolidation or annexation of a part of a county shall not be considered by the board of county commissioners unless a petition is also filed by the voters of the remaining portion of the county for consolidation with or annexation to some other adjoining county. Which petition shall have the signatures of 30% of the legal voters of such remaining portion as determined by the votes cast for Governor therein at the last preceding general election. Notice of said election shall be given as is provided by law, and in addition thereto shall contain the name of each of the two counties or parts thereof, and shall state that the proposition to be voted upon will be: "Shall the county or part thereof as designated in the petition of (naming the county or part thereof whose legal voters petition for consolidation) be consolidated with and annexed to the county of (naming the adjoining county to which the legal voters have petitioned to be united and annexed)" providing that the proposition of consolidation shall not be voted upon more than once in five years.

§ 2. AMENDMENT.] That Section 13 of Chapter 92 of the Session Laws of 1933, be amended and re-enacted to read as follows:

§ 13. The adjoining county shall not become liable for the debts of the petitioning county, contracted prior to consolidation, nor shall the petitioning county become liable for debts of the adjoining county, contracted prior to such time. The board of county commissioners of the adjoining county shall have all the powers which the county board of petitioning county had as of the date of January first, as aforesaid, to levy taxes upon all the property in the territory which had prior to the consolidation constituted the petitioning county to pay the debts and obligations of the petition-

ing county in existence at the time of consolidation. The board of county commissioners of the adjoining county shall have full power to compromise such debts and obligations of the petitioning county and shall have full power to issue bonds or certificates of indebtedness in settlement or compromise of such debts, which debts or obligations may be funded by the adjoining county by the issuance of bonds or certificates of indebtedness, which shall set forth upon the face thereof that the principal and interest of such bonds or certificates of indebtedness shall be paid from taxes levied upon only the property within the territory which had constituted the petitioning county.

Approved March 13, 1939.

CHAPTER 122

S. B. No. 240—(Wog and Rascho)

DISORGANIZATION OF COUNTIES

An act to authorize the disorganization of counties by petition and election or by judicial procedure and for the proceedings therefor; and for the elimination of county officers and the termination of their terms of office; and for the attachment to an organized county for judicial and administrative purposes; and providing for the duties of the officers of the organized county to which attached, including the powers and limitations to tax; to maintain separate records, to act as trustee, collect the revenue and to disburse the expenses for the operation of the unorganized county; and for submitting the question if portions of this act are unconstitutional or final decree denies the petition; and for retaining the validity of the remaining provisions of this act if any are declared unconstitutional; and for the repeal of acts in conflict herewith, and declaring an emergency.

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

§ 1. Whenever twenty per cent (20%) of the electors of any county of this State, having a population of less than four thousand (4,000) according to the last preceding official State or Federal census or thereafter, as determined by the vote cast for the office of Governor at the last preceding election of State officers, shall so petition the board of county commissioners of such county, it shall be the duty of said board to submit to the electors of the county the question of the disorganization of such county. If the said board is so petitioned more than ninety (90) days prior to the next State-wide election, it shall submit the question at such State-wide election; otherwise it shall be submitted at the State-wide election next following.

§ 2. Such petition shall be filed with the county auditor of

such county, who shall then note thereon the date of filing, and shall forthwith and not later than ten (10) days thereafter, send a written notice thereof by registered mail to the State Examiner.

§ 3. Within thirty (30) days of the receipt of the registered notice as provided in Section 2, the State Examiner shall make and complete an audit of the finances of the petitioning county and file an original and duplicate copy thereof with the county auditor of said county. Such audit shall contain: (1) a statement of the taxable value of all taxable property in the county as of the last annual assessment, as equalized by the State Board of Equalization; (2) a statement as of the date of the filing of the petition showing all the assets and the liabilities of the county, and any assets available for the retirement of any of said liabilities; and (3) a statement for the last preceding completed fiscal year, showing the budget adopted, the amount of tax levied, the amount and source of revenue receipts derived, the expenditures made and obligations incurred, for each fund and purpose; and (4) a statement containing such additional information as in his judgment is necessary to an understanding of the true financial condition of the said county.

§ 4. Notice of the election shall be given as is provided by law, and in addition thereto, it shall state that the proposition to be voted upon will be: "Shall the county (name the county) be disorganized and become an unorganized county?" Such notice shall also state that the State Examiner's audit is on file in the county auditor's office.

§ 5. The ballots in such election shall be in substantially the following form, to-wit:

Shall the county of (naming the county) be disorganized and become an unorganized county?

Yes-----☐
No -----☐

§ 6. The votes polled upon the question of disorganizing the county shall be canvassed and returned in the manner provided by law for other votes polled at the same election. Within ten (10) days after the filing of the findings and certificates of the canvassing board on the question of disorganization, the county auditor shall send a correct and duly certified abstract of the votes polled to the Secretary of State, and if a majority of all the legal votes cast in the count[y] is in favor of disorganization, the Secretary of State shall forthwith notify the Governor and the Governor shall without delay issue his proclamation announcing and declaring the result of the election, and on and after January first after the date of such proclamation, the county shall be an unorganized county.

§ 7. After the result of such election is proclaimed, but not

before December 15 nor later than December 31, following, the Governor, by proclamation, shall designate an adjoining organized county to which the unorganized county shall be attached for the purposes hereinafter stated and which shall become effective on January 1 following. Provided, however, that if before such December 15, the county commissioners of the unorganized county shall, by resolution, designate the organized county to which the unorganized county desires to be attached, and if such organized county shall also before such date, by resolution, agree to such attachment, the Governor, shall, by proclamation, declare that the unorganized county is attached to such organized county, effective January 1, following.

§ 8. Whenever a county becomes an unorganized county, it shall be attached to an adjoining organized county, pursuant to the aforesaid Governor's proclamations for all judicial, record, and taxing purposes, and for all purposes, of, or connected with, county government; and to that end, the officers and employees of said adjoining organized county, including the board of county commissioners, the judge of the county court, the county superintendent of schools, and all other officers and employees, shall possess the same powers and jurisdiction with respect to, and within such unorganized county, as they possess with respect to, and within their own county, except as such powers are limited by this act. Provided, however, that each elected officer of the organized county shall, for the services so to be rendered, receive from the unorganized county the sum of \$30 per annum for each one thousand (1,000) in population, or major fraction thereof, of the unorganized county. The unorganized county shall be in the same judicial district as the organized county to which it is attached.

§ 9. All appointive positions in the service of the county, and the offices of justice of the peace, judge of the county court, and county superintendent of schools and other elected county officers shall be deemed to be county officers for the purposes of this section. All county offices of organized counties shall be deemed to be, and are hereby declared to be, abolished when such counties become unorganized counties; provided that payments equivalent to the salaries and other compensations customarily paid to the holders of such offices shall be paid to them until such time as their successors would, except for the abolition of the offices, have qualified and succeeded to their duties. Anyone re-elected to any office shall also be deemed a successor to such office. If any such officeholders possess an indefinite term of office, such payments shall not continue beyond one month after such county becomes an unorganized county. In the event that any person is duly elected to a county office that is abolished before the commencement of the term of office for which he was elected, he shall receive a payment equiv-

alent in amount to one month's salary of the office to which he was elected.

§ 10. Within fifteen (15) days following the Governor's proclamation provided in Section 7 herein as aforesaid, the county officers of the county to be disorganized, including the judge of the county court, justices of the peace, and the county superintendent of schools, shall remove all files, records, books, papers, equipment, fixtures, furniture, and other personal property, to the courthouse of the adjoining organized county designated in the aforesaid Governor's proclamation; provided that if the absence of any of such items from the courthouse of said adjoining organized county would not inconvenience the public, such items shall be disposed of by the said county officers as directed by the board of county commissioners of such adjoining organized county. During the said fifteen day period, all monies and property of whatsoever nature shall be delivered to the custody of the proper officers of said adjoining organized county. Title to all files, records, books, papers, equipment, fixtures, furniture, other personal property, monies, and other property possessed by the unorganized county upon the date of its disorganization, or thereafter acquired by it, or in its name, shall be vested in the said adjoining organized county as trustee for the said unorganized county, with the right to use the same for the benefit of the unorganized county in the same manner provided by law for organized counties. Separate accounts and books shall be maintained for the monies and properties held in trust, and for the monies and properties of the said adjoining organized county.

§ 11. All actions or suits of every nature that have been filed or are pending in any of the courts of the unorganized county on January first following the Governor's proclamation, aforesaid, or that may thereafter arise or be instituted, shall be transferred, brought and tried in the courts of the adjoining organized county to which the unorganized county is attached. Any actions pending in any county justice court in the unorganized county shall be transferred to and tried before the justice of the peace in such adjoining organized county whose office is located nearest to the courthouse of said unorganized county. All official and judicial notices relating to matters within such unorganized county shall be posted, according to law for organized counties, within such unorganized county, and published notices shall be published in a newspaper within the unorganized county, if there be one, otherwise to be published in the official newspaper of the organized county to which the unorganized county is attached.

§ 12. The adjoining organized county to which the unorganized county is attached shall levy sufficient taxes within such unorganized county in the same manner provided by law for the levy

of taxes in organized counties and subject to the limitations therein imposed, to pay the unorganized county's debt, and the cost of such public services as shall be necessary to supply in such unorganized county. Nothing in this act shall be construed to impose any financial obligations or burden upon an organized county by reason of the attachment of an unorganized county to it, but all expenses incidental thereto shall be charged to such unorganized county. All monies, funds, revenues, property and all benefits that shall accrue from any source whatever to the unorganized county before or after disorganization shall be held by such organized county as trustee, as aforesaid, and expended only for the benefit of the unorganized county. And all funds of the disorganized county shall be kept separate and apart from any funds of the organized county to which it is attached. The officers and employees of the organized county to which the disorganized county is attached shall be automatically bonded in the State Bonding Fund as provided by law, for the benefit of the disorganized county in an amount for which the corresponding officers of the disorganized county would be required by law to be bonded if the county were not disorganized. The premium for such bonds shall be charged against the disorganized county. The condition of such bond shall be that such officer or employee as principal shall faithfully and impartially discharge and perform the duties of his said office or employment relating to said disorganized county, including such duties as are or may be imposed upon him by law, and shall render a true account of all moneys and property of every kind that shall come into his hands as such officer or employee and pay over and deliver the same according to law.

§ 13. The unorganized county shall continue and remain in the same legislative district it is in at the time of disorganization and shall have the same representation.

§ 14. If the petition for disorganization described in Section 1 of this act is signed by more than fifty per cent of such qualified electors, no election shall be held, but, in lieu of such election further action on such petition shall be by judicial proceedings as hereinafter provided. The county auditor shall notify the State Examiner as provided in Section 2 hereof and in addition thereto shall certify thereon that said petition contains more than fifty per cent (50%) of such qualified electors and shall transfer and file the same so certified with the clerk of the district court of such county within ten (10) days of the date of filing of the petition.

§ 15. The State Examiner shall make the audit and statement provided in Section 3 hereof and within the time so provided file the original of such audit and statement in the office of the said clerk of court and a duplicate copy thereof in the office of the county auditor of such county.

§ 16. The clerk of the district court, after the filing of the petition and within 5 days of the receipt of such audit and statement by the Examiner shall, by registered mail notify the district judge of his district whose chambers are nearest the county seat of such county, that such petition, audit and statement have been filed. The district judge so notified shall, within 10 days after receipt of such notice, make an order setting forth the date, hour and place in such county for the hearing of such petition. Such order shall be published by the clerk of the court of said county in the official newspaper of the county and in such other newspaper, if any, as the judge may direct in said order, once each week for four successive weeks prior to said hearing, the last publication of which shall not be less than 5 days prior thereto. The clerk shall also cause such notice to be posted by the sheriff in four conspicuous public places in the county not less than 20 days prior to said hearing. The proof of the publication and posting of such notice shall be filed with the clerk of the district court.

§ 17. At such hearing, the admission of evidence, order of proof and procedure shall as nearly as may be, be the same as provided by law for the trial of equity cases. Any qualified elector, taxpayer or creditor of said county may appear in person or by counsel and contest the petition provided he has on or before 10 days prior to the date set for said hearing filed with the clerk of said court his objections to the petition, setting forth his grounds therefor.

§ 18. If the court from the audit and evidence introduced shall find that the existing taxable valuation of the said county is so reduced that the limit of levy as provided by law will result in an annual deficit; or that for any other reason it appears that the continuance of the county organization would not be for the best interests of the citizens, taxpayers, and creditors, it shall enter its decree disorganizing such county, which decree, based on the findings aforesaid, shall be filed with the clerk of the district court. If the court finds otherwise it shall enter its decree denying the petition.

§ 19. Any elector, taxpayer, or creditor feeling aggrieved by the decision of the court may within twenty days after the filing of the decision and decree, appeal therefrom to the Supreme Court by filing with the clerk of the district court a notice of appeal, specifications of error, and an appeal bond, the amount and the sureties thereon to be fixed and approved by the court, and on said appeal the petition, and the objections together with a certified transcript of the record of the testimony taken on the hearing, shall constitute the judgment roll and statement of the case, and the matter shall be heard de novo in the Supreme Court.

§ 20. Upon the expiration of the time for appeal as provided

in Section 19, if no appeal has been taken, or upon final judgment on appeal, the clerk of the district court shall forthwith submit a certified copy of the judgment and decree in said action to the Secretary of State, who shall forthwith notify the Governor thereof, and all further proceedings therein shall be had as if an election had been held and as provided in Sections 6 to 13 inclusive, of this act.

§ 21. If the dissolution by court proceedings as provided in Sections 14 to 20 inclusive of this act is declared unconstitutional or invalid, or if the final judgment and decree shall deny the petition for disorganization, the question whether such county shall be disorganized shall automatically be submitted to the voters of such county at the next State-wide election in the same manner as if a petition signed by more than 20% and less than 50% of such electors of said county had been filed, and all further proceedings shall be in accordance with the terms and provisions of Sections 1 to 13, inclusive of this act.

§ 22. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

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

§ 24. 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 16, 1939.

CHAPTER 123

S. B. No. 56—(Isaak, Streibel and Thorson)

MILEAGE AND TRAVEL EXPENSE
COUNTY OFFICIALS

An act amending and re-enacting the initiated measure entitled: "An act reducing and fixing allowances for mileage and travel expense of county officials and their deputies, and repealing all acts and parts of acts in so far as they conflict herewith, and taking effect July 30th, 1932, excepting as to elective officials as to whom it shall take effect and be in force upon their election and qualification to office hereafter," adopted and approved by the electors at the June 29th, 1932 primary election, fixing allowances for mileage and travel expense of county officials and their deputies; and repealing Chapter 119 Session Laws of 1931 and all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That initiated law entitled: "An act reducing and fixing allowances for mileage and travel expense of county officials and their deputies, and repealing all acts and parts of acts in so far as they conflict herewith, and taking effect July 30th, 1932, excepting as to elective officials as to whom it shall take effect and be in force upon their election and qualification to office hereafter," adopted and approved by the electors at the June 29th, 1932 primary election, be, and the same is hereby, amended and re-enacted to read as follows:

§ 1. Sheriffs and their deputies, for each mile actually and necessarily traveled within this State in the performance of official duties, shall be allowed and paid only the sum of ten cents per mile when such travel is by team, and when such travel is by motor vehicle, the sum of eight cents per mile, and the sum of five cents per mile when such travel is by rail or other common carrier within this State, and when such travel is outside the State in performance of official duties, whether by motor vehicle, rail or other common carrier, they shall be allowed and paid their actual, necessary, travel expenses.

§ 21. Hereafter, other county officials, whether elective or appointive, or any deputy of such officials, entitled by law to travel or mileage expense, shall be allowed or paid only the sum of seven cents per mile for each mile actually and necessarily traveled in the performance of official duties when such travel is by team; and when such travel is by motor vehicle, the sum of five cents per mile; and when such travel is by rail or other common carrier, they shall be allowed or paid therefor, the sum of three cents per mile or their actual expense if the fare exceed three cents per mile; provided, however, that the county superintendent of schools or his deputy shall receive seven cents per mile for travel by motor vehicle within his county for trips necessarily made in visiting rural schools.

§ 3. Before any allowance for such mileage or travel expense may be paid by any county, such county official or his deputy, as the case may be, for whose travel the same is claimed, shall file with the county auditor an itemized statement verified by his affidavit, showing the mileage traveled, in what manner traveled, the days traveled and the purpose or purposes thereof, which statement and affidavit shall be submitted to the board of county commissioners and such claim shall be approved by such board before the same shall be allowed or paid.

§ 4. Chapter 119 Session Laws 1931 and all acts and parts of acts, in so far as the same conflict with the provisions of this act, are hereby repealed.

§ 5. This act shall be in full force and effect from and after January 1, 1941.

Approved March 13, 1939.

CHAPTER 124

H. B. No. 353—(Public Welfare)

ADMINISTRATION OF COUNTY POOR RELIEF

An act to amend and re-enact Sections 13 and 14 of Chapter 97 of the Session Laws of 1933, as amended by Chapter 119 of the Session Laws of 1935, relating to the administration of county poor relief; and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 13 of Chapter 97 of the 1933 Session Laws as amended by Chapter 119 of the 1935 Session Laws, is hereby amended and re-enacted to read as follows:

§ 13. WHEN RESIDENCE UNCERTAIN. ACTION TO DETERMINE.] If anyone within the description of the poor persons specified in this act shall be found in any county and the county welfare board of such county shall be unable to ascertain and establish the place of legal residence of such person, it shall proceed to provide for such person in the same manner as other persons are hereby described to be provided for. When the question of legal residence of any poor person who is likely to become a public charge or has become a public charge is an issue between the county commissioners of two or more counties, and when an agreement cannot be effected, the county commissioners of the county in which said person is then residing may bring an action in the district court against the county or counties in which legal residence of such poor person is alleged to be to determine the issue. Such poor person shall also be

made a party defendant. The summons in such action shall be in the form prescribed for summons in civil actions except that the defendants shall be required to serve an answer to the complaint within fifteen (15) days after the service of the summons upon such defendants. When it appears from the pleadings in said action or is made to appear to the satisfaction of the court during the course of trial that some county other than the ones named in the title of the action is or may be the legal residence of such poor person, or that some person is legally responsible for the care of such poor person under Section 10 of this act, then the court shall cause such county or persons to be brought into the action and made a party thereto. The court shall have full power in such action to make determination fixing the rights and liabilities of the counties and of the several persons that may be parties of such action. The court may order the return of the person to the county of his legal residence or may order that such person be allowed to remain where he is and upon order that the county of his legal residence pay for his support in the same manner and like amount as if he remained in the county of his legal residence. In such cases the court shall determine the maximum amount of subsistence relief which shall be paid by the county of such person's legal residence, which shall not in any case be more than the poor person would require if he resided in the county of his legal residence, and which may at the discretion of the court be modified from time to time. Such relief, not to exceed the maximum amount as determined by the court for subsistence needs, shall be furnished by the county of physical residence and billed to the county of legal residence each thirty day period and shall be promptly paid by the county of legal residence within thirty (30) days after receipt of statement. In the event that the county of legal residence shall neglect to pay the county of physical residence, within thirty (30) days from the date of receipt of statement, or in the event that the said county is financially unable to make such payment for subsistence needs, or emergency medical or other needs, the county of physical residence shall give notice to the Public Welfare Board of such failure and shall forward to the Public Welfare Board a copy of the order or judgment of the district court in said case, and that it will thereafter be the duty of the Public Welfare Board to deduct from the next State grant for direct relief which may be sent to the county of legal residence the amount due the county of physical residence and to remit such deduction to the county of physical residence. Such action shall be tried to the court without a jury on ten (10) days notice served by either party. When an action is brought for the purposes herein provided, the county welfare board of the county in which the poor person is located shall contribute to the support of such poor person during the pendency of said action, subject to reimbursement by the county where it is finally determined such poor person has legal residence, if such action is decided favorably to the county

contributing to the maintenance of such poor person. After the determination of the residence of a poor person, either by the court or by agreement between the county commissioners of the counties involved, the county commissioners may enter into a contract with regard to the abode and keep of said poor person.

That the action shall not be finally closed until such time as such poor person has become a resident of the county bringing such action, or has returned to the place of his legal residence. He may become a resident of the county bringing such action by maintaining himself and his family in said county for a period of twelve successive months as provided by Section 4 of Chapter 97 of the Session Laws of 1933, as amended. That such poor person may, after residing in such county for twelve continuous months without receiving public aid of any kind, make application to the court for an order closing the case and an order declaring him to be a resident of the county bringing such action, for relief purposes, and the court, after a hearing on said application and upon being satisfied that said poor person has complied with all of the laws providing for the gaining of residence for poor relief purposes in said county, shall make its order adjudging such poor person to have established his residence for poor relief purposes in the county originally commencing such action and shall thereupon close the case.

It is further provided that if such poor person shall, after the first or any subsequent hearing request relief for subsistence purposes in excess of the amount determined by the court and when satisfied that the amount fixed at the first hearing or any subsequent modification of such amount is a fair determination of the maximum amount required to support such poor person in the county of his legal residence, that the court shall, on motion of the county of physical residence and proof of request for additional subsistence relief, direct the removal of said person to the place of his legal residence.

§ 2. AMENDMENT.] That Section 14 of Chapter 97 of the 1933 Session Laws, as amended by Chapter 119 of the 1935 Session Laws is hereby amended and re-enacted to read as follows:

§ 14. POOR PERSON CONVEYED TO PLACE OF RESIDENCE ON ORDER TO SHOW CAUSE.] Whenever any poor person who is likely to become a public charge or has become a public charge is found in any county other than that of his legal residence, and such poor person refuses to voluntarily remove to the county of his legal residence, it shall be the duty of the county welfare board to make investigation and ascertain whether or not the county commissioners of the county which is claimed as the legal residence of such poor person will concede such legal residence in that county; and if it is found that such county commissioners will concede such legal

residence, but no agreement regarding the abode and keep of such poor person can be reached, then the county commissioners in the county where such poor person is found may make application to the district court for an order directed to such person and to be executed by the sheriff to cause any such poor person to be sent and conveyed at the expense of the county to the place where such poor person belongs, if the same can be conveniently done; and if such poor person cannot be so removed, such person shall be relieved as herein provided. Such application to the district court for an order for removal shall be made upon written notice and order to show cause served upon such poor person and upon the county claimed to be the legal residence of such poor person and such poor person shall be entitled to a hearing thereon before an order of removal is issued. Such application shall state that the person has or is likely to become a public charge and that the county of his legal residence concedes his legal residence therein. Upon said hearing the court shall have the same power as provided for in Section 13.

Any person who has been removed to another county pursuant to an order and who returns to such county and any person who knowingly aids and abets such poor person in so returning shall be in contempt of court.

Provided further that if the county commissioners of the county of such poor person's legal residence concede such residence, then the county commissioners of the two counties shall have the authority and power to make a contract with regard to the abode and keep of said poor person, according to the provisions of Section 13 hereof and without bringing the matter into court.

If any such poor person shall be a legal resident of another State, the county in which he shall be found may, in like manner, procure an order of the court causing his removal to the State of his legal residence. Provided, however, that if the county of such poor person's claimed legal residence refuses to acknowledge such residence and its liability for poor relief to such person, then the action provided for in Section 13 of this act shall be brought.

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

Approved March 14, 1939.

CHAPTER 125

H. B. No. 73—(Committee on Public Welfare)

VALIDATING COUNTY POOR RELIEF
WARRANTS AND LEVIES

An act validating, ratifying, and confirming warrants, and other instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues of any county heretofore issued and levies heretofore made by boards of county commissioners in any county of this State for the purpose of financing poor relief, under the conditions specified in this act, and validating all proceedings heretofore taken by any board of county commissioners in connection with the issuance of emergency poor fund warrants and the making of emergency poor relief levies under the provisions of Chapter 98, Laws of 1933, as amended by Chapter 120, Laws of 1935, or under any assumed, implied or purported authority of said statutes; and declaring an emergency.

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

§ 1. This act may be cited as the "Poor Relief Validating Act of 1939."

§ 2. All warrants, and other instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues of any county, issued under the authority of Chapter 98, Session Laws of 1933, as amended by Chapter 120, Session Laws of 1935, or issued under any assumed, purported, implied or inferred authority contained in such statutes, are hereby ratified, approved and confirmed, and in all things declared valid notwithstanding any lack of power to issue such warrants and/or the failure of any of the public officials, or the governing body of any county to do the acts or pass or adopt the proceedings required by the laws of North Dakota, and notwithstanding any defects or irregularities in such proceedings, and all such warrants, instruments, and obligations shall be binding, legal, valid and enforceable obligations of the public body issuing same, subject to the limitations and specifications set forth herewith:

LIMITATIONS. The validation of warrants or other obligations for emergency poor relief as set forth in this section are hereby approved provided the following conditions existed and/or the following actions taken by the board of county commissioners:

a. The appropriation for poor relief purposes was not sufficient to meet the expenditures required by law, and,

b. If the unexpended and unobligated balances in all other funds (exclusive of sinking and interest funds set aside to retire bond issues or funds set aside to retire any other outstanding indebtedness) were transferred to the county poor fund, and,

c. If the transfers above authorized were insufficient to meet the emergency, and,

d. If an emergency existed, created by unusual and unanticipated demands for the relief of the poor, or demands beyond the capacity of the county to pay from other resources, and,

e. If the board of county commissioners passed a resolution authorizing the expenditure of an amount in excess of the budget appropriation.

Provided all the above listed conditions existed when the issuance of emergency poor relief fund warrants was authorized, and the above listed actions were taken, the validity of the warrants is hereby validated and affirmed.

§ 3. All tax levies heretofore made by the governing body of any county for the purpose of providing funds for the payment or retirement of emergency poor relief warrants issued under the conditions set forth in Section 2 of this act and under the authority of Chapter 98, Session Laws of 1933, as amended by Chapter 120, Session Laws of 1935, or made under any assumed implied, purported, or inferred authority of said statutes, are hereby ratified, approved and confirmed, and in all things declared valid notwithstanding any lack of power to make such levy in the year in which the levy was actually made.

§ 4. It is hereby affirmed and recognized that the provisions of Chapter 98, Session Laws of 1933, and Chapter 120, Session Laws of 1935, were intended to provide a means for the financing of poor relief expenditures of any county when other resources of the county were inadequate.

It is further affirmed that it is a matter of common knowledge that in a number of counties in North Dakota the total amount which can be raised by an 8 mill levy, plus other general revenues of the county, is insufficient to provide adequate funds for poor relief after making provision for the financing of the primary functions of county government. It is further recognized that emergency poor fund warrants issued on the security of a prospective future tax levy are not readily negotiable.

It is further affirmed that the provisions of Chapter 98, Session Laws of 1933, as amended by Chapter 120, Session Laws of 1935 were intended to provide a means of financing poor relief when the ordinary sources of revenue were insufficient and that it was the intent of said legislation to provide a means to replenish the poor fund when the regular sources of county revenue were insufficient to meet necessary relief requirements.

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

Approved March 1, 1939.

CHAPTER 126

H. B. No. 125—(Targie Trydahl)

RESIDENCE FOR POOR RELIEF PURPOSES

An act amending and re-enacting Sub-sections 1 of Chapter 97 of Session Laws of 1933 and 4 of Section 4 of Chapter 97 of the Session Laws of 1933, as amended by Chapter 119 of the Session Laws of 1935; providing the loss of residence upon moving to another State and declaring an emergency.

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

§ 1. AMENDMENT.] That Sub-section (1) of Section 4 of Chapter 97 of the Session Laws of 1933 is hereby amended and re-enacted to read as follows:

SUB-SECTION 1. The residence of a married woman follows that of her husband if he has any within or without the State. If a woman has a residence within the State her marriage to a man who has no residence within the State shall not endow such man with residence within the State for poor relief purposes; however, such marriage between a woman who has residence within the State and a man who has no residence within or without the State shall not divest such woman from residence within the State for the purposes of poor relief until she acquires a new residence elsewhere. Provided further, that should a husband desert his wife within one year after such marriage, in such case the wife may reacquire such residence as she had in this State at the time of her marriage.

§ 2. AMENDMENT.] That Sub-section 4 of Section 4 of Chapter 97 of the Session Laws of 1933, as amended by Chapter 119 of the Session Laws of 1935, is hereby amended and re-enacted to read as follows:

SUB-SECTION 4. Each male person and each unmarried female over the age of twenty-one years, who shall have resided one year continuously in any county in this State, shall thereby gain residence in such county. Residence within any county for poor relief purposes can only be acquired by residing within such county for one year continuously without receiving any type of public assistance or poor relief, whether county, State or Federal. Each minor whose parents and each married woman whose husband has no residence in the State, who shall have resided one year continuously in the State, but not in any one county, shall have a settlement in the county in which he or she has longest resided within such year. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he has last resided. If any person who has not theretofore acquired residence within the State or settlement within a county within the State becomes a recipient of any type of poor relief or public assistance or becomes

an inmate of any hospital, poor house, jail, prison or other public institution, or receives any aid or relief, from the poor fund of any county and/or from funds provided by the State and/or by the Federal Government, then such period of time under which residence can be acquired shall begin with the date of the last type of aid or poor relief or other assistance which was given, or the date of discharge from any such institution.

§ 3. That if any person shall voluntarily move from this State with the intent to acquire residence within another State, then his residence in this State for poor relief purposes shall be lost, destroyed or defeated in the same manner and upon like conditions as the residence of a person in that State voluntarily moved to this State would be so lost, destroyed or defeated, provided, however, that in no case shall more than one year of voluntary absence from this State be required to lose residence in this State for poor relief purposes.

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

Approved February 15, 1939.

CHAPTER 127

S. B. No. 133—(Committee on Education)

REQUIRING SEGREGATION SINKING FUND LEVIES BY COUNTY AUDITORS AND TREASURERS

An act relating to the duties of county auditors and county treasurers, with relation to the levy, collection and record of municipal bonds, sinking funds, and declaring an emergency.

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

§ 1. Each county auditor shall deliver to the county treasurer of his county at the time the tax lists are delivered to him, as provided by Section 2154 C. L., 1913, as amended by Section 2 of Chapter 241, of the Session Laws of 1929, a separate detailed schedule showing separately the amount of tax and the mill rate of levy therefor for each separate levy for sinking fund certified to him by the various municipalities, partly or wholly within his county, including levies for sinking funds for bonds issued by his county, each stated separately; and a true and correct duplicate thereof shall be kept by such county auditor among the permanent records of his office.

§ 2. Each county treasurer shall, at the close of each month,

make a permanent office record showing separately and distinctly the amount of each separate municipal levy for sinking fund which is included in the taxes collected, and such record shall at all times show the amount of each annual levy for each separate interest and sinking fund, as shown by the schedule delivered to him by the county auditor as provided by Section 1, hereof, collected by him.

§ 3. Each county treasurer shall, when remitting taxes to the treasurers of the various municipalities of his county, as required by law, deliver to the municipal treasurer and county treasurer as custodian to whom remittance is made, a statement showing definitely the amount included in the sum remitted properly belonging to each separate sinking fund levied by the municipality to whose treasurer remittance is made.

§ 4. The failure on the part of any county auditor or county treasurer to comply with the provisions hereof shall constitute a misdemeanor.

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

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

Approved March 15, 1939.

COURTS

CHAPTER 128

H. B. No. 153—(Committee on Public Welfare)

AUTHORIZING JUVENILE COURT TO COMMIT CERTAIN CASES TO FEEBLE MINDED INSTITUTION

An act amending and re-enacting Chapter 123 of the Session Laws of 1931, authorizing the juvenile court to commit to the Institution for the Feeble Minded any dependent, neglected or delinquent child who is feeble minded or whose mental condition is found a subject for inquiry.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 123 of the Session Laws of 1931 be, and the same hereby is, amended and re-enacted to read as follows:

§ 1. COMMITMENT.] When in any proceeding instituted in juvenile court it shall appear to the satisfaction of the court that the child involved in the proceeding is dependent, neglected or delinquent, and also feeble minded, the said juvenile court shall have authority to make an order committing such child to the Institution for the Feeble Minded. Provided, however, that if the court in any such case shall be in doubt as to whether such child is feeble minded, it shall have authority to make an order committing such child to the Institution for the Feeble Minded, for observation only, by the authorities of said institution. If as a result of such observation it is ascertained that said child is feeble minded a report to such effect shall be made by the authorities of said institution to the court. The court thereupon shall make an order fixing a time for hearing upon the report showing the child to be feeble minded, and notice of such hearing shall be given to the parents, parent, custodian or guardian of such child in the manner prescribed by law for the giving of notice in other proceedings in juvenile court. Upon such hearing the court shall make such order as may be deemed proper. Any parent, custodian, guardian or other person charged with the control of such child may take an appeal from the order made by the court in the manner now prescribed by law for the taking of appeals from decisions of the juvenile court. The procedure provided in this act shall not be exclusive but in addition to the mode now provided by law for the commitment of feeble minded children to the Institution for the Feeble Minded.

Approved February 15, 1939.

CHAPTER 129

H. B. No. 372—(Shure)

PROBATION RECORD REQUIREMENTS

An act to amend and re-enact Section 10954, Compiled Laws of North Dakota for 1913 relating to probation of persons convicted of crime and the duties of the clerks of court in such cases.

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

§ 1. AMENDMENT.] That Section 10954, Compiled Laws of North Dakota for 1913 be and the same hereby is amended and re-enacted to read as follows:

§ 10954. Whenever it is the judgment of the court that the defendant be placed upon probation and under the supervision of the penitentiary, it shall be the immediate duty of the clerk of the said court to make full copies of the judgment of the court, with

the order for the suspension of the execution of the sentence thereunder, and the reasons therefor, and to certify the same to the clerk of the State Board of Pardons, and also to the Warden of the Penitentiary. Upon entry in the records of the court of the order for such probation, the defendant shall be released from custody as soon as the requirements of the Board of Pardons have been properly and fully met.

Approved March 7, 1939.

CRIME

CHAPTER 130

H. B. No. 375—(Shure)

BOARD OF PARDONS, POWERS, DUTIES AND PROCEDURE

An act to amend and re-enact Sections 11105, 11106 and 11107, Compiled Laws of the State of North Dakota for the year 1913 relating to the Board of Pardons, the powers and duties thereof, and the procedure before such board, and providing for the appointment of parole officers and other assistants, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 11105, Compiled Laws of North Dakota for 1913, be and the same is amended and re-enacted to read as follows:

§ 11105. All applications for pardon, parole, reprieve, or commutation of sentence shall be filed with the clerk of the Board of Pardons. Applications for pardon shall be heard only at the two regular meetings of the board, appointed to be held respectively on the second day of June and the second day of December of each year. All applications for pardon must be filed at least thirty days before the regular meeting of the board at which hearing is sought. Application for parole may be heard at either regular or special meetings, and shall come on for hearing pursuant to such notice as the Board of Pardons may prescribe. Notice of all applications for pardon, parole, reprieve or commutation, and of the time and place of hearing, shall be given by the clerk of the Board of Pardons to the judge who presided at the trial, and if he is no longer in office, notice shall also be given to his successor in office, and to the state's attorney who prosecuted the action, and if he is no longer in office, notice shall also be given to his successor in office. Such notice shall set forth the name of the person, or the persons, on

whose behalf application is made; the crime of which he was convicted; the time and place of conviction; and the term of imprisonment; and the name of the judge who presided and the state's attorney who prosecuted. Service of such notice shall be made by registered mail, and in cases of murder, manslaughter in the first degree, rape by force, kidnapping, or first degree robbery such notice shall be posted in a conspicuous place at the front door of the courthouse of such county for four consecutive weeks prior to said hearing. Proof of the posting of said notice shall be filed with the clerk of the board before hearing. Provided that a reprieve in capital cases may be granted, as provided in Section 11100, as amended by Chapter 248 of the Laws of 1935, without such notice. Provided, further that an application for pardon, commutation or parole may, also, be heard at a special meeting, called in case of emergency, under Section 11100, C. L. 1913, as amended by Chapter 248, Laws of 1935; but no such application shall be heard unless there is filed a written statement signed by the applicant or someone in his behalf, setting forth the facts as to the emergency, and the board shall first determine whether an emergency does in fact exist; and if it finds there is no emergency, no further action shall be taken. If the board finds there is an emergency, then a hearing may be had upon such notice to the judge and the state's attorney as the board may deem sufficient.

§ 2. AMENDMENT.] That Section 11106 of the Compiled Laws of North Dakota for 1913, be amended and re-enacted as follows:

§ 11106. CLERK OF BOARDS. RECORDS AND FILES. PAROLE OFFICERS.] The three ex officio members of the Board of Pardons, to-wit: the Governor, Attorney General and Chief Justice of the Supreme Court, shall appoint a clerk for the board, who shall keep a docket of all applications filed and of all action taken thereon, and preserve a record of every petition received for a pardon, parole, reprieve or commutation of sentence and of every letter or paper filed or appearance made in connection therewith, and of every pardon, parole, reprieve or commutation of sentence granted or refused, and the reason assigned therefor. A complete and accurate filing system of all proceedings before said board shall be maintained by the clerk. The clerk shall keep all files and records and perform such duties in relation thereto as shall be prescribed by the board, and all such records and files shall be kept and preserved in the office of said clerk. The clerk shall also perform such other duties as may be assigned to him by the board. The said ex officio members of the Board of Pardons shall appoint one or more parole officers, one of whom may be the clerk of said board. Such parole officer or officers shall have supervision over and look after the welfare of persons whose sentences have been suspended or who have been paroled. It shall be the duty of such parole officers to keep a complete record of the persons under their supervision, and

make such reports as the board shall require. It shall also be their duty to make such investigations, and perform such other duties in connection with applications for pardon, commutation of sentence or parole, and otherwise, as may be prescribed by the Board of Pardons.

§ 3. AMENDMENT.] That Section 11107 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 11107. POWERS OF THE BOARD.] The Board of Pardons shall supply itself with a seal with which every pardon, parole, reprieve or commutation of sentence shall be attested. It may issue process requiring the presence of any person before it, or the presence of any officer before it, with or without books and papers, in the matter pending before said board. It may employ psychiatrists or specialists for mental or medical examination of applicants, and may take whatever reasonable steps it may deem necessary to a proper determination of any matter before it. The Board of Pardons shall have the power and authority to make reciprocal arrangements with parole boards or officers of other States for parole of prisoners and juvenile delinquents beyond State lines.

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

§ 5. If any section or part of any section of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid and unconstitutional, such unconstitutionality shall not affect, impair, or invalidate the remainder of this act, and it is hereby stated by the legislature that it would have passed the remainder of the act if it had known that such part or parts would be declared unconstitutional.

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

Approved March 16, 1939.

CHAPTER 131**H. B. No. 242—(Bergesen)**

BURGLARY IN THIRD DEGREE

An act to amend and re-enact Section 9873 of the Compiled Laws of the State of North Dakota for the year 1913 to define the crime of burglary in the third degree.

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

§ 1. AMENDMENT.] Section 9873 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 9873. BURGLARY IN THIRD DEGREE. OTHER BUILDINGS.] Every person who breaks and enters, in the day or in the nighttime, either:

1. Any building within the curtilage of a dwelling house, but not forming a part thereof; or,
2. Any building or any part of any building, booth, tent, railroad car, motor vehicle or trailer, vessel or other structure or erection in which any property is kept, with intent to steal therein or to commit any felony, is guilty of burglary in the third degree.

Approved March 1, 1939.

CHAPTER 132**H. B. No. 301—(Bergesen)**

CRIMINAL INDICTMENT AND INFORMATION

An act to make uniform the law on criminal indictment and information; defining terms included in this act; providing what an indictment or information must or need not contain; setting forth forms thereof; providing for bills of particular; in general covering and interpreting the law pertaining to indictments and informations, and repealing all acts or parts of acts in conflict herewith.

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

§ 1. DEFINITIONS.] In this chapter: (a) The singular number included the plural and the plural included the singular.

(b) The masculine gender includes the feminine and neuter genders.

(c) The words "person," "defendant" and similar words include, unless contrary intention appears a public or a private corporation.

(d) The term "act" includes omission to act.

(e) The word "property" included any matter or thing other than a person, upon or in respect to which any offense may be committed.

(f) The words "indictment" and "information," unless a contrary intention appears, include any count thereof.

(g) The terms "writing" and "written" include words printed, painted, typed, engraved, lithographed, photographed, or otherwise copied, traced or made visible to the eye.

(h) The term "the court," unless a contrary intention appears, means the court before which the trial is had.

§ 2. CAPTION, COMMENCEMENT, AMENDMENT.] (1) Whenever an objection is made that an indictment or information does not contain a caption or commencement, a caption may be prefixed to, and a commencement may be inserted in, the indictment or information; and any defect, error or omission in a caption or commencement may be amended as of course, at any stage of the proceedings, and shall be in any event cured by a verdict.

(2) It is unnecessary to allege that the grand jurors were impanelled, sworn or charged, or that they present the indictment upon their oaths or affirmations.

§ 3. CONCLUSION.] The indictment or information need contain no formal conclusion.

§ 4. SUBSCRIPTION AND VERIFICATION OF INFORMATION.] (1) All informations shall be subscribed by the prosecuting attorney. Except in cases where the defendant has been held to answer in a preliminary examination, the information shall be verified by the oath of the prosecuting attorney or that of the complainant or of some other person. When the information is verified by the prosecuting attorney, it shall be sufficient if the verification is upon information and belief.

(2) No objection to an information on the ground that it was not subscribed or verified, as above provided, shall be made after moving to quash or pleading to the merits.

§ 5. FORM OF INDICTMENT.] The indictment may be in substantially the following form:

In the (here state the name of the court) the_____day of _____, 19____. The State (Commonwealth, People) of _____vs. A. B.

The grand jurors of the county of_____accuse A. B. of (here charge the offense in one of the ways mentioned in Section 7 — e.g., murder; assault with intent to kill, poisoning an animal contrary to Section 31 of the Penal Code) and charge that (here the particulars of the offense may be added with a view to avoiding the necessity for a bill of particulars).

§ 6. FORM OF INFORMATION.] The information may be in substantially the following form:

In the (here state the name of the court) the_____day of _____, 19____. The State (Commonwealth, People) of _____vs. A. B.

X. Y. (here state the title of the prosecuting attorney) for the county of_____accuses A. B. of (here charge the offense in one of the ways mentioned in Section 7 — e.g., murder; assault with intent to kill, poisoning an animal contrary to Section 31 of the Penal Code) and charges that (here the particulars of the offense may be added with a view to avoiding the necessity for a bill of particulars).

§ 7. CHARGING THE OFFENSE.] (1) The indictment or information may charge, and is valid and sufficient if it charges, the offense for which the defendant is being prosecuted in one or more of the following ways:

(a) By using the name given to the offense by the common law or by a statute.

(b) By stating so much of the definition of the offense, either in terms of the common law or of the statute defining the offense or in terms of substantially the same meaning, as is sufficient to give the court and the defendant notice of what offense is intended to be charged.

(2) The indictment or information may refer to a section or subsection of any statute creating the offense charged therein, and in determining the validity or sufficiency of such indictment or information regard shall be had to such reference.

§ 8. BILLS OF PARTICULARS.] (1) When an indictment or information charges an offense in accordance with the provisions of Section 7, but fails to inform the defendant of the particulars of the offense sufficiently to enable him to prepare his defense, or to give him such information as he is entitled to under the Constitution of this State, the court may, of its own motion, and shall, at the request of the defendant, order the prosecuting attorney to furnish a bill of particulars containing such information as may be necessary for these purposes; or the prosecuting attorney may of his own motion furnish such bill of particulars.

(2) When the court deems it to be in the interest of justice that facts not set out in the indictment or information or in any previous bill of particulars should be furnished to the defendant, it may order the prosecuting attorney to furnish a bill of particulars containing such facts. In determining whether such facts and, if so, what facts should be so furnished, the court shall consider the whole record and the entire course of the proceedings against the defendant.

(3) Supplemental bills of particulars or a new bill may be

ordered by the court or furnished voluntarily under the conditions above stated.

(4) Each supplemental bill shall operate to amend any and all previous bills and a new bill shall supersede any previous bill.

(5) When any bill of particulars is furnished it shall be filed of record and a copy of such bill given to the defendant upon his request.

§ 9. INSUFFICIENCY, OR INCONSISTENCY BETWEEN INDICTMENT OR INFORMATION AND BILL OF PARTICULARS—EFFECT OF.] If it appears from the bill of particulars furnished under Section 8 that the particulars therein stated together with any particulars appearing in the indictment or information do not constitute the offense charged in the indictment or information or that the defendant did not commit that offense, or that a prosecution for that offense is barred by the statute of limitations, the court may, and on motion of the defendant or of the prosecuting attorney shall, quash the indictment or information unless the prosecuting attorney shall furnish another bill of particulars which either by itself or together with any particulars appearing in the indictment or information so states the particulars as to make it appear that they constitute the offense charged in the indictment or information and that the offense was committed by the defendant and that it is not barred by the statute of limitations.

§ 10. NAME OF DEFENDANT.] (1) In an indictment, information or bill of particulars it is sufficient for the purpose of identifying the defendant to state his true name, or to state the name, appellation or nickname by which he has been or is known, or, if no better way of identifying him is practicable, to state a fictitious name, or to describe him as a person whose name is unknown, or in any other manner. In stating the true name or the name by which the defendant has been or is known or a fictitious name, it is sufficient to state a surname, a surname and one or more given names, or a surname and one or more abbreviations or initials of a given name or names.

(2) If the defendant is a corporation, it is sufficient to state the corporation name of the defendant, or any name or designation by which it has been or is known or by which it may be identified, without an averment that it is a corporation or that it was incorporated according to law.

(3) If in the course of the proceedings the true name of a person indicted or informed against otherwise than by his true name is disclosed by the defendant to the court or appears in some other manner to the court, the court shall cause the true name of the defendant to be inserted in the indictment, information or bill of particulars and record wherever his name appears otherwise therein, and the proceedings shall be continued against him in his true name.

(4) In naming the defendant, no indictment, information or bill of particulars need further describe him by stating his addition, degree, estate, mystery, occupation, title or residence unless such further description is necessary to charge an offense under Section 7.

(5) In no case is it necessary to prove that the true name of the defendant is unknown to the grand jury or prosecuting attorney.

§ 11. TIME.] (1) An indictment or information need contain no allegation of the time of the commission of the offense unless such allegation is necessary to charge the offense under Section 7.

(2) The allegation is[of] an indictment or information that the defendant committed the offense shall in all cases be considered an allegation that the offense was committed after it became an offense and before the finding of the indictment or information, and within the period of limitations prescribed by law for the prosecution of the offense.

(3) All allegations of the indictment, information and bill of particulars shall, unless stated otherwise, be deemed to refer to the same time.

§ 12. PLACE.] (1) An indictment or information need contain no allegation of the place of the commission of the offense, unless such allegation is necessary to charge the offense under Section 7.

(2) The allegation in an indictment or information that the defendant committed the offense shall in all cases be considered an allegation that the offense was committed within the territorial jurisdiction of the court.

(3) All allegations in the indictment, information and bill of particulars shall, unless stated otherwise, be deemed to refer to the same place.

§ 13. MEANS.] An indictment or information need contain no allegation of the means by which the offense was committed, unless such allegation is necessary to charge the offense under Section 7.

§ 14. VALUE AND PRICE.] An indictment or information need contain no allegation of the value or price of any property, unless such allegation is necessary to charge the offense under Section 7, and in such case it is sufficient to aver that the value or price of the property equals or exceeds the certain value or price which determines the offense. The facts which give the property such value need not be alleged.

§ 15. OWNERSHIP.] (1) An indictment or information need

contain no allegation of ownership of any property, unless such allegation is necessary to charge the offense under Section 7.

(2) In charging an offense in which an allegation of ownership of property is satisfied by proof of possession or right of possession any statement in an indictment, information or bill of particulars which implies possession or right of possession is a sufficient allegation of ownership.

§ 16. INTENT.] (1) An indictment or information need contain no allegation of the intent with which an act was done, unless such allegation is necessary to charge the offense under Section 7.

(2) An allegation generally of an intent to defraud and injure is sufficient without alleging an intent to defraud or injure any particular person, unless such allegation is necessary to charge the offense under Section 7.

§ 17. CHARACTERIZATION OF ACT.] (1) An indictment or information need not allege that the offense was committed or the act done "feloniously" or "traitorously" or "unlawfully" or "with force and arms" or "with a strong hand," nor need it use any phrase of like kind otherwise to characterize the offense, nor need it allege that the offense was committed or the act done "burglariously," "willfully," "knowingly," "maliciously," or "negligently," nor need it otherwise characterize the manner of the commission of the offense unless such characterization is necessary to charge the offense under Section 7.

(2) An indictment or information need not contain the words "as appears by the record" or any other words of similar import.

§ 18. OMISSION OF UNNECESSARY MATTER.] An indictment or information need not state any matter not necessary to be proved.

§ 19. ALLEGATIONS OF PLACES AND THINGS.] Whenever it is necessary in an indictment or information to describe any place or thing in order to charge an offense under Section 7, it is sufficient to describe such place or thing by any term which in common understanding embraces such place or thing and does not include any place or thing which is not by law the subject of, or connected with, the offense.

§ 20. NAME OF PERSON OTHER THAN DEFENDANT.] (1) In an indictment, information or bill of particulars it is sufficient for the purpose of identifying any person other than the defendant to state his true name, or to state the name, appellation or nickname by which he has or is known, or, if no better way of identifying such person is practicable, to state a fictitious name, or to state the name of an office or position held by him, or to describe him as "a certain person," or by words of similar import, or in any other manner. In stating the true name of such person or the name by which such

person has been, or is known, it is sufficient to state a surname, or a surname and one or more given names, or surname and one or more abbreviations or initials of a given name or names.

(2) It is sufficient for the purpose of describing any group or association of persons not incorporated to state the proper name of such group or association, or to state any name or designation by which the group or association has been or is known or by which it may be identified, or to state the names of all the persons in such group or association, or to state the name or names of one or more persons in such group or association, referring to the other or others as "another" or "others."

(3) It is sufficient for the purpose of describing a corporation to state the corporation name of such corporation, or any name or designation by which it has been or is known, or by which it may be identified, without an averment that the corporation is a corporation or that it was incorporated according to law.

(4) In no case is it necessary to aver or prove that the true name of any person, group or association of persons or any corporation is unknown to the grand jury or prosecuting attorney.

(5) If in the course of the trial the true name of any person, group or association of persons, or corporation, described otherwise than by the true name is disclosed by evidence, the court shall cause the true name to be inserted in the indictment, information, bill of particulars and record wherever the name appears otherwise.

§ 21. PROPERTY DESCRIBED AS MONEY.] In an indictment or information in which it is necessary to make an averment as to money, or bullion or gold dust, current by custom and usage as money, treasury notes or certificates, banknotes, or other securities intended to circulate as money, checks, drafts or bills of exchange, it is sufficient to describe the same or any of them as money, without specifying the particular character, number, denomination, kind, species, or nature thereof.

§ 22. DESCRIPTION OF WRITTEN INSTRUMENTS.] Whenever it is necessary in an indictment or information to make an averment relative to any instrument which consists wholly or in part of writing or figures, pictures or designs, it is sufficient to describe such instrument by any name or description by which it is usually known or by which it may be identified, or by its purport, without setting forth a copy or facsimile of the whole or any part thereof. The description, if in a bill of particulars, is sufficient if it sets forth the character and contents of the instrument with such particularity as to enable the defendant to prepare his defense.

§ 23. DESCRIPTION OF WRITTEN MATTER.] Whenever in an indictment or information an averment relative to any spoken or written words or any picture is necessary, it is sufficient to set forth

such spoken or written words by their general purport or to describe such picture generally, without setting forth a copy or facsimile of such written words or such picture. The description, if in a bill of particulars, is sufficient if the defendant is thereby sufficiently informed of the identity of the words or picture concerning which the averment is made so as to enable him to prepare his defense.

§ 24. MEANING OF WORDS AND PHRASES.] The words and phrases used in an indictment, information or bill of particulars are to be construed according to their usual acceptance, except that words and phrases which have been defined by law or which have acquired a legal signification are to be construed according to their legal signification.

§ 25. ALLEGATION OF PRIOR CONVICTIONS.] No indictment or information shall contain an allegation of a prior conviction of the defendant unless such allegation is necessary to charge the offense under Section 7.

§ 26. PRIVATE STATUTES.] In referring in an indictment or information to a private statute or a right derived therefrom it is sufficient to refer to the statute by its title and the day of its passage or in any other manner which identifies the statute, and the court shall thereupon take judicial notice thereof.

§ 27. JUDGMENTS.] In referring in an indictment or information to a judgment or other determination of, or a proceeding before, any court or official, civil or military, it is unnecessary to allege the facts conferring jurisdiction on such court or official, but it is sufficient to allege generally that such judgment or determination was given or made or such proceeding had, in such manner as identifies the judgment, determination or proceeding.

§ 28. EXCEPTIONS.] No indictment or information for an offense created or defined by statute shall be invalid or insufficient merely for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense.

§ 29. ALTERNATIVE OR DISJUNCTIVE ALLEGATIONS.] No indictment or information for an offense which may be committed by the doing of one or more of several acts, or by one or more of several means, or with one or more of several intents, or with one or more of several results, shall be invalid or insufficient for the reason that two or more of such acts, means, intents or results are charged in the disjunctive or alternative.

§ 30. INDIRECT ALLEGATIONS.] No indictment or information shall be invalid or insufficient for the reason that it alleges indirectly and by inference or by way of recital any matters, facts or circumstances connected with or constituting the offense.

§ 31. LIBEL.] No indictment or information for libel shall be invalid or insufficient for the reason that it does not set forth extrinsic facts for the purpose of showing the application to the party alleged to be libelled of the defamatory matter on which the indictment is founded.

§ 32. PERJURY AND KINDRED OFFENSES.] No indictment or information for perjury, or for subornation of, solicitation of, conspiracy or attempt to commit perjury shall be invalid or insufficient for the reason that it does not set forth any part of the records or proceedings with which the oath was connected, or the commission or authority of the court or other official before whom the perjury was committed or was to have been committed, or the form of the oath or affirmation, or the manner of administering the same.

§ 33. OFFENSES DIVIDED INTO DEGREES.] In an indictment or information for an offense which is divided into degrees it is sufficient to charge that the defendant committed the offense without specifying the degree.

§ 34. PARTIES TO OFFENSES.] Every person concerned in the commission of an offense, whether he directly commits the offense or procures, counsels, aids, or abets in its commission, may be indicted or informed against as principal.

§ 35. REPUGNANCY.] No indictment or information that charges an offense in accordance with the provisions of Section 7 shall be invalid or insufficient because of any repugnant allegation contained therein.

§ 36. SURPLUSAGE.] Any allegation unnecessary under existing law or under the provisions of this chapter may, if contained in an indictment, information or bill of particulars, be disregarded, as surplusage.

§ 37. DEFECTS, VARIANCES AND AMENDMENT.] (1) No indictment or information that charges an offense in accordance with the provisions of Section 7 shall be invalid or insufficient because of any defect or imperfection in, or omission of, any matter of form only, or because of any miswriting, misspelling or improper English, or because of the use of sign, symbol, figure or abbreviation, or because of any similar defect, imperfection or omission. The court may at any time cause the indictment, information or bill of particulars to be amended in respect to any such defect, imperfection or omission.

(2) No variance between those allegations of an indictment, information or bill of particulars, which state the particulars of the offense, whether amended or not, and the evidence offered in support thereof shall be ground for the acquittal of the defendant. The court may at any time cause the indictment, information

or bill of particulars to be amended in respect to any such variance, to conform to the evidence.

(3) If the court is of the opinion that the defendant has been prejudiced in his defense upon the merits by any such defect, imperfection or omission or by any such variance the court may because of such defect, imperfection, omission or variance, unless the defendant objects, postpone the trial, to be had before the same or another jury, on such terms as the court considers proper. In determining whether the defendant has been prejudiced in his defense upon the merits, the court shall consider all the circumstances of the case and the entire course of the prosecution.

(4) No appeal, or motion made after verdict, based on any such defect, imperfection, omission or variance shall be sustained unless it is affirmatively shown that the defendant was in fact prejudiced thereby in his defense upon the merits.

§ 38. MISJOINDER, MULTIPLICITY, DUPLICITY AND UNCERTAINTY.] (1) No indictment or information shall be invalid or insufficient for any one or more of the following defects merely:

- (a) That there is a misjoinder of the parties defendant.
- (b) That there is a misjoinder [multiplicity] of the offenses charged.
- (c) That there is duplicity therein.
- (d) That any uncertainty exists therein, provided it charges an offense in accordance with Section 7.

(2) If the court is of the opinion that the defects stated in subsection 1, clauses (a), (b) and (c) or any of them exists in any indictment or information it may order the prosecuting attorney to sever such indictment or information into separate indictments or informations or into separate counts, as shall be proper.

(3) If the court is of the opinion that the defect stated in subsection 1, clause (d) exists in any indictment or information it may order that a bill of particulars be filed in accordance with Section 8.

(4) No appeal, or motion made after verdict, based on any of the defects enumerated in this section shall be sustained unless it is affirmatively shown that the defendant was in fact prejudiced in his defense upon the merits.

§ 39. AMENDMENT AFTER VERDICT.] The defendant and the prosecuting attorney are entitled upon motion made by either after verdict and before sentence is pronounced or the defendant is discharged to have the indictment or information amended so as to state the particulars of the offense, as proved, in such a manner that the indictment or information shall without evidence aliunde be such evidence of the offense charged and its particulars as to bar a subsequent prosecution for the same offense constituted by the same particulars.

§ 40. INTERPRETATION OF THE ACT.] Nothing contained in this chapter shall be so construed as to make invalid or insufficient any indictment or information which would have been valid and sufficient under the law existing at the date of the enactment of this chapter.

§ 41. FORMS FOR SPECIFIC OFFENSES.] The following forms may be used in the cases in which they are applicable:

AFFRAY.—A. B. and C. D. made an affray.

ASSAULT.—A. B. assaulted C. D.

ASSAULT AND BATTERY.—A. B. committed an assault and battery upon C. D.

ASSAULT WITH INTENT.—A. B. assaulted C. D. with intent to murder him, (or kill, or rob, or maim him as the case may be).

ARSON.—A. B. committed arson by burning the dwelling house of C. D.

ATTEMPT.—A. B. attempted to steal from C. D. A. B. attempted to commit larceny of the goods of C. D. A. B. attempted to commit burglary of the dwelling of C. D.

BURGLARY.—A. B. committed burglary of the dwelling of C. D.

CONSPIRACY.—A. B. and C. D. conspired together to murder E. F. (or to steal the property of E. F., or to rob E. F.)

FORGERY.—A. B. forged a certain instrument purporting to be a promissory note (or describe the instrument or give its tenor or substance).

LARCENY.—A. B. stole from C. D. one horse.

LIBEL.—A. B. published a libel concerning C. D. in the form of a letter (book, picture, or as the case may be) (the particulars should specify the pages and lines constituting the libel, when necessary, as where it is contained in a book or pamphlet).

MURDER.—A. B. murdered C. D.

MANSLAUGHTER.—A. B. unlawfully killed C. D.

PERJURY.—A. B. committed perjury by testifying as follows (set forth the testimony).

RAPE.—A. B. raped (or ravished) C. D.

ROBBERY.—A. B. robbed C. D.

§ 42. DISCLOSING THE FINDING OF AN INDICTMENT OR THE FILING OF AN INFORMATION FORBIDDEN.] No grand juror or official of any court shall, except in the performance of his official duty, disclose the fact that an indictment has been found or an information filed against any person for an offense, unless such person is in custody or has been admitted to bail for such offense.

§ 43. FILING AND RECORDING OF THE INDICTMENT OR INFORMATION.] When an indictment has been presented by the grand jury or an information filed by the prosecuting attorney, it shall be filed by the clerk of the court, and transcribed in a book kept for that purpose. In each case the clerk shall certify in the book that he has compared the transcription with the original, and that the transcription with the original, and that the transcription is a true copy of the original.

§ 44. INSPECTION OF INDICTMENT, INFORMATION AND RECORD.] All indictments, informations and the records thereof shall be in the custody of the clerk of the court to which they are presented, and shall not be inspected by any person other than the judge, the clerk, the attorney-general and the prosecuting attorney until the defendant is in custody or has been admitted to bail.

§ 45. INDICTMENT OR INFORMATION LOST, MISLAID, ETC. — COPY MAY BE USED.] When an indictment or information, filed as provided for in Section 43, has been so mutilated or obliterated as to be illegible, or has been lost, mislaid, destroyed, stolen or for any other reason cannot be produced at the arraignment or trial of the defendant, he may be arraigned and tried on a copy thereof taken from the clerk's book and certified by the clerk.

§ 46. COPY OF INDICTMENT OR INFORMATION TO BE FURNISHED DEFENDANT.] Every person who has been indicted or informed against for an offense shall be furnished with a copy of the indictment or information together with the indorsements thereon at least twenty-four hours before he is required to plead thereto, and he shall not be required to plead to such indictment or information if it has not been so furnished to him. A failure to furnish such copy shall not affect the validity of any subsequent proceeding against the defendant if he pleads to the indictment or information.

§ 47. NAMES OF WITNESSES TO BE ENDORSED ON INDICTMENT OR INFORMATION.] When an indictment or information is filed, the names of all the witnesses or [r]espondents on whose evidence the indictment or information was based shall be endorsed thereon before it is presented, and the prosecuting attorney shall endorse the indictment or information at such time as the court may by rule or otherwise prescribe the names of such other witnesses as he purposes to call. A failure to so endorse the said names shall not affect the validity or insufficiency of the indictment or information, but the court in which the indictment or information was filed shall, upon application of the defendant, direct the names of such witnesses to be endorsed. No continuance shall be allowed because of the failure to endorse any of the said names unless such application was made at the earliest opportunity and then only if a continuance is necessary in the interest of justice.

§ 48. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1939.

CHAPTER 133

H. B. No. 349—(Gray and Bergesen)

FRESH PURSUIT ACT

An act to make uniform the law on fresh pursuit and authorizing this State to co-operate with other States therein; providing for arrests in this State by officers of other States, defining the term "fresh pursuit"; providing for certification to other States; saving clause.

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

§ 1. Any member of a duly organized State, county or municipal peace unit of another State of the United States who enters this State in fresh pursuit, and continues within this State in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other State, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized State, county or municipal peace unit of this State, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this State.

§ 2. If an arrest is made in this State by an officer of another State in accordance with the provisions of Section 1 of this act he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Governor of this State, or admit him to bail for such purposes. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

§ 3. Section 1 of this act shall not be construed so as to make any arrest in this State which would otherwise be lawful.

§ 4. For the purpose of this act the word "State" shall include the District of Columbia.

§ 5. The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonable[y] sus-

pected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

§ 6. Upon the passage and approval by the Governor of this act it shall be the duty of the Secretary of State to certify a copy of this act to the executive department of each of the States of the United States.

§ 7. If any part of this act is for any reason declared void, it is declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.

§ 8. This act may be cited as the Uniform Act on Fresh Pursuit.

Approved March 13, 1939.

CHAPTER 134

H. B. No. 259—(Gray)

RELATING TO THE ENFORCEMENT OF PENALTY

An act amending Section 7316 of the Compiled Laws of 1913, relating to the enforcement of penalty, forfeiture and punishment of violators of a statute that has been repealed: and declaring an emergency.

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

§ 1. AMENDMENT.] Section 7316 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

The repeal of any statute by the Legislative Assembly or by the people by an initiated law, shall not have the effect to release or extinguish any penalty, fine, liability, or forfeiture incurred under such statute, but as to cases tried before, or subsequent to, the repeal of such statute, it shall have the effect of extinguishing any jail or prison sentence, that may be, or has been, imposed by reason of said law, unless the repealing act shall expressly provide that the penalties of imprisonment shall remain in force as to crimes committed in violation of such law prior to its repeal. In other respects, such act shall remain in force only for the purpose of the enforcement of such fine, penalty, or forfeiture.

§ 2. EMERGENCY.] This act is hereby declared an emergency

measure, and shall take effect and be in force from and after its passage and approval.

Approved March 18, 1939.

CHAPTER 135

H. B. No. 243—(Bergesen)

UNLAWFUL ENTRY

An act to amend and re-enact Section 9878 of the Compiled Laws of the State of North Dakota for the year 1913 relating to unlawful entry.

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

§ 1. AMENDMENT.] Section 9878 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 9878. UNLAWFULLY ENTERING BUILDING.] Every person who, under circumstances not amounting to any burglary, enters any building or part of any building, booth, tent, warehouse, railroad car, motor vehicle or trailer, vessel or other structure or erection with intent to commit any felony, larceny or malicious mischief, is guilty of a misdemeanor.

Approved March 1, 1939.

DANCES

CHAPTER 136

H. B. No. 106—(Gray & Bergesen)

DEFINING A PUBLIC DANCING PLACE

An act to amend and re-enact Section 1 of Chapter 128 of the Session Laws of the State of North Dakota for the year 1925, being Section 3163a1 of the Supplement to the 1913 Compiled Laws of the State of North Dakota, defining a public dancing place.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 128 of the Session Laws of the State of North Dakota for the year 1925, being Section 3163a1 of the 1925 Supplement to the 1913 Compiled Laws

of the State of North Dakota, be amended and re-enacted to read as follows:

§ 3163a1. DEFINITIONS.] A public dancing place, as the term is used in this act, shall be taken to mean a room, place or space open to public patronage where dancing in which the public may participate is carried on and to which an admission may or may not be charged. A public dance, as the term is used in this act, shall be taken to mean any dance where the public may participate, and whether or not an admission fee is charged.

Approved March 7, 1939.

DRUGS

CHAPTER 137

H. B. No. 257—(Ista)

MARIHUANA

An act to amend and re-enact Chapter 106 of the 1933 Session Laws, relating to marihuana, and defining marihuana as a narcotic and a habit forming drug; prohibiting the sale or gift thereof; providing a penalty for violation; and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 106 of the 1933 Session Laws of the State of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 1. DEFINING MARIHUANA.] The term marihuana means all parts of the plant *Cannabis sativa*, and also known as American hemp and India hemp, is hereby declared to be a narcotic and a habit forming drug. It shall be unlawful for any person, persons, firm, corporation or association, to grow, sell, trade, furnish or give away or to have in his possession, marihuana known by any of its names, botanically or otherwise, or any compound, derivative or preparation thereof.

§ 2. PENALTY.] Any person, who shall violate any of the provisions of this act, shall upon conviction thereof, be fined not more than \$2,000.00 or imprisoned not more than five years, or both, in the discretion of the court.

§ 2. DUTIES OF SHERIFF.] It shall be the duty of the sheriffs in their respective counties, to destroy all marihuana found growing on public highways or lands under the jurisdiction and control of

the State or county. The sheriff shall keep a record of all marihuana so destroyed and report the same to the State's attorney of the county, giving the description of the premises where found and the amount destroyed.

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

Approved March 7, 1939,

ELECTIONS

CHAPTER 138

H. B. No. 101—(Joiner)

FILLING VACANCIES COUNTY NO-PARTY BALLOT

An act to amend and re-enact Chapter 137, Session Laws of 1931, relating to filling of vacancies of elective county officers, superintendent of schools and county commissioners on the No-Party Ballot.

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

§ 1. AMENDMENT.] Chapter 137 of the Session Laws of 1931 is hereby amended and re-enacted as follows:

§ 1. Whenever a vacancy shall exist on the no-party ballot in any county, or district within any county, by reason of the death of any person who was a candidate and was nominated at the primary election, or whenever a vacancy shall exist on the no-party ballot due to the failure of a candidate or candidates at the primary election to receive the number of votes required by Section 862a of the Supplement to the Compiled Laws of 1913, or whenever a vacancy shall exist on the no-party ballot by the conviction of a candidate of a crime or offense involving moral turpitude, or due to the death, insanity or mental incompetency of any such candidate, then and in that event, such vacancy may be filled by filing with the county auditor at least thirty days prior to the general election a petition in writing as provided for in Section 854, Supplement to the Compiled Laws of 1913 and acts amendatory thereof and supplemental thereto by such person or persons as desire to become a candidate or candidates for the election to the office for which a vacancy exists pursuant to the terms of this act, except that the petition for the nomination of any person to fill such vacancy shall be signed by at least twenty per cent (20%) of the voters of such county or district.

Approved February 15, 1939.

CHAPTER 139

S. B. No. 35—(Young, Blaisdell, Fowler, Dahl, Braun, Brant,
Hill, Lavik, Gilbertson, Wog)

CONSOLIDATED PRIMARY ELECTION BALLOT

An act to amend and re-enact Sections 859 and 860 of the Compiled Laws for the year 1913, relating to the form of party primary election ballots and the manner of voting the same.

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

§ 1. That Section 859 of the Compiled Laws for the year 1913 be amended and re-enacted to read as follows:

§ 859. BALLOTS, FORM OF; DUTIES OF JUDGES AND INSPECTORS.] The primary election and primary election ballot shall be provided for, arranged and conducted, and all expenses paid as now provided by law for general elections, except as otherwise provided for in this article. There shall be one ballot for all parties or principles, which shall be entitled "Consolidated Primary Election Ballot." The names of all aspirants for nomination of each political party or principle for the different offices as hereinafter specified shall be arranged in separate columns in their order as hereinafter set forth. No squares shall be left at the head of the ballot. At the head of each column shall be placed the name of the political party or principle that it represents. Immediately below such title in each column shall be placed the language "You cannot split your ballot. If you vote for candidates of more than one party, your ballot will be rejected," and immediately below such language shall be placed the following language "Put a cross mark (X) opposite the name of the candidate for whom you wish to vote." The name of each office shall appear in the center of each party column at the head of the names of aspirants for such office. At the right of each group of aspirants for each office shall be placed the language "Vote for one." At the right of the name of each aspirant shall be placed a square for a cross mark. The offices for which party nominations shall be made shall be the following and shall appear in each party column in the following order, namely,

Congressional:

United States Senator
Representatives in Congress

State Offices:

Governor
Lieutenant Governor
Secretary of State
State Auditor
State Treasurer

Attorney General
Commissioner of Insurance
Commissioner of Agriculture and Labor
Commissioner of Railroads

Legislative:

State Senator-----District
Member of House of Representatives-----District.

The judges and inspectors of election when handing a ballot to a voter shall inform him that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected. The political party or principle which cast the largest vote for Governor at the last preceding primary election shall have the left hand party column and that casting the next largest vote shall have the next column and so on.

§ 2. That Section 860 of the Compiled Laws for the year 1913 be amended and re-enacted to read as follows:

§ 860. Any citizen otherwise eligible by law, affiliated with or representing the principles enumerated in the national platform of the following parties, is eligible to nomination under this article: The Republican Party, the Democratic Party or any party designation that cast five per cent of the total votes cast for Governor at the last general election, and any such party or party designation shall be entitled to a column upon such Consolidated Primary Election Ballot.

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

Approved February 28, 1939.

CHAPTER 140

H. B. No. 77—(Moe)

ELECTION POLL BOOKS

An act to amend and re-enact Section 967 of the Compiled Laws of North Dakota for 1913 relating to the duty of the county auditor to provide uniform poll books for the use of the county and deliver to the inspector of the election precinct.

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

§ 1. That Section 967 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 967. It shall be the duty of the county auditor to provide

uniform poll books for the use of his county, each poll book to contain a copy of the law prescribing the qualifications of electors and so much of this chapter as relates to the duties of inspectors, judges, and clerks of election, and the penalties imposed for offenses; such poll book shall also contain blanks for all entries required to be made therein; he shall also deliver or cause to be delivered by mail [or by] other reliable method to the inspector in each precinct in his county two (2) copies of said poll book for each election precinct in the county, and the inspector shall deliver or cause the same to be delivered to the clerks of election in his precinct on the date of election.

Approved February 7, 1939.

CHAPTER 141

S. B. No. 11—(Aasen, Young and Braun)

RESTRICTING INDIVIDUAL NOMINATIONS GENERAL ELECTION

An act prohibiting any person who was a candidate for nomination for office at a primary election and who was defeated for said office, from being a candidate for the same office at the ensuing general election.

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

§ 1. That any person who was a candidate for nomination for office at any primary election in any year and who was defeated for said office shall not be eligible as a candidate for the same office at the ensuing general election.

Approved February 27, 1939.

CHAPTER 142

H. B. No. 193—(Schauss, Odegard, Williams of Richland)

POLITICAL PARTY NOMINATIONS

An act to amend and re-enact Section 860 of the Compiled Laws of North Dakota for the year 1913; and repealing all acts or parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] Section 860 of the Compiled Laws of

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

§ 860. Any citizen otherwise eligible by law, affiliated with or representing the principles enumerated in the platform of the following parties, are eligible to nomination under this article: The Republican Party, the Democratic Party, or any party designation that cast five per cent of the votes cast for Governor at the last general election. Provided, further that whenever a petition signed by fifteen thousand (15,000) or more voters of the State is filed with the Secretary of State on or before March 1st of any primary election year asking that ballots be provided for a further party and naming such party and stating the platform principles thereof, ballots thereof, ballots therefor shall be provided and citizens with such party may vote such ticket at the following primary election and candidates thereof shall be entitled to the same rights and privileges as those of other parties.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1939.

CHAPTER 143

H. B. No. 309—(Williams of Richland)

PRECINCT COMMITTEEMEN ORGANIZATION AND PROCEDURE

An act to amend and re-enact Section 8 of Chapter 135 of the 1935 Session Laws of the State of North Dakota, relating to the nomination of candidates for the offices of Presidential electors; for the election of party precinct committeemen; delegates to the national party conventions and national party committeemen and national party committeewomen; for the organization of party county and State committees, such amendment requiring that in selecting proxies, the same shall be taken from the precinct, in which the committeemen or committeewomen were elected; repealing all acts or parts of acts in conflict herewith.

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

§ 1. Section 8 of Chapter 135 of the 1935 Session Laws for North Dakota is hereby amended and re-enacted to read as follows:

§ 8. ORGANIZATION: MEETING OF PRECINCT COMMITTEEMEN, AND APPEARING BY PROXY, FILLING VACANCIES.] The precinct committeemen elected as herein provided, together with the nominees and hold-over members of the Legislative Assembly of each party, shall constitute the county committee of each party. They shall meet

in the courthouse at the county seat of each county at two o'clock P. M. on the third Wednesday after such primary election and organize by selecting a chairman, a vice-chairman, a secretary and a treasurer, by adopting rules and modes of procedure not in conflict with law, and by selecting an executive committee consisting of from five to eleven persons chosen from the county committee, of which executive committee the chairman and secretary shall be members.

Such county committee shall at the same time select one person who shall be a legal voter to act upon and be a member of the State central committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall select a legal voter from their respective legislative district to serve on such State central committee. When two or more counties are embraced in one legislative district, the county committee of each county shall meet as aforesaid and shall elect a committee of three of its members to meet with a similar committee from the other county or counties comprising such legislative district, at the courthouse at the county seat of the senior county of such district at two o'clock P. M. on the fourth Wednesday following their election and proceed to elect a member of such State central committee from such legislative district. Each committee shall be entitled to cast the number of votes equal to the number of precinct committeemen elected in its county in such manner and for such candidate as shall be determined by the majority of such committee acting personally or by proxy. All proxies, must be from the precinct, in which the committeeman or the committee-woman was elected; and if the proxy authorizing some other committee-man or other committee-woman to vote instead of the elected precinct committee-man or committee-woman, the proxy must be delegated to some person from the same precinct in which said delegating and elected parties were elected. Each member of any committee shall be a legal voter and shall retain such position until his successor is chosen.

Members so elected as State central committeemen shall meet on the second Wednesday in August following the party primary election and such meeting of said State central committee-men shall be held at the State Capitol and shall convene at 10:00 o'clock A. M. Such meetings shall organize by selecting a chairman, a vice chairman, a secretary and a treasurer and by adopting rules and modes of procedure. The officers so elected need not be members of such committee. If any member of such State central committee is unable to attend any meeting of such committee, he shall be authorized to give written proxy to another legal voter of his legislative district or county.

Vacancies shall be filled by a majority of the State committee

by appointment from the legislative district in which such vacancy exists. Vacancies in the office of precinct committeemen shall be filled by appointment from such precinct made by the county executive committee of such party.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1939.

EMBLEMS

CHAPTER 144

S. B. No. 247—(Senators Bridston, Guthrie, and Morrison)

RESTRICTING USE OF FRATERNAL AND OTHER EMBLEMS

An act amending Section 9991 of the 1925 Supplement of the Compiled Laws of 1913, relating to misuse of fraternal and other emblems to victimize charitably disposed persons through false personification.

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

§ 9991 of the 1925 Supplement of the Compiled Laws of the State of North Dakota for 1913 is hereby amended by adding the following section:

§ 9991c. Any person who willfully wears, or attaches to any motor vehicle, the badge, insignia, rosette or the button, or emblem of any military or patriotic society, or of any society or organization subordinate to or recognized as Masonic by the Grand Lodge of Free and Accepted Masons of the State of North Dakota, or the badge, insignia, button, tab, or chapeaux of La Societe des forty Hommes et eight Chevaux or the Marine Corps League, or the badge, insignia, rosette or button of any society, order or organization, of ten years standing in the State of North Dakota, or uses the same, or the name of any such society, order or organization by falsely representing himself to be a member thereof in good standing, to obtain, or in attempting to obtain, aid or assistance within the State, or willfully uses the names of any such society, order or organization, or the titles of its officers, or uses its insignia or emblems, or the forms or designs thereof, or its ritual or ceremonies unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than ten and not exceeding one hundred dollars for each and every offense.

Approved March 13, 1939.

GAME AND FISH

CHAPTER 145

S. B. No. 175—(Blank, Thatcher, Morrison and Brant)

MUSKRAT FARMS, LICENSE REQUIRED, REGULATIONS GOVERNING

An act providing for the establishment of, license fee for, and setting up regulations to govern muskrat propagation in the State of North Dakota.

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

§ 1. RIGHTS OF OWNERS AND LESSEE.] The owner or lessee of any lands within the State of North Dakota, suitable for the breeding and propagating of muskrats shall have the right upon complying with the provisions of this act, to establish, operate and maintain on such lands a muskrat farm, for the purpose of breeding, propagating, trapping and dealing in muskrats.

§ 2. DECLARATION TO BE FILED.] Such owner or lessee desiring to establish, operate and maintain a muskrat farm in conformity with this act, shall file with the State Game and Fish Department a verified declaration describing the lands which such applicant for a license desires to use for the purpose of breeding and propagating muskrats, and setting forth also the title and leasehold of the applicant and the number of acres embraced in said tract.

§ 3. INVESTIGATION BY COMMISSION.] Upon the filing of such declaration the Game and Fish Department shall forthwith investigate the same and may require the applicant to produce satisfactory evidence of the facts therein stated. If upon such examination it shall appear that the applicant is the owner or lessee of said lands, and that the applicant intends in good faith to establish, operate and maintain, a muskrat farm, the commissioner shall issue a license to the applicant describing such lands, and certifying that the licensee is lawfully entitled to use the same for the breeding propagating, trapping and dealing in of muskrats thereon.

§ 4. ACQUISITION OF MUSKRATS ON AREA.] Thereupon the commissioner shall appoint one man, the applicant one man, and these two shall select a third man to act as a board to go upon the lands embraced within the license, and determine as near as possible the number of muskrats thereon, at the time of the granting of the license. The necessary expenses of all of the members of such board shall be paid by the licensee. Within ten days after the date of such determination, the licensee shall pay to the State Game and

Fish Department fifty cents (50¢) for each muskrat so found on such lands. When such payment has been made the licensee shall become the owner of all the muskrats on said lands and of all of their offspring remaining thereon, subject to the regulations herein set forth.

§ 5. COST OF LICENSE.] The holder of any such license shall pay an annual fee of two dollars and fifty cents (\$2.50) for any such farm of ten acres or under, and an additional fee for any additional land actually devoted to muskrat farming as follows: Fifteen cents (15¢) per acre for the next thirty acres; ten cents per acre for the next forty acres, and five cents per acre for any additional land so used.

§ 6. FENCING, COST OF NOTICE.] Within thirty days after the date of issuance of any such license, the licensee shall erect posts or stakes at intervals of not more than four rods along the boundary of the land embraced in said license, wherever the same are not already inclosed, and shall post and maintain upon said posts, or stakes or other enclosures at intervals of not more than four rods notices furnished by the Game and Fish Department proclaiming the establishment of a muskrat farm. For such notices the licensee shall pay the Game and Fish Department the sum of twelve cents (12¢) each.

§ 7. RIGHTS OF LICENSEE IN COURT.] Such license shall be prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successors or assigns, for the term of the license to establish and operate a muskrat farm upon said premises, and shall entitle the licensee therein named, successors or assigns, to the exclusive right for and during the said term to breed and propagate muskrats thereon, and to the exclusive and sole ownership of any property in all muskrats caught or taken therefrom. Such license shall expire on the 31st day of December of each year, but may be renewed from year to year upon payment by the licensee of annual license fee.

§ 8. TRESPASS.] Any person other than the licensee or his agents who shall hunt or trap muskrats upon any lands described in any such license, shall be liable to the licensee in the sum of twenty-five dollars, in addition to all damage which he may do to said farm or the rats and property thereon, but all actions for such trespass shall be brought by such licensee.

§ 9. REPORT REQUIRED.] On or about the 1st day of March of each year, the licensee shall make a report, verified by affidavit, to the State Game and Fish Department, stating the number of his license and the total number and value of muskrats killed, transported or sold from said muskrat farm, and such other information as the department may require. This report shall cover the period

from the first day of January to the 31st day of December of the previous year, and be made upon blanks furnished by the State Game and Fish Department.

§ 10. RIGHT OF PUBLIC.] Nothing in this section shall be construed to affect any public right of hunting, trapping, fishing or navigation, except as herein expressly provided.

§ 11. TRAPPING RESTRICTIONS, PROVIDING TAGS.] Any person operating a muskrat farm under licenses granted by the provisions of this act, shall not trap any animals for pelting purposes during the closed season provided by law, except on a permit granted by and under the supervision of the State Game and Fish Department; and all skins of such animals so taken during the closed season shall be tagged with tags furnished by the State Game and Fish Department at a cost of five cents per seal. Such seal to bear a serial number and the inscription, "N. D. Muskrat." It is specifically provided that no muskrat killed under the provisions of this section shall be taken by means of shooting or spearing.

REPEALING CLAUSE.] All acts or parts of acts in conflict herewith hereby repealed.

Approved March 15, 1939.

CHAPTER 146

H. B. No. 65—(Hultstrand)

WILDLIFE-RESTORATION PROJECTS—APPROVAL

An act assenting to the provisions of the act of Congress entitled "an act to provide that the United States shall aid the States in wildlife-restoration projects and for other purposes," approved September 2, 1937.

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

§ 1. The State of North Dakota hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the States in wildlife-restoration projects and for other purposes" approved Sept 2, 1937 (Public No. 415, 75th Congress, 1st session) and the State Game and Fish Department is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration projects as defined in said act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of Agriculture thereunder; and no monies accruing to the State of North Dakota from the license fees

paid by hunters shall be diverted for any other purpose than the administration of the State Game and Fish Department.

Approved March 1, 1939.

GAS AND OIL

CHAPTER 147

H. B. No. 70—(Jensen, Semerad and Lange)

LICENSING PURCHASERS AND SELLERS OF GASOLINE

An act permitting the purchase of gasoline to be used solely for agricultural and industrial purposes without the payment of a gasoline tax on the purchase price thereof; licensing purchasers and sellers; providing penalties; repealing Chapter 189 of the Session Laws of North Dakota for 1931.

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

§ 1. DEFINITIONS.] When used in this act unless otherwise defined by the context:

(1) Persons or companies shall include very individual, partnership, society, incorporated association, joint stock company, corporations, trustees, executors, and administrators.

(2) Tax exempt gasoline shall mean such gasoline sold in this State to be used solely for agricultural and industrial purposes without the payment of a tax, except such tax as may be required by a general sales tax law.

§ 2. LICENSED DEALERS.] Gasoline may be sold for agricultural or industrial purposes in the State of North Dakota by licensed dealers as herein prescribed without the payment of the gasoline tax.

§ 3. LICENSE, HOW PROCURED.] Any person desiring to purchase tax exempt gasoline may procure a license so to do by applying to the State Auditor and by paying a fee fifty cents (50¢).

The applicant shall state in his application for license, which shall be filed in the office of the State Auditor, his name, occupation, residence and post office address; a description of the machinery or implement wherein the tax exempt gasoline is to be used; the rated horse-power, if an engine or tractor; the year purchased and the total probable amount of tax exempt gasoline to be used during the year together with the legal description of the land owned or operated by the applicant; the make and year of manufacture and rated

horse-power of each automobile and gasoline truck owned or operated by said applicant.

If the State Auditor is satisfied that the application is made in good faith and for the purposes herein stated, the State Auditor shall issue to said applicant, a license to purchase tax exempt gasoline for the calendar year, which license shall expire on the 31st day of December of the year in which the license is issued unless revoked as herein provided. The license shall be in book form containing the license number, name and address of the licensee and providing space to be filled in by the dealer for the date of purchase, from whom and the number of gallons purchased.

Prior to the expiration of said license, the licensee shall file with the State Auditor, under oath a statement of the amount of tax exempt gasoline purchased, the date of purchase, the price paid and the dealer's receipt shall be attached to the affidavit together with a detailed statement of all other gasoline purchased during the said period covered by the license which is subject to a gasoline tax and delivered in bulk by the dealer to the place of residence of said purchaser.

Any person desiring to sell tax exempt gasoline in the State of North Dakota shall procure a license so to do by making application to the State Auditor. The application shall be made on a form approved by the State Auditor stating the name and location of the station to be licensed.

If the State Auditor is satisfied that the applicant is a resident of the State of North Dakota, he may issue to said applicant a license to sell tax exempt gasoline as herein provided from a station designated in said license upon the payment of a fee of two dollars (\$2.00) for each station so licensed. A separate license shall be secured for each station where tax exempt gasoline is sold.

Delivery of tax exempt gasoline shall be made only from a duly licensed station and to a person permitted to buy tax exempt gasoline as provided in this act.

§ 4. RECEIPTS, HOW ISSUED.] The dealer shall issue receipts in triplicate for each sale of tax exempt gasoline, which receipt shall be in the form and colors prescribed by the State Auditor and shall show the date, name, residence, and license number of the dealer and the purchaser, and the number of gallons sold; Each receipt shall be signed by the purchaser.

Two of such triplicate receipts shall be retained by the licensed seller and one shall be delivered to the licensed purchaser. One of said receipts shall be delivered to the dealer importing gasoline into the State of North Dakota and originally liable for the payment of the gasoline tax. The original of such receipts shall be accepted by the State Auditor in lieu of the payment by the dealer importing gasoline into the State of North Dakota of the gasoline tax provided

by law to the extent of the number of gallons of gasoline shown on said receipts as having been sold for agricultural and industrial purposes to a licensed purchaser thereof.

§ 5. THE STATE AUDITOR MAY REFUSE OR CANCEL LICENSE FOR CAUSE.] The State Auditor in his discretion may refuse to issue a license or may revoke the same if the purchaser or seller named in said license has knowingly failed to comply with the provisions of this act.

§ 6. MONEY DEPOSITED IN STATE TREASURY.] All fees received by the State Auditor as herein provided shall be paid into the State Treasury.

§ 7. EXEMPTIONS DEFINED.] Nothing in this act shall be construed as exempting any gasoline used as motor fuel in propelling any gasoline truck or engine to be operating in whole or in part upon any public highway in the State or to exempt gasoline used for purposes not solely agricultural or industrial from the payment of the tax upon gasoline as herein provided.

§ 8. RULES AND REGULATIONS.] The State Auditor shall have the power to formulate rules and regulations for the administration of this act and it is hereby made the duty of all State's attorneys and peace officers to enforce the provisions hereof.

§ 9. REFUND.] All purchasers of tax exempt gasoline purchased prior to the passage and approval of this act shall be entitled to the refund as provided by Chapter 189 of the Session Laws of North Dakota for the year 1931.

§ 10. PENALTY.] Any person violating any of the provisions of this act, shall upon conviction thereof be guilty of a misdemeanor and their license shall be revoked.

§ 11. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1939.

CHAPTER 148

S. B. No. 61—(Committee on State Affairs)

SPECIFICATION REQUIREMENTS OF HEATING OIL
OR DIESEL FUEL

An act to regulate the sale of heating oil and diesel fuel; to provide specifications therefor, and for inspection thereof; to provide for inspection fees, the collection and disposition thereof; to define the duties of the State Food Commissioner and Chemist as regards such inspection and providing penalties for violation of the act.

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

§ 1. It shall be unlawful to sell, offer or expose for sale any heating oil or diesel fuel which is adulterated within the meaning of this act. Heating oil or diesel fuel shall be deemed to be adulterated if it fails to meet the specifications hereinafter prescribed. Heating oil or diesel fuel shall be deemed to be misbranded, if it is not labeled as hereinafter prescribed.

§ 2. Every package, barrel, pump and every tank wagon, truck or car containing heating oil for sale or consignment, when held within this State or being transported into this State, shall be clearly and distinctly tagged, marked or labeled with the designation: "No. 1 light fuel oil, No. 2 medium fuel oil, No. 3 heavy fuel oil" as the case may be. Every package, barrel, pump and every tank wagon, truck or car containing diesel fuel for sale or consignment, when held within this State or being transported into this State, shall be clearly and distinctly tagged, marked, or labeled with the designation: "diesel fuel" together with its cetane number or diesel index.

§ 3. Heating oil is hereby defined to mean any petroleum product intended for use or offered for sale as a furnace oil, range oil, fuel oil for heating and cooking purposes and to be used in burners other than wick burners regardless whether the product be designated furnace oil, range oil, fuel oil, gas oil or be given any other name or designation. Such heating oil shall meet the following commercial standard specifications approved by the National Bureau of Standards, provided heavier grades may be sold if they meet the minimum flash point requirement given below and are properly labeled as to grade. If modifications of these specifications are approved by the National Bureau of Standards the State Food Commissioner and Chemist may, after due publication and notification incorporate such modifications in the specifications herein contained and the same shall become specifications for heating oil sold in North Dakota.

No. 1. Light Fuel Oil, a light distillate oil for use in burners requiring a high grade fuel.

A—The flash point shall not be lower than 115°F and shall not be higher than 165°F.

B—Water and sediment shall not exceed 0.05%.

C—The pour point shall not exceed 15°F.

D—Distillation Test:

When 10% has been recovered in the receiver the thermometer shall not read more than 420°F.

The end point shall not be higher than 600°F.

No. 2. Medium Fuel Oil, a medium distillate oil for use in burners requiring a high grade fuel.

A—The flash point shall not be lower than 115°F and shall not be higher than 190°F.

B—Water and sediment shall not exceed 0.05%.

C—The pour point shall not exceed 15°F.

D—Distillation test:

When 10% has been recovered in the receiver the thermometer shall not read more than 440°F.

When 90% has been recovered in the receiver the thermometer shall not read more than 620°F.

No. 3. Heavy Fuel Oil, a distillate fuel oil for use in burners where a low viscosity oil is required.

A—The flash point shall not be lower than 115°F and shall not be higher than 230°F.

B—Water and sediment shall not exceed 0.1%.

C—The pour point shall not exceed 15°F.

D—Distillation test: When 90% has been recovered in the receiver the thermometer shall not read more than 675°F.

E—The viscosity shall not be more than 55 seconds Saybolt Universal at 100°F.

Provided that pour points in all cases shall not be higher than zero degrees F whenever required by conditions of storage or use.

§ 4. Diesel fuel is hereby defined to mean any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. Such diesel fuel shall meet the following specifications:

A—The diesel fuel shall be free from harmful suspended matter and sediment. Water, suspended matter and sediment shall not exceed 0.05 per cent by volume. It shall be free from alkali or mineral acid.

B—The viscosity shall not be less than 35 seconds Saybolt Universal at 100°F.

C—Centane [Cetane] number shall not be less than 30.

or

C—The diesel index shall not be less than 30.

D—The flash point shall not be lower than 115°F Tag Closed Tester.

Provided that diesel fuel not meeting the above requirements may be sold if labeled in the manner provided by regulations issued by the commissioner to show wherein it differs from these requirements.

§ 5. Heating oil shall in case of dispute be sold on the basis of the United States gallon containing 231 cubic inches at 60°F, provided that the volume of the delivered oil may be calculated from its weight and gravity degrees API in accordance with the National Standard Petroleum Oil Tables prepared by the National Bureau of Standards.

§ 6. The State Food Commissioner and Chemist shall have authority to promulgate rules and regulations for the interpretation of the provisions and intent of this act and the same shall have the force and effect of law.

§ 7. Every person, firm or corporation shipping or transporting heating oil or diesel fuel into this State for sale or consignment or with intent to sell or consign the same, shall pay to the State Food Commissioner and Chemist an inspection fee of one-twentieth ($1/20$) cent per gallon for each and every gallon of heating oil and diesel fuel so shipped or transported into the State, or that is held for sale within this State, provided nothing in this section shall be construed to require the payment of an inspection fee on any shipment or consignment of heating oil or diesel fuel when such inspection fee has already been paid by another dealer.

On the first day of each calendar month it shall be the duty of each and every receiver or consignee of any of the aforementioned products to send to the State Food Commissioner and Chemist a correct report of all shipments, consignments, or receipts, during the preceding month, and such report shall include the following: (a) the number of gallons of heating oil and diesel fuel received, (b) the grade or class of each shipment or consignment, (c) the date received, (d) consignor, and (e) the person, firm or corporation transporting or delivering the same to consignee. Such monthly report shall be accompanied by fees herein required due to the State on such heating oil and diesel fuel. Failure on the part of the consignee or receiver of such heating oil and diesel fuel to send such report and remittance as above specified shall be a violation of the act and punishable under it.

§ 8. Every person, firm or corporation importing any heating oil or diesel fuel for sale or consignment within this State or having

same in his possession with intent to sell, shall, before so doing, deposit with the State Food Commissioner and Chemist a surety bond payable to the State of North Dakota in the penal sum of five hundred (\$500.00) dollars or twice the amount of inspection fees due for any calendar month to guarantee to this State a truthful report of receipts of heating oil and diesel fuel herein required and the payment of fees herein required in Section 7 of this act. The said bond shall be approved as to its sufficiency by the State Food Commissioner and Chemist.

All inspection fees shall be due on the first day of each calendar month for the preceding month, and said fees shall become delinquent when ten days past due, and the person, firm or corporation bonding such delinquent, may, after twenty days, be called upon to make good the bond for the fees so delinquent.

Provided however, that where a person, firm or corporation who ships or transports heating oil and diesel fuel into this State for sale or consignment or with intent to sell or consign the same, also ships or imports kerosene or gasoline for like purposes and is required to furnish a bond under the provisions of the North Dakota Petroleum Products Inspection Act, to guarantee to the State a truthful report of receipts of gasoline and kerosene and the payment of the inspection fees upon such gasoline and kerosene that then, if such bond is furnished in the penal sum of five hundred (\$500.00) dollars or twice the amount of the inspection fees due for any calendar month for gasoline and kerosene and for heating oil and diesel fuel, and is conditioned so as to be applicable to and cover any and all inspection fees that may become due for the inspection fees upon the heating oil and diesel fuel as well as upon the kerosene or gasoline, that then no additional bond shall be required under this act.

§ 9. All fees received by the State Food Commissioner and Chemist as provided for in this act shall be promptly forwarded to the Treasurer of the State of North Dakota, for deposit in the General Fund.

§ 10. This statute is not intended to apply to the inspection of kerosene, gasoline or tractor fuel oil or in any manner change the existing laws, as regards the inspection and sale of kerosene, gasoline and tractor fuel in this State, but is intended to apply only to heating oil and diesel fuel.

§ 11. The primary object sought to be accomplished by this enactment is to regulate the sale of heating oil and diesel fuel, to prescribe the specifications of such heating oil and diesel fuel and to provide for the inspection thereof. The provisions relating to the manner in which this is to be accomplished do not form an inducement for the enactment, and it is hereby declared that if any of the provisions of the act contravene the provisions of the Constitu-

tion, the remaining provisions would have been enacted by the Legislative Assembly, even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but remain in full force and effect.

§ 12. Any person, firm or corporation violating or failing to comply with any of the provisions of this act or any rule or regulation issued pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25.00) dollars and not more than one hundred (\$100.00) dollars or by imprisonment for not less than ten days and not more than thirty days or both at the discretion of the court.

Approved March 15, 1939.

CHAPTER 149

H. B. No. 390—(Committee on Delayed Bills)

MINERAL, GAS AND OIL RIGHTS. STATE OWNED LANDS

An act reserving to the State of North Dakota five per cent (5%) of all rights to minerals, natural gas or oil which may be found or underlying all lands owned by the State of North Dakota or hereafter acquired by the State of North Dakota by foreclosure, quit claim deed or otherwise; declaring an emergency.

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

§ 1. In all transfers of land hereafter made by the State of North Dakota or any of the State departments or lands now owned by the State of North Dakota or which may hereafter be acquired by the State of North Dakota, or any of its departments by deed, quit claim deed, foreclosure or by any other method, and whether such transfers made by the State of North Dakota or any of its departments are made by deed, contract or lease, there shall be reserved to the State of North Dakota five per cent (5%) of all rights to any oil, natural gas or minerals which may be found on or underlying such land. Any transfer, deed or lease which does not contain such reservation shall be null and void and of no effect.

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

Approved March 13, 1939.

HAIRDRESSERS AND COSMETOLOGISTS

CHAPTER 150

S. B. No. 213—(Guthrie)

REGULATIONS, HAIRDRESSERS AND COSMETOLOGISTS

An act to amend and re-enact Sections 3, 4, 12, 15, 26 and 27 of Chapter 157 of the Laws of 1927 and Section 1 of Chapter 137 of the Laws of 1937, relating to the occupation of hairdressers and cosmetologists, the conduct of schools for hairdressing and cosmetology, the qualification of applicants for examinations, certificates, and making provisions for the payment of fees in connection therewith.

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

§ 1. AMENDMENT.] That Section 3 of Chapter 157 of the Session Laws of 1927 be and the same is hereby amended and re-enacted to read as follows:

§ 3. DEFINITIONS AND GENERAL QUALIFICATIONS.] For the purposes of this act the following definitions and qualifications shall be adopted and understood to be included within the meaning of this act;

(a) A student is a person who is engaged in learning or acquiring within a hairdressing and cosmetologist school knowledge and experience in the arts of hairdressing and cosmetology and upon registration as hereinafter provided, while so engaged, may assist in any of the practices of the classified occupations within this act, under the immediate direction and supervision of a licensed instructor.

(b) An operator is a person, not a student, who is licensed under this act to engage in and follow any of the practices of the classified occupations named herein.

(c) A hairdressing and cosmetologist shop is that part of any building wherein or whereupon the classified occupations are practiced.

(d) A licensed instructor is an operator as hereinbefore defined, who has had at least two years experience as a licensed operator, and who has a general education equivalent to that of a high school graduate from a high school in the State of North Dakota.

(e) A manager operator is any person of the age of eighteen (18) years or more who has been a licensed operator for at least one (1) year, and who owns, operates, conducts or manages a hairdressing and cosmetologist shop, and no person shall operate, conduct or manage a hairdressing or cosmetologist shop who is not

licensed as a manager operator; provided, however, it shall be lawful for any person to own, operate, conduct and manage a hairdressing and cosmetologist shop without being licensed as a manager operator, if such person does not instruct in or practice any of the practices as defined in this act, but does employ one or more manager operators in said shop to operate, conduct and manage the same.

§ 2. AMENDMENT.] That Section 1 of Chapter 137 of the Session Laws of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 4. REGISTERED SCHOOLS.] (a) It shall be competent for any person, firm or corporation to apply to the Board of Hairdressers and Cosmetologists for a certificate of registration as a school for both of the classified occupations within this act, upon the payment of a reasonable annual registration fee as determined annually by the said board for both of the classified occupations, not to exceed a total sum of one hundred dollars (\$100.00).

(b) No school for hairdressers and cosmetologists within this act shall be granted a certificate of registration unless it is operated and maintained in premises entirely distinct from and permanently separated from any hairdressing, beauty or cosmetologist shop, and unless it shall attach to and maintain upon its staff a regularly licensed physician and in addition thereto at least one competent and qualified instructor for each twenty-five students or fraction thereof, which said instructor must be registered as such instructor, and such school shall give and require a course of training and instruction of not less than one thousand hours for both of the said classified occupations, as provided in this act, to include practical demonstrations, written or oral tests, and practical instructions in sanitation, sterilizations, and the use of antiseptics, and cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this act.

(c) No person who has not completed the regular course offered by a recognized hairdressing and cosmetology school shall be granted a license under this act. This provision shall not apply to any person heretofore licensed under Chapter 157 of the Session Laws of 1927.

(d) No school, as provided in this act, shall operate within this State unless a proper certificate of registration under this act has first been obtained.

(e) No person, firm or corporation operating or conducting a school of hairdressing and cosmetology under license pursuant to this act shall advertise in any manner whatsoever, to perform any of the practices referred to herein without disclosing therein that the practice offered is to be performed in said school by students under the supervision of a licensed instructor or instructors. Any

violation of this subdivision shall authorize the board, after notice and hearing, and it shall be its duty upon determining as a fact that this subdivision has been violated, to forthwith cancel the certificate granted to said school.

§ 3. AMENDMENT.] That Section 12 of Chapter 157 of the Session Laws of 1927 be and the same is hereby amended and re-enacted to read as follows:

§ 12. REQUISITES FOR ADMISSION TO EXAMINATION AND REGISTRATION.] No person shall be admitted to examination or registration under this act unless he or she possesses the following qualifications:

(a) Students shall be registered with the board and the names and qualifications of students shall be certified to said board by a registered school, duly registered under the terms of this act. To be registered as such student such student must be at least sixteen (16) years of age, of good moral character and have educational qualifications equivalent to that of an eighth grade graduate of a grammar school in the State of North Dakota, and must have duly matriculated in such registered school and must have complied with the preliminary requirements thereof.

(b) A person may be registered as an operator in the practice of classifications under this act, upon the payment of such examination fee as may be fixed by the board, but not exceeding ten dollars (\$10.00) for said classifications, providing such person is of good moral character, and has an education equivalent to that of a graduate of an eighth grade grammar school in the State of North Dakota, and shall have served and completed the required time and studies as uniformly determined by the board to be necessarily related to said practice, and shall have had the required training in a registered school, which shall not be less than one thousand (1000) hours for said classifications as defined in this act, and provided such person shall have passed an examination to the satisfaction of the board as provided in this act.

(c) A person may be registered as an instructor under this act upon furnishing to said board evidence that he or she has practiced as a licensed operator for at least two years, and upon the payment of a fee of ten dollars (\$10.00) and upon furnishing to said board evidence that said applicant has a general education equivalent to that of a high school graduate in the State of North Dakota, and upon complying with all other requirements applicable to an instructor, as provided in this act.

(d) A person may obtain a manager-operator's license under the terms of this act upon furnishing to said board evidence that he or she has practiced as a licensed operator in this State, for at least one year, and upon the payment of a fee of ten dollars (\$10.00).

and upon complying with the other requirements of this act applicable to a manager operator.

(e) The sufficiency of the qualifications of applicants for admission to examination, for registration, and for license, shall be determined by the board but the board may delegate the authority to determine the sufficiency of such requirements to the secretary, subject to such provision as the board may make for appeal to the board.

(f) Any person who has secured an operator's license for 1939 and who is at the time this act goes into effect engaged in operating a business or practice, which under this act requires a manager operator certificate, shall not be required to obtain any additional certificate for the year 1939, and shall be entitled to a manager operator certificate upon application therefor as provided herein for renewals, upon submitting proof of the foregoing facts to the satisfaction of the board and the payment of the required fee for original manager operator certificate.

§ 4. AMENDMENT.] That Section 15 of Chapter 157 of the Session Laws of 1927 be and the same is hereby amended and re-enacted to read as follows:

§ 15. CERTIFICATES.] If an applicant for examination passes such examination to the satisfaction of said board, and has paid the fee required, and possesses the other qualifications provided for in this act, such person shall be entitled to an operator's certificate. The board shall issue all certificates, including operator's, instructor's and manager operator's, which shall be signed by the president and secretary and attested by the seal of said board. Such certificate shall be evidence that the person to whom it is issued is entitled to follow all of the practices, occupations or occupation referred to therein. Such certificate shall be conspicuously displayed in the principal office, place of business or place of employment in which the certificate holder is engaged in the practices in the certificate referred to.

§ 5. AMENDMENT.] That Section 26 of Chapter 157 of the Session Laws of 1927 be and the same is hereby amended and re-enacted to read as follows:

§ 26. RENEWAL OF CERTIFICATES.] The holder of a certificate issued by the board as provided in this act, who continues in active practice or occupation, shall annually on or before the 31st day of December, renew his or her certificate and pay the renewal fee. A certificate which has not been renewed prior to the 31st day of December in any year shall expire on the 31st day of December in that year. The holder of an expired certificate may within one year from and after the date of expiration thereof, obtain a certificate upon the payment of a fee of five dollars (\$5.00) in addition to the current renewal fee, and upon furnishing to said board satisfac-

tory proof of his or her qualifications to resume practice of the occupation. If a certificate is not renewed within one year from the date said license expired, the applicant for reinstatement must take and pass an examination such as is required from new applicants under the provisions of this act. Annual renewal fees shall not exceed for operators eight dollars (\$8.00) per year; for manager operators ten dollars (\$10.00) per year; and for instructors ten dollars (\$10.00) per year. The power to reduce renewal fee from the maximum amount hereinbefore in this act provided for, shall be exercised only by the board by applying an equal percentage of reduction to all renewal fees provided for herein.

§ 6. AMENDMENT.] That Section 27 of Chapter 157 of the Session Laws of 1927 be and the same is hereby amended and re-enacted to read as follows:

§ 27. DURATION OF CERTIFICATE. RENEWAL FEES.] No certificate shall be issued for a longer period than one year and all certificates shall expire on the 31st day of December next succeeding, unless renewed for the following year as hereinbefore provided, and upon the payment of fees for renewal as may be determined by the board, but not in excess of the amounts as set out in Section 26 hereof.

Approved March 15, 1939.

HIGHWAYS

CHAPTER 151

S. B. No. 215—(Committee on Public Safety)

DRIVERS LICENSE AGENTS

An act amending and re-enacting Section 16 of Chapter 139 of the 1937 Session Laws relating to motor vehicle drivers licenses, to provide for appointment of local agents and their compensation for issuing licenses, and repealing Section 17 of said Chapter 139 of the 1937 Session Laws and all acts or parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] Section 16 of Chapter 139 of the 1937 Session Laws is amended and re-enacted to read as follows:

§ 16. COMMISSIONER TO APPOINT LOCAL AGENTS. COMPENSATION OF LOCAL AGENTS.] The Highway Commissioner shall appoint in each county and in all municipalities or other subdivisions thereof, where possible, as many local agents as in his judgment may

be deemed necessary, for the purpose of issuing and causing to be issued drivers licenses as now provided by law, each such local agent being authorized to issue such licenses within or without the county of his residence, and the compensation which may be charged by such local agent shall not exceed the sum of ten cents for each license so issued by him, and to be paid by the person to whom the license is issued in addition to the drivers license fee hereinbefore provided.

§ 2. REPEAL.] Section 17 of Chapter 139 of the 1937 Session Laws, and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 152

H. B. No. 285—(Anderson of Benson, Crockett,
Twichell and O'Brien)

SECONDARY HIGHWAY SYSTEM

An act to amend Chapter 138, Session Laws of 1937, State of North Dakota, relating to secondary and feeder roads by adding an additional section designated as Section 3, relating to designation of a secondary highway system and authorizing the State Highway Commissioner to designate highways in such system; and declaring an emergency.

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

§ 1. That Chapter 138 Session Laws of 1937, State of North Dakota, be and the same is hereby amended to include the following section:

§ 3. The State Highway Commissioner shall have full power and authority to designate from time to time a secondary highway system not exceeding 6000 miles in length on which all secondary or feeder road funds shall be expended as may be provided by such appropriations. Provided, however, that in designating such system there shall be transferred from the present primary State highway system approximately 2000 miles which are low in standard of improvement and traffic service and which will be released from maintenance agreement or agreements with the Federal Government; provided, further, that no mileage on the present primary State highway system shall be placed on feeder road system without the consent of the board of county commissioners of the county in which the road lies. No State funds shall be expended for any part or parts of the secondary or feeder road system for construction or maintenance

except as herein provided or unless hereafter specifically provided by law.

§ 2. All acts and parts of acts in so far as they are in conflict herewith are hereby repealed.

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

Approved March 13, 1939.

HOURS

CHAPTER 153

H. B. No. 148—(Johnson of LaMoure and Dalzell)

HOURS OF LABOR OF FEMALES

An act to amend and re-enact Section 10246a1 of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 142 of the Session Laws of North Dakota for 1927, regulating and fixing the hours of labor of females and providing penalties for violation thereof.

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

§ 1. That Section 10246a1 of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 142 of the Session Laws of North Dakota for 1927, be amended and re-enacted as follows:

§ 10246a1.] No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel or restaurant, or telephone or telegraph establishment or office, or in any express or transportation company, in the State of North Dakota more than eight and one-half ($8\frac{1}{2}$) hours in any one day, or more than six (6) days or more than forty-eight hours in any one week; provided, however, that this act shall not apply to females working in rural telephone exchanges or in villages or towns of less than five hundred (500) population, nor to cases of employees in small telephone exchanges, and in telegraph offices where the Commissioner of Agriculture and Labor after a hearing has determined that the condition of work is so light that it does not justify the application of this act. In such cases the Commissioner of Agriculture and Labor shall make reasonable rules and regulations under which females may be employed in such small exchanges. Provided, further, that the above law shall not apply in case of emergency, that at such

time female help may be employed ten hours in one day and seven days in one week, but not to exceed forty-eight hours in any one week. An emergency, as herein referred to, is defined to exist in the case of sickness of more than one female employee, in which case a doctor's certificate must be furnished, for the protection of human life, in the case of the holding of banquets, conventions, celebrations, session of the legislature in any city wherein such session is held and during the time such body is in session, or where a female is employed as reporter in any of the courts of the State of North Dakota.

Approved February 20, 1939.

INSURANCE

CHAPTER 154

H. B. No. 290—(Arneson of Nelson)

BENEVOLENT ASSOCIATIONS ACT, AMENDMENT

An act to amend and re-enact Section 8 of Chapter 145 of the Session Laws of North Dakota, for the year 1937, relating to all benevolent corporations, association[s] or societies operating on voluntary or involuntary assessment or contribution plan.

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

§ 1. AMENDMENT.] Section 8 of Chapter 145 of the Session Laws of North Dakota for the year 1937, be amended and re-enacted to read as follows:

§ 8. ENTIRE CONTRACT. INCONTESTABILITY. SUICIDE.] The certificate of membership together with the application therefor shall constitute the entire contract, and shall be incontestable after one (1) year from its date of issue, except for fraud, non-payment of assessments or military or naval service in time of war. In no case shall death from acute or chronic diseases occurring more than one (1) year after the date of issue of said certificate be construed as grounds for non-payment, regardless of any provision or statement in the application and certificate contained; and in no case shall full payment be refused under any such certificate where the member's death occurs more than one (1) year after its date of issue, from acute, sub-acute or chronic diseases. In event of the member's suicide, within one (1) year from the date of issue of the certificate, the society's liability shall be limited to an amount equal to all membership fees and assessments paid.

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

Approved March 13, 1939.

CHAPTER 155

H. B. No. 223—(Committee on Insurance)

DEPOSIT REQUIREMENTS, DOMESTIC LIFE INSURANCE COMPANIES

An act to amend and re-enact Section 4847 of the Civil Code of the Compiled Laws of North Dakota for 1913.

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

That Section 4847 be amended and re-enacted as follows:

§ 4847. COMMISSIONER ASCERTAINS VALUE OF POLICIES. SECURITIES TO BE DEPOSITED.] As soon as practicable after the filing of such statement the Insurance Commissioner shall ascertain the net cash value of every policy in force upon the basis of the American table of mortality and four and one-half per cent interest, or actuaries combined experience table of mortality and four per cent interest, in all companies organized under the laws of this State. The company may make such valuation and make and file the same with such annual statement, and it shall be received by the Insurance Commissioner upon satisfactory proof of its correctness. The net cash value of all policies in force in any such company being ascertained, the Insurance Commissioner shall notify it of the amount, and within thirty days thereafter, the officers thereof shall deposit with the Insurance Commissioner the amount of the ascertained value in the securities specified in Chapter 156 of the Session Laws of 1907 (Sections 4861, 4862 herein); provided, however, that no stock or mutual company organized under the laws of this State shall be required to make a deposit of such securities in an amount exceeding one hundred thousand dollars; and when securities in that amount shall have been deposited then such insurance company may, and the Insurance Commissioner shall accept, in lieu of further deposit, a detailed, verified statement setting forth a list of the items of security held by such insurance company with sufficient particularity; and such securities so specified in such list, although retained by such insurance company, shall be kept separate and distinct from its other securities and shall be held as a deposit for the policyholders of said company under the provisions of this section.

The Insurance Commissioner may at any time make a personal examination of the books, papers, securities and business of any such life insurance company or authorize any other suitable person to make the same, and he or the person so authorized may examine under oath any officer or agent of the company, or others, relative to its business and management. If upon such examination the Insurance Commissioner is of the opinion that the company is insolvent, or that its condition is such as to render a further continuance of its business hazardous, then the Insurance Commissioner may require such insurance company to forthwith deposit in his office all of such securities so listed and specified in said list, and not deposited; provided, however, that nothing therein contained shall be construed as preventing or prohibiting any domestic life insurance company from depositing such securities in an amount to exceed the cash value of its policies.

Approved March 3, 1939.

CHAPTER 156

S. B. No. 120—(Committee on Insurance)

FOREIGN INSURANCE COMPANIES WRITING FIDELITY AND SURETY

An act to amend and re-enact Section 4907, Compiled Laws of the State of North Dakota for 1913, to make more certain the requirement that all foreign insurance companies have a capital of two hundred and fifty thousand dollars (\$250,000.00) as a condition to writing fidelity and surety risks in this State, and repealing all acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 4907 of the Compiled Laws of the State of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 4907. MUST COMPLY WITH LAWS OF STATE.] Every corporation not organized under the laws of the State of North Dakota, to be qualified to act as surety or guarantor, must comply with the requirements of every law of this State applicable to such company, and to foreign insurance companies doing business thereunder; must be authorized under the laws of the State wherein incorporated, and under its charter to be surety upon such bond, undertaking, recognizance or obligation, must have fully paid up and safely invested an unimpaired capital, namely the capital stock of a stock insurance company or the surplus of a mutual insurance company, of at least two hundred and fifty thousand dollars; must have good

and available assets exceeding its liabilities, which liabilities for the purpose of this article, shall be taken to be its capital stock, debts outstanding, and a premium reserve at the rate of fifty per centum of the current annual premiums on each outstanding bond or obligation of like character in force; must file with the Commissioner of Insurance a certified copy of its certificate of incorporation, a written application to be authorized to do business in this State, also with such application, and in each year thereafter, a statement, verified under oath, made up to December thirty-first preceding, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings and obligations of like character in force upon which it is surety, the amount of liability for unearned portion thereof, estimated at the rate of fifty per centum of the current annual premiums on such bond, undertaking, recognizance and obligation in force, stating also the amount of debts outstanding, obligations of all kinds, and such further facts as may be by the laws of this State required of such company in transacting business therein; and if such company be organized under the laws of any other State than this State, it must have on deposit with a State officer of one of the States of the United States not less than one hundred thousand dollars in securities prescribed by law, deposited with and held by such officer for the benefit of the holders of its obligations. It must also, by a duly executed instrument, filed in his office, constitute and appoint the Commissioner of Insurance of this State and his successors, its true and lawful attorney, upon whom all process in any action or proceeding against it may be served, and therein must agree that any process which may be served upon its attorney shall be of the same force and validity as if served upon the corporation, and that the authority thereof shall continue in force irrevocable, so long as any liability of the company remains outstanding in this State. Service upon such attorney shall be deemed sufficient service upon the corporation.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 157

S. B. No. 121—(Committee on Insurance)

ADMISSION OF FOREIGN MUTUAL INSURANCE COMPANIES

An act to amend and re-enact Chapter 161 of the Session Laws of 1931, relating to the admission of foreign mutual insurance companies, and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 161 of the Session Laws of 1931, be and the same is hereby amended and re-enacted to read as follows:

§ 1. No foreign mutual insurance company shall hereafter be admitted for transaction of business in this State until it shall have accumulated assets in excess of all liabilities in an amount not less than one hundred thousand dollars, (\$100,000).

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

Approved March 15, 1939.

CHAPTER 158

H. B. No. 396—(Delayed Bills Committee)

HAIL INSURANCE ACT, AMENDMENTS

An act amending and re-enacting Section 189b11 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Section 10 of Chapter 137, Laws of 1933, in reference to State hail insurance, crop affidavit, insurability and liens; repealing acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 189b11 of the 1925 Supplement to the Laws of North Dakota, as amended by Section 10, Chapter 137, Session Laws of 1933, is amended and re-enacted to read as follows:

§ 189b11. CROP AFFIDAVIT, INSURABILITY AND LIENS.] In making application for State hail insurance as provided by Section 189b9 of this act, the owner, tenant, or cropper, shall furnish the complete information required in the application blank, and he shall be bound by such information. If lands are bought on contract, the contract owner shall be deemed the party responsible

for the payment of the hail indemnity taxes and the record or title owner, in such case, shall not in any way, determine as to whether or not such insurance should be carried. Where the cropper is a tenant, he shall, in making application for State hail insurance, secure the owner's consent in writing to such application but such consent may be filed on separate forms or letter to be made a part of the application. Provided, that an owner may make regular application for insurance on his proportionate share of crop. It is further provided that every lease, oral or written, on land subject to hail indemnity tax, hereafter made, shall be deemed to include, as a covenant and agreement on the part of the lessee or cropper, an undertaking to pay his share of hail indemnity taxes properly chargeable against the land, and the landlord shall have a first lien upon all the crops grown upon the land, belonging to any such tenant or share cropper as security for the payment of tenant's share of the said hail indemnity taxes, unless the contrary shall be clearly expressed in writing and made a part of the lease. Every vendee or mortgagee of crops grown on rented land shall be charged with notice of such lien. Such lien may be enforced in the same manner as a seed, labor, or thresher's lien and with like effect or the amount thereof may be subjected to other provisions of the contract relative to the division of the crop. It is further provided that contracts for sale of lands and mortgages executed prior to the approval of this act must be recorded within ninety days of the effective date of this act in order to preserve their status as a prior lien to the hail indemnity taxes levied hereunder. No regular application for hail insurance shall be approved by the Commissioner of Insurance where the records of the county auditor show any unpaid hail indemnity taxes except as hereinafter provided. Provided that applications for hail insurance may be approved where the records of the county auditor show unpaid hail indemnity taxes for one year of the last preceding four years. Provided, however, that an application may be approved when an owner makes proof that he is not liable for payment of indemnity taxes levied against the land and remaining unpaid on account of foreclosure of a superior lien.

On May 15th of every year the sheriff of each and every county in the State shall furnish the Hail Insurance Commissioner a list of sheriff's certificates in his county, issued on foreclosure of mortgages, and on which the period of redemption extends through part or all of the then current cropping year. Provided that listings for insurance on such premises shall in no event be approved by the Commissioner of Insurance. Special policies may, however, be issued for insurance in all cases not insurable on regular applications if proper applications in accordance with provisions of Section 25 of this act be filed with the Hail Insurance Department direct.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith, are hereby repealed.

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

Approved March 16, 1939.

CHAPTER 159

H. B. No. 320—(Joiner)

HAIL TAX REFUND, ASSIGNMENT, CANCELLATION

An act to amend and re-enact Section 2 of Chapter 156 of the Session Laws of 1935, relating to hail tax refund, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 156 of the Session Laws of 1935, be and the same is hereby amended and re-enacted to read as follows:

§ 2. REFUND, ASSIGNMENT, CANCELLATION.] The holder of the certificate must make application for the refund to the Commissioner of Insurance, tendering his certificate, and an assignment thereof, to the Hail Insurance Department, and making proof satisfactory to the Commissioner of Insurance that the title of the land has been lost under a paramount lien, and that he has not been compensated in any way for the money paid for the certificate. Upon being so satisfied, the Commissioner of Insurance shall refund to the holder, such amount with interest. Upon making any such refund, the Commissioner shall take an assignment of the certificate in trust for the benefit of the Hail Insurance Department, and in case the tax debtor becomes the owner of the land effected [affected], the hail indemnity tax, represented by such certificate, shall again attach as a lien upon his interest. Provided further, that any time after the expiration of three years from the time the title of the land has been lost, under a paramount lien, and the land effected has not reverted back to the original owner within such three year period, the Commissioner of Insurance shall, upon satisfactory proof, cancel the hail tax of record and cancel the said hail indemnity tax certificate and the assignment thereof, so held in trust and surrender the same to the county auditor; but in no event shall such tax sale certificate be cancelled prior to the expiration of ten (10) years from the date of the tax sale certificate or where there has been a subsequent hail indemnity tax paid, then ten (10) years from the payment of the last subsequent hail indemnity tax paid, or in case of sales heretofore made under the six (6) year limitation, then prior to the

expiration of the six (6) years from the date of such tax sale certificate or last subsequent hail tax paid.

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

Approved March 16, 1939.

CHAPTER 160

S. B. No. 69—(Committee on Insurance)

TAXATION OF INSURANCE COMPANIES

An act to amend and re-enact Section 4924, Compiled Laws of North Dakota for the year 1913, as amended by Chapter 79 of the Session Laws of 1921, relating to the taxation of insurance companies.

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

§ 1. AMENDMENT.] That Section 4924, Compiled Laws of North Dakota for the year 1913, as amended by Chapter 79 of the Session Laws of 1921, be and the same is hereby amended and re-enacted as follows:

§ 4924. Every insurance company doing business in this State, except stock and mutual companies organized under the laws of this State, shall at the time of making annual statement of business done as required by law, pay to the Commissioner of Insurance two and one-half per cent of the gross amount of premiums, considerations for annuities, membership fees and policy fees received in this State during the preceding year. Upon payment of such sum, the Commissioner of Insurance shall issue the annual certificate provided by law.

Approved March 15, 1939.

CHAPTER 161**S. B. No. 131—(Guthrie)**

RECIPROCAL INSURANCE AGENTS' LICENSES

An act to amend and re-enact Chapter 151 of the Session Laws of North Dakota for 1935, providing for licenses for reciprocal fire and life insurance underwriters.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 151 of the Session Laws of North Dakota for 1935 be and it is hereby amended and re-enacted to read as follows:

§ 1. UNDERWRITERS' LICENSES REQUIRED.] A nonresident insurance agent or solicitor placing insurance, through a resident insurance agent of this State, shall be permitted to do so only where he first shall have made written application for, and procured from the Commissioner of Insurance, a license therefore upon a form prescribed by the Commissioner of Insurance and upon the payment of a fee of \$10.00. Such license shall expire one year from its date and in no case shall be granted to a resident of any State which does not permit the licensing of an agent of this State under like circumstances.

Approved March 15, 1939.

MARRIAGE

CHAPTER 162**H. B. No. 267—(Boulden, Bolmeier)**

SYPHILIS TESTS BEFORE MARRIAGE

An act providing for serological test, for syphilis for all persons applying for marriage licenses; prohibiting marriage of any person afflicted with syphilis in communicable form; providing for proofs of serological test to be required by and submitted to county judges before the issuance of a marriage license; repealing acts and parts of acts inconsistent with or in conflict herewith making an appropriation for the State Health Department to enable it to comply with the provisions hereof.

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

§ 1. It shall be necessary for all persons intending to be mar-

ried to obtain a marriage license from the county judge of the proper county as may be provided by law, and to deliver said license, within sixty (60) days from the date of issue, to the clergyman or other qualified person who is to officiate before the marriage can be performed.

§ 2. Before any person, authorized by law to issue marriage licenses, shall accept an application for any such license each applicant therefor shall file with him a certificate from a duly licensed physician and surgeon stating that such applicant has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty (30) days prior to the date of such application, and that, in the opinion of such physician and surgeon, the person therein named either is not infected with syphilis or, if so infected, is not in a state of that disease which is or may become communicable to the marital partner; and no license shall be granted if either party is afflicted with syphilis in a communicable form, and no person who is so afflicted is to be entitled to marry.

§ 3. Because of an emergency or other cause shown by affidavit or other proof, a judge of the district court, if satisfied by medical and/or other testimony that neither the health of the individuals nor the public health and welfare will be injuriously affected thereby, may make an order, on joint application of both of the parties desiring the marriage license, dispensing with those requirements of Sections 2 and 4 hereof, which relate to the filing with the licensing authority by either or both of the parties of the aforesaid certificates and the laboratory statements or, the said certificates and statements having been filed, extending the thirty (30) day period following the examination and test, to not more than ninety (90) days after such examination and test. The order shall be accompanied by a memorandum in writing from the judge, reciting his reasons for granting the order. Application for such extension may be made before, on or after the expiration of such thirty (30) day period. The order and the accompanying memorandum shall be filed with the county judge and the latter shall thereupon accept the application for the marriage license without the production or filing of the aforesaid certificates and the laboratory statements dispensed with by the order, or shall accept the application within any such extended period, as the case may be. The licensing authority and his clerks and employees shall hold such memorandum of the judge in absolute confidence.

§ 4. Each such statement of a physician and surgeon made as aforesaid shall be accompanied by a statement from the person in charge of the laboratory making the test, or from some other person authorized to make such statement, setting forth the name of the test, the date it was completed and the name and address of the person whose blood was tested, but not stating the result of the

test. The physician's statement and the laboratory statement shall be on the same form sheet. Upon a separate form a detailed report of the laboratory test, showing the result of the test, shall be transmitted by the laboratory to the physician and surgeon who, after examining it and if he deems it desirable, discussing it with either or both the proposed marital partners, shall file it with the State Health Officer, where it shall be held in absolute confidence and shall not be open to public inspection; provided that it shall be produced for evidence at a trial or preceeding [proceeding] in a court of competent jurisdiction, involving issues in which it may be material and relevant, on an order of a justice or a judge of such court requiring its production.

§ 5. A standard serological test shall be a laboratory test for syphilis approved by the State Health Officer and shall be performed by the State Department of Health, on request for a fee of not to exceed fifty cents, to be collected by the county judge and by him paid into the State Treasury.

§ 6. Nothing in this act shall impair or affect existing laws, rules, regulations or codes made by authority of law, relative to the reporting by physicians and others of cases of syphilis discovered by them.

§ 7. Marriage licenses shall be issued to all applicants who have complied with the provisions of this act and all other acts not in conflict herewith, and who are otherwise entitled under the laws of North Dakota to apply therefor and to contract matrimony.

Every such license, when issued, shall have endorsed thereon or annexed thereto at the end thereof, a statement, subscribed by the person issuing the license, that the application for the license was accompanied by papers complying with the applicable requirements of Sections 2 and 4 of this act relative to examination and health of the parties or, if such compliance was dispensed with, wholly or partly, by order of a judge, a statement to that effect.

The license issued, including the above statement and the certificate duly signed by the person who shall have solemnized the marriage therein authorized, shall be returned by him to the county judge who issued the same within five (5) days succeeding the date of the solemnizing of the marriage therein authorized, and any person or persons who shall wilfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) or more than fifty dollars (\$50.00) for each and every offense, or by imprisonment in the county jail not exceeding thirty (30) days, or by both such fine and imprisonment.

§ 8. Any applicant for a marriage license, any physician or surgeon or any representative of a laboratory who shall misrepresent any of the facts called for by the physician's statement and the

laboratory report or statement, or any licensing officer who shall accept an application for a license without the accompanying physician's and surgeon's statement and laboratory report, as required in Sections 2 and 4 hereof, unless the same shall have been dispensed with by judicial order as provided in Section 3 or who shall have reason to believe that any of the facts contained in said statement or report have been misrepresented and shall nevertheless issue a marriage license, or any health officer or his employee who shall not hold the laboratory record confidential, except as provided in Section 4 hereof with respect to its production for evidence on order of a judge, or any officer, clerk or employee of the office issuing the license who shall not hold in strictest confidence the statement filed with him as to the reasons for granting a judicial order, as provided under Section 3 hereof, shall be guilty of a misdemeanor and punishable accordingly.

§ 9. The sum of seven thousand dollars (\$7,000.00) or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State Treasury to the State Department of Health, to cover additional clerical, printing, laboratory and other expenses in carrying out the provisions of this act, for the biennium ending July 1, 1941.

§ 10. All acts and parts of acts in conflict and inconsistent herewith, but only insofar as they are inconsistent or in conflict, are hereby repealed.

Approved March 13, 1939.

MINING

CHAPTER 163

H. B. No. 307—(Committee on Mines and Mining)

REGULATION AND LICENSING OF COAL MINES

An act to amend and re-enact Chapter 167 of the 1935 Session Laws, providing for the procuring of coal mine licenses from the State Coal Mine Inspector, the payment of moneys collected into the General Treasury of the State of North Dakota, and appropriating therefrom moneys to be paid into the Coal Mining Safety Fund, providing for the keeping and furnishing by coal mine operators of such records and statistics and the reporting thereof to the State Coal Mine Inspector, giving the State Coal Mine Inspector power to revoke licenses and enjoin the operation of unlicensed mines, providing for an appeal to the district court from such order of revocation, providing a penalty for failure to comply with the law.

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

§ 1. COAL MINE LICENSES HOW PROCURED.] The operator of each and every coal mine operated in the State of North Dakota, and selling, bartering or exchanging coal with any other person, shall annually, on or before the 10th day of July, after the passage and approval of this act, procure a license from the State Coal Mine Inspector for which he shall pay a fee of five dollars (\$5.00) for any mine producing less than one hundred tons (100), and \$10.00 for any mine producing more than one hundred tons (100) and less than one thousand tons (1,000) annually, and \$30.00 for any mine producing more than one thousand tons (1,000) and less than five thousand tons (5,000) annually, and \$40.00 for any mine producing more than five thousand tons (5,000) and less than ten thousand tons (10,000) annually, and \$50.00 for any mine producing more than ten thousand tons (10,000) and less than twenty thousand tons (20,000) annually, and \$80.00 for any mine producing more than twenty thousand tons (20,000) and less than fifty thousand tons (50,000) annually, and \$100.00 for any mine producing more than fifty thousand tons (50,000) and less than two hundred thousand tons (200,000) annually, and \$150.00 for any mine producing two hundred thousand tons (200,000) or more annually. The license period shall be from July 1st of one year to June 30th of the next, both dates inclusive. The amount of license fee on mines shall be based on the operator's report of the number of tons of coal mined during the year terminating with the date of issuance of the new license, except in the case of mines applying for an initial license in which case the license fee shall be based on the operators estimate of the number of tons of coal to be produced during the license year. Provided, however, that no coal mine operator who

is or will be an employer under the terms of the Workmen's Compensation Act, shall receive such license unless and until he shall have applied for Workmen's Compensation Insurance and such insurance coverage is in effect.

§ 2. COAL MINE SAFETY FUND. SOURCE AND DISBURSEMENT.] The fees for coal mine licenses as required in Section 1 hereof shall be paid monthly by the State Coal Mine Inspector to the Treasurer of the State of North Dakota by whom they shall be deposited into the General Fund of the State of North Dakota. Of the revenue collected under this act, the State Treasurer shall annually retain, in his hands a fund in the sum of three thousand dollars (\$3,000) which shall be credited in a fund to be known as the Coal Mine Safety Fund. The mileage and traveling expenses for safety work of the State Coal Mine Inspector and the expense of all assistance procured by him for the enforcement of this provision and of the coal mining code safety work shall be paid out of the said fund in the manner in which other funds of the State of North Dakota are disbursed upon vouchers approved by the State Coal Mine Inspector. Any unused balance of such fund at the end of each year shall be paid into the State Treasury to the credit of the General Fund.

§ 3. PROMULGATION OF SAFETY RULES.] The State Coal Mine Inspector is hereby vested with the power to promulgate, issue and enforce all necessary and proper rules and safety regulations relative to the operation of any and all coal mines, and shall have the right to prescribe safety equipment to be worn by all persons working in or about such mines.

§ 4. STATISTICS TO BE FURNISHED.] There shall be kept in a book, to be provided for that purpose for each mine operated as provided in Section 1, the following information: Name of the mine; its location; when it began business; by whom owned; by whom operated; number of tons of coal mined; number of men employed; wages paid by the day, week, month and year; the total cost of operating the mine; the total amount of coal sold and the price received therefor.

§ 5. REPORT TO STATE COAL MINE INSPECTOR.] It shall be the duty of all persons operating a mine within this State, as provided in Sections 1 and 3, to make a verified report to the State Coal Mine Inspector containing all the information to be kept by said mine operator as provided in Section 3.

§ 6. POWER TO REVOKE LICENSE.] That State Coal Mine Inspector shall have the right to revoke the license of any operator of a coal mine in this State for failure to comply with the safety rules, regulations and requirements of the inspector relative to the coal mine of such operator or for being in default in premiums of Workmen's Compensation Insurance.

The said inspector may also enjoin, by proper legal proceedings, the operation of any coal mine without license.

§ 7. APPEAL FROM ORDER OF STATE COAL MINE INSPECTOR. REVOKING LICENSES.] Any operator of a coal mine whose license has been revoked by the State Coal Mine Inspector, under the provisions of this chapter, may appeal to the district court of any county in this State in which the mine for which the license has been revoked or any portion thereof is located, from the order revoking such license by serving notice of appeal and specifications of error upon the Coal Mine Inspector and filing such notice and specifications in the said district court within ten days after the service upon the operator of the order of revocation, and upon perfecting such appeal by filing in such court a bond in a sum to be fixed by the judge thereof the security thereof to be approved by the clerk of such court, for the payment of all costs on appeal, but no mine shall be operated during the pendency of such an appeal, unless otherwise ordered by said district court after notice given to said inspector.

§ 8. PENALTY FOR FAILURE TO COMPLY WITH LAW.] Every mine owner and operator who shall operate any coal mine without having a license as herein provided in full force and effect, or who shall wilfully fail, neglect or refuse to comply with the provisions of this article, or safety rules promulgated by the State Mine Inspector hereunder, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of one hundred dollars (\$100.00), or imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment, as the court may determine.

Approved March 16, 1939.

MORTGAGES

CHAPTER 164

S. B. No. 226—(Whelan)

PERMITTING CROP MORTGAGES CERTAIN CASES

An act to amend and re-enact Section 2 of that certain initiated law entitled "An act declaring mortgages on growing and unharvested crops to be against the public policy of the State, and abolishing the same," approved and adopted by the electors at the June 29th, 1932 primary election; as amended by Chapter 150 of the Session Laws of North Dakota for the Year 1933, repealing all acts or parts of acts in conflict and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of said initiated law as amended by Chapter 150 of the Session Laws of the State of North Dakota for the year 1933, be amended and re-enacted to read as follows:

§ 2. That all mortgages on growing and unharvested crops are abolished, and that any and all mortgages on growing and unharvested crops hereafter taken shall be held null and void and of no effect; provided, however, that the provisions of this act shall not apply to any mortgage or lien in favor of the United States, the State, any county or any department or agency of either thereof, including the bank of North Dakota; nor to any mortgage taken or given as security for money advanced or loaned, for the purpose of paying government crop insurance premiums.

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

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

Approved March 15, 1939.

CHAPTER 165

S. B. No. 40—(Thatcher, Young, Guthrie, Lemke and Morrison)

MORATORIUM FROM FORECLOSURES AND EVICTIONS

An act providing for relief in certain cases during the emergency declared to exist, from foreclosure of mortgages or other liens on real estate, and execution sales of real estate, and cancellation of contracts for the sale of real property, eviction of tenants from real estate, and for postponing certain sales and extending the period of redemption from certain sales, and relating to the jurisdiction and procedure for such relief, and for the right to possession during the extended period, and limiting the right to emergency actions for deficiency judgment, and for extending the expiration of certain periods of redemption to thirty days after the passage of this act; and providing that the act shall not be applicable in certain cases set forth in this act; repealing all acts inconsistent herewith and declaring an emergency.

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

§ 1. In any proceeding for the foreclosure of any mortgage or other lien upon real property, or the cancellation of any contract for the sale of real estate by advertisement or publication of notice, the mortgagor, lienee or assignee of either, or the owner in possession of such property, or any one claiming under said mortgage or lienor, or any one liable for the mortgage debt, or the vendee or his assignee of such contract for the sale of said premises, may, at any time after the publication of notice for the foreclosure of such mortgage or other lien, or the cancellation of a contract, apply to the court of the county wherein such proceedings are being had, or are pending, by filing with the court his affidavit, setting forth such reasons, consistent with the provisions of this act, as the party applying for such order may have for postponement thereof, with a prayer that the foreclosure or cancellation, if any, shall be had by action in the court. If it appears to the court that granting of the relief, as prayed for in such affidavit, would be equitable and just, then and in that event the foreclosure or cancellation proceedings by advertisement or publication of notice may be postponed by the court by ex parte order, which may be served upon the attorney or agent of the mortgagee or assignee, or vendor or assignee, or upon the party foreclosing or cancelling said contract, and the party seeking to foreclose such mortgage or other lien, or cancel such contract, shall proceed, if at all, to foreclose such mortgage or other lien, or cancel said contract, by action in the court of the county having jurisdiction thereof and shall tax as a part of the costs in said action the expense incurred in publishing such notice.

§ 2. When any mortgage or other lien has been foreclosed by action, the court shall, on the coming in of the report of sale, on the request of any party who has been personally served with a

summons or who has appeared, cause notice of hearing thereon to be served on the parties to the action, who have appeared, and fix the time and place for hearing on said report. Before granting an order confirming said sale, the court shall, if it appears upon due examination that the sale price is unreasonable and unfairly inadequate, or that justice has otherwise not been done, order a re-sale. If the sale is confirmed, the sheriff or his deputy shall forthwith execute and deliver the proper certificate of sale, which shall be recorded within twenty days after such confirmation. Upon the hearing of the motion for an order confirming the sale of the premises involved in the foreclosure of mortgages or other liens by action, in case the evidence is insufficient to establish a fair and reasonable market or rental value of such property, the court shall receive any competent evidence, including evidence tending to establish the actual value of the property involved in such mortgage foreclosure proceedings for the purpose or purposes for which said property is or can be used. The court shall also receive any evidence tending to show to what extent, if any, the property has decreased in actual or market value by reason of the economic conditions existing at the time, or prior to such sale.

§ 3. When any judgment has been entered for the cancellation of a contract for the sale of real estate, or eviction or ejection of any tenant from the possession of real estate, the court having jurisdiction thereof shall, at the request of any party to the action, cause notice of hearing to be served upon the parties thereto, who have appeared therein, to show cause, if any they have, why a stay of execution should not be granted. Before granting such request on the part of any party to said action, the court having jurisdiction thereof shall receive any competent evidence of the reasonable rental value of said property, taxes levied and assessed against the same, the interest on the indebtedness, if any, due thereon, and the purpose or purposes for which said property is or can be used.

§ 4. (a) In case the parties to any such foreclosure action, or other action heretofore set forth in this act, shall agree in writing upon terms of compromise settlement thereof, or of composition of the mortgage or other indebtedness, or both, the court shall have jurisdiction and may by its order confirm and approve such settlement or composition, or both, as the case may be.

(b) The court shall have the same jurisdiction to postpone the enforcement of judgment by execution sale, or to order re-sale, or give other relief where such judgment is rendered in an action to collect a debt or obligation secured by real estate mortgage or other lien, the foreclosure of which might be effected under the terms of this act, as is conferred by this act, with regard to the mortgage or other lien, or the cancellation of a contract, or the enforcement of an obligation for rent.

§ 5. Where any mortgage or other lien upon real estate has

been foreclosed and the period of redemption has not yet expired, or where sale is hereafter had in the case of real estate mortgage or other lien foreclosure proceedings, now pending, or which may hereafter be instituted, prior to the expiration of two years from and after the passage and approval of this act, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage and approval of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1941; or where stay of execution has been granted against the cancellation of a contract or the ejectment of a tenant from premises, for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1941. Provided that the mortgagor or the owner in possession of said property in the case of mortgage foreclosure proceedings, or the lienor or person in possession of said property in the case of foreclosure of such a lien, or the judgment debtor in the case of sale under judgment or execution, or the tenant in case of judgment of eviction, or the vendee in case of a contract of sale of real property, shall, prior to the expiration of the period of redemption, or in case of judgment or eviction or cancellation of land contract within the period of time described in Section 4 hereof, apply to the court having jurisdiction of the matter, on not less than ten days written notice to the mortgagee, the lienee, judgment creditor or plaintiff, or the attorney of either as the case may be, for an order determining the reasonable value of the income of said property, or if the property has no income then the reasonable rental value of the property involved in such sale, cancellation or eviction, and directing and requiring such mortgagor, lienor, vendee, tenant or other judgment debtor to pay all or a reasonable part of such income or rental value in or toward the payment of taxes, insurance, interest, mortgage, or judgment indebtedness, at such time and in such manner as shall be fixed and determined and ordered by the court; provided, however, that in fixing the rental value of farm lands, the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, lienor, vendee, tenant or judgment debtor of such an amount, at such times and in such manner as to the court shall, under all circumstances, appear just and equitable, and provided that upon the service of notice or demand aforesaid, that the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor, lienor, vendee, tenant, or judgment debtor or personal representative shall default in the payments, or any of them, in such order required on his part to be done, or commits waste, his right of redemption from said sale shall terminate thirty days after such default, and holders of subse-

quent liens may redeem in the order and manner now provided by law beginning thirty days after the filing of notice of such default with the clerk of court, and his right to possession shall cease, and the party acquiring title to such real estate shall then be entitled to immediate possession of said premises. If default is claimed by allowance of waste, such thirty day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any real estate mortgage or other lien foreclosure, or judgment, or execution sale heretofore made which otherwise cannot expire less than thirty days after the passage and approval of this act, shall be, and the same hereby is extended to a date thirty days after the passage and approval of this act, and in such case the mortgagor, lienor, vendee, tenant or judgment debtor, or the assignee or personal representative of either, as the case may be, or the owner in possession of the real property may, prior to said date, apply to said court for, and the court may thereupon grant, the relief as hereinbefore and in this section provided. Provided, further, that prior to July 1, 1941, no action shall be maintained in this State for a deficiency judgment until the period of redemption, as allowed by existing laws or as extended under the provisions of this act, has expired; provided, however, that the provisions of the act shall not be construed as a repeal of Chapter 155 of the Session Laws of 1933 or any other similar enactment.

§ 6. Upon application of either party, prior to the expiration of the extended period of redemption as provided for in this act, and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms in such manner as the changed circumstances and conditions may require.

§ 7. The trial of any action, hearing or proceedings mentioned in this act shall be held within twenty days after the filing by either party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during vacation of the court, and the order of the court shall be filed within five days after trial or hearing. No more than five days' stay shall be granted, and review by the Supreme Court may be had by certiorari, if application for the writ shall be made within 15 days after the filing of such order.

§ 8. Every law and all the provisions thereof now in force insofar as inconsistent with the provisions of this act, are hereby suspended until July 1, 1941. No extension of the period for redemption, nor any postponement of sale judgment on execution shall be ordered or allowed under this act which would have the effect of extending the period of redemption or enforcement of judgment beyond July 1st, 1941.

§ 9. This act as to mortgage or other lien foreclosures shall apply only to mortgages or contracts or liens made prior to the passage and approval of this act, but shall not apply to mortgages, liens, contracts or leases made prior to the passage of this act which shall hereafter be renewed or extended for a period ending more than one year after the passage of this act. Neither shall this act apply in any way which would allow a re-sale, stay, postponement, or extension to such time that any right might be adversely affected by the statute of limitations.

§ 10. The provisions of this act shall not apply to any mortgage, lien, contract or lease while such mortgage is held by the United States or any agency, department, bureau, board, instrumentality or commission thereof, as security or pledge of the maker, its executors or assigns, nor shall the provisions of this act apply to any mortgage holder as security or pledge to secure payment of a public debt, or to secure payment of the deposit of public funds, nor shall the provisions of this act apply to notes and obligations incurred under Title I and to insure mortgages issued under Title II of the National Housing Act, including the Land Bank Commissioner, a Federal Land Bank, a Federal Intermediate Credit Bank, a Production Credit Association, a Bank for Co-operatives, and a Regional Agricultural Credit Corporation.

§ 11. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

§ 12. This act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 15, 1939.

MOTOR VEHICLES

CHAPTER 166

H. B. No. 302—(Committee on Highways and Bridges)

REGULATION OF AGRICULTURAL CARRIERS

An act to amend Sections 1, 3 and 15 of Chapter 164 of the Session Laws of North Dakota for the Year 1933, and acts amendatory thereof and supplementary thereto; defining and classifying agriculture carriers and providing for their licensing, regulations and exemption; and providing for the enforcement of the provisions of this act, and for penalties for the violation thereof, repealing all acts and parts of acts in conflict herewith; and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 164 of the Session Laws of North Dakota for the year 1933, and acts amendatory thereof or supplementary thereto, be amended by adding thereto the classification of "Agricultural Carrier"; and that Section 1 of said Chapter be amended and re-enacted to read as hereinafter provided.

§ 1. DEFINITION.] (a) The term "agricultural carrier" when used in this act, shall mean any person, firm or association, hauling or transporting, for compensation, grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies from the farm where such products are produced, grown or further processed, to the market, town or place where such grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies are sold, stored, disposed of, purchased or acquired; and the hauling or transporting of grain, seed, feed, poultry, livestock, dairy products, or any other agricultural products or farm supplies from the market, town, or place where the same is purchased or acquired to the farm where the same is to be used, consumed, or further processed.

(b) (1) The term "motor vehicle" when used in this act, shall mean any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of the State for the purpose of transporting persons or property. (2) The term "public highway" when used in this act shall mean every public street, alley, road or highway or thoroughfare of any kind used by the public. (3) The term "commission" means the Board of Railroad Commissioners of the State of North Dakota. (4) The term "person" means and includes an individual, firm, co-partnership, corporation, company, association, or their lessees, trustees or receivers.

(c) This act shall not apply to any farmer, or association of

farmers, engaged in operating or controlling a motor vehicle engaged in the transportation of grain, seed, feed, poultry, livestock, dairy products, any other agricultural products or farm supplies from the farm where such products are produced, grown, or further processed, to the market, town or place where such products are sold, stored, disposed of, when so transported by the producer thereof, or by an association of such producers transporting such products of its producer members, or the transporting of such goods from the market, town or place where the same is purchased or acquired to the farm where the same is to be used, consumed, or further processed, by such farmer, or association. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

(d) All agricultural carriers are hereby declared to be affected with the public interest and subject to the laws of this State, now in force or that hereafter may be enacted, pertaining to agricultural carriers as far as applicable, and not in conflict herewith.

(e) No agricultural carrier shall operate any motor vehicle for hire on any public highway in this State except in accordance with the provisions of this act.

(f) The commission is vested with the power and authority to do all things necessary to carry out and enforce the provisions of this act, and shall, upon application, issue an agricultural carrier's permit in accordance with the provisions of this act for which the applicant shall pay the sum of twenty-five dollars (\$25.00) annually.

(g) Every agricultural carrier shall at the time of making application for a permit and annually thereafter on April 15th of each calendar year, pay a fee of fifteen dollars (\$15.00) for each vehicle, for the purposes of the safety regulations in said chapter contained.

(h) The commission shall prescribe forms of applications for agricultural carrier permits and shall make regulations for the filing thereof. Said application shall contain a statement by the applicant that he will confine the operation of his motor vehicle or vehicles within the limitations of this act, pertaining to agricultural carriers, and that he consents to be governed by the safety regulations now in force, or may hereafter be enacted or prescribed.

(i) An agricultural carrier shall be specifically exempt from making any showing of public convenience and necessity, from any requirements as to insurance, and from any schedule as to rates.

§ 2. AMENDMENT.] That Section 3 of Chapter 164 of the Session Laws of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 3. This act shall not apply to common motor carriers who shall operate wholly within a city or village of this State, or not

to exceed two miles from the corporate or recognized limits of such city or village, and this act shall not apply to any farmer or association of farmers engaged in operating or controlling a motor vehicle engaged in the transportation of grain, seed, feed, poultry, dairy products, livestock, or other agricultural products from the farm where such products are produced or grown, to the market, when so transported either by the producer thereof or by an association of such producers, or the transporting of goods from market to farm by such farmer or such association. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

§ 3. AMENDMENT.] That Section 15 of Chapter 164 of the Session Laws of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 15. This act shall not apply to contract motor carriers of property or passengers who shall operate wholly within a city or village of this State, or within not to exceed two miles thereof, or who are engaged exclusively in the transportation of children to or from school, or rural mail carriers, or persons or farmers, or associations of farmers, operating or controlling a motor vehicle engaged in hauling grain, poultry, dairy products, livestock or other agricultural products from the farm where such products are produced to the market by the producing farmer, or association of such farmers, or the transporting of goods from market by such farmers, or association of such farmers. This act shall not apply to the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally.

§ 4. Any person operating such motor vehicle without first obtaining such permit from the commission, or operating the same contrary hereto, shall be guilty of a misdemeanor and punishable for such.

§ 5. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 16, 1939.

CHAPTER 167

S. B. No. 225—(Committee on Insurance)

FINANCIAL RESPONSIBILITY ACT

An act relating to the giving of proof of financial responsibility by owners and operators of motor vehicles and to make uniform the law with reference thereto.

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

ARTICLE I.

WORDS AND PHRASES DEFINED.

§ 1. DEFINITIONS.] The following words and phrases when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this article.

§ 2. (a) *Commissioner*—The Commissioner of the North Dakota State Highway Department.

(b) *Department*—The State Highway Department of this State acting directly or through its duly authorized officers and agents.

§ 3. (a) *Person*—Every natural person, firm, copartnership, association, or corporation.

(b) *Operator*—Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway.

(c) *Chauffeur*—Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation.

(d) *Owner*—A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this act.

(e) *Nonresident*—Every person who is not a resident of this State.

§ 4. (a) *Vehicle*—Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(b) *Motor Vehicle*—Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

§ 5. *Street or Highway*—The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purpose of vehicular travel.

§ 6. *State*—Any State of the United States, the District of Columbia, or any Province of the Dominion of Canada.

ARTICLE II.

WHEN PROOF OF FINANCIAL RESPONSIBILITY REQUIRED. DUTIES OF COMMISSIONER.

§ 7. COMMISSIONER TO ADMINISTER ACT.] (a) The commissioner shall administer and enforce the provisions of this act.

(b) The commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary for the administration of this act.

§ 8 PROOF REQUIRED UPON CERTAIN CONVICTIONS.] (a) Whenever the commissioner is required under any law of this State to suspend or revoke the operator's or chauffeur's license of any person upon receiving record of the conviction of such person for any offense under the motor vehicle laws of this State, the commissioner upon receiving such record shall forthwith without notice or hearing suspend or revoke the license of such person as required.

(b) In any event hereinbefore stated the commissioner shall also suspend any and all of the registration certificates or cards and registration plates issued for any motor vehicle registered in the name of the person so convicted as owner except that he shall not suspend such evidences of registration in the event such owner has previously given or shall immediately give and thereafter maintain, for a period of three years, proof of financial responsibility in the manner hereinafter specified in this act with respect to each and every motor vehicle owned and registered by such person.

(c) The suspensions or revocation hereinbefore required shall remain in effect and the commissioner shall not issue to any such person any new or renewal of license or register or reregister in the name of such person any motor vehicle until permitted under the motor vehicle laws of this State and not then unless and until said person gives proof of his financial responsibility in future as hereinafter provided in this act.

(d) The commissioner shall take action as required in this section upon receiving proper evidence of any such conviction of any person in another State.

(e) For the purposes of this act the term conviction shall include a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, upon a charge which upon conviction of the defendant requires the commissioner to suspend or revoke the license of such person.

§ 9. PROOF REQUIRED IN THE EVENT OF CERTAIN JUDGMENTS.]

(a) The commissioner shall also suspend the operator's and chauffeur's license and all registration certificates or cards and registration plates issued to any person upon receiving authenticated report as hereinafter provided that such person has failed for a period of 30 days to satisfy any final judgment in amounts and upon a cause of action as hereinafter stated.

(b) The judgment hereinbefore referred to shall mean a final judgment of any court of competent jurisdiction in any State or of the United States against a person as defendant upon a cause of action as hereinafter stated.

(c) The judgment herein referred to shall mean any final judgment for damage to property in excess of twenty-five dollars (\$25.00) or for damages in any amount on account of bodily injury to or death of any person resulting from the operation of any motor vehicle upon a highway.

(d) This act shall not apply to any such judgment rendered against this State or any political subdivision thereof or any municipality therein.

§ 10. SUSPENSION EFFECTIVE UNTIL JUDGMENT SATISFIED AND PROOF GIVEN OF FINANCIAL RESPONSIBILITY.] (a) The suspensions required in Section 9 shall remain in effect and no other motor vehicle shall be registered in the name of such judgment debtor nor any new license issued to such person unless and until such judgment is satisfied or stayed and the judgment debtor gives proof of financial responsibility in future, as hereinafter provided, except under the conditions as herein stated in the next succeeding sections.

§ 11. PAYMENTS SUFFICIENT TO SATISFY REQUIREMENTS OF ACT.] Every judgment herein referred to shall for the purposes of this act be deemed satisfied.

1. When five thousand dollars (\$5,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of one person as the result of any one accident; or

2. When, subject to said limit of five thousand dollars (\$5,000.00) as to one person, the sum of ten thousand dollars (\$10,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of more than one person as the result of any one accident; or

3. When one thousand dollars (\$1,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for damage to property of others in excess of one hundred dollars (\$100.00) as a result of any one accident.

Credit for such amounts shall be deemed a satisfaction of any

such judgment or judgments in excess of said amounts only for the purposes of this act.

Whenever payment has been made in settlement of any claims for bodily injury, death, or property damage arising from a motor vehicle accident resulting in injury, death, or property damage to two or more persons in such accident, any such payment shall be credit in reduction of the amounts provided for in this section.

§ 12. SUSPENSION WAIVED UPON PAYMENT OF JUDGMENT IN INSTALLMENTS.] (a) The commissioner shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following nonpayment of a final judgment when the judgment debtor gives proof of financial responsibility in future and when the judgment debtor obtains an order from the trial court in which such judgment was rendered, permitting the payment of such judgment in installments and while the payment of any said installment is not in default.

(b) A judgment debtor upon 5 days notice to the judgment creditor may apply to the trial court in which the judgment was obtained for the privilege of paying such judgment in installments and the court in its discretion and without prejudice to any other legal remedies which the judgment creditor may have may so order, fixing the amounts and times of payment of the installments.

(c) In the event the judgment debtor fails to pay any installment as permitted by the order of the court, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until said judgment is satisfied as provided in this act.

§ 13. DUTY OF COURTS TO REPORT CONVICTION AND JUDGMENTS.] (a) The clerk of a court or the judge of a court which has no clerk in which any person is convicted of any offense under the laws of this State which requires the commissioner to suspend or revoke the operator's or chauffeur's license of any person shall, when such conviction has become final, or in such other event as stated in Section 8 (e) hereof, forthwith forward to the commissioner a certified record of such conviction or of the proceedings upon such charge.

(b) The clerk of a court or the judge of a court which has no clerk shall forward to the commissioner a certified record of any judgment for damages, the rendering and non-payment of which judgment requires the commissioner to suspend the operator's or chauffeur's license and registrations in the name of the judgment debtor hereunder, such record to be forwarded to the commissioner immediately upon the expiration of 30 days after such judgment has become final and when such judgment has not been stayed or satisfied within the amounts specified in this act, as shown by the records of the court.

§ 14. REQUIRED SUSPENSION AND PROOF UPON SECOND JUDGMENT NOT SATISFIED.] Whenever, after one judgment is satisfied and proof of financial responsibility is given as herein required, another such judgment is rendered against the judgment debtor for any accident occurring prior to the date of the giving of said proof and such person fails to satisfy the latter judgment within the amounts specified herein within 30 days after the same becomes final, then the commissioner shall again suspend the operator's or chauffeur's license of such judgment debtor and the registration of any vehicle registered in the name of such judgment debtor as owner and shall not renew the same and shall not issue to him any operator's or chauffeur's license or registration of any vehicle while such latter judgment remains in effect and unsatisfied within the amounts specified herein.

§ 15. ACTION AGAINST NONRESIDENT.] (a) All of the provisions of this act shall apply to any person who is not a resident of this State, and if such non-resident has been convicted of an offense which would require the suspension or revocation of the license of a resident or if such non-resident has failed to satisfy a judgment within 30 days after the same became final, which would require suspension or revocation hereunder in respect to a resident, then in either such event such non-resident shall not operate any motor vehicle in this State nor shall any motor vehicle owned by him be operated within this State by any person and the commissioner shall not issue to such non-resident any operator's or chauffeur's license or register any motor vehicle owned by such non-resident unless and until such non-resident shall give proof of financial responsibility and shall satisfy any such judgment all as required with respect to a resident of this State.

(b) The commissioner shall transmit a certified copy of any record of any such conviction of a non-resident to the motor vehicle commissioner or State officer performing the functions of a commissioner in the State in which such non-resident resides and shall likewise forward to such officer a certified record of any unsatisfied judgment rendered against such non-resident which requires suspension of such non-resident's driving privileges in this State.

§ 16. OWNER MAY GIVE PROOF FOR CHAUFFEUR OR MEMBER OF FAMILY.] Whenever the commissioner determines that any person required to give proof hereunder by reason of a conviction is not the owner of a motor vehicle but was at the time of such conviction a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle or a member of the immediate family or household of the owner of a motor vehicle, the commissioner shall accept proof of financial responsibility given by such owner in lieu of proof given by such other person so long as such latter person is operating a motor vehicle for which the owner has given proof as herein provided. The commissioner shall

designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license. No such license shall be reinstated or any new license issued until otherwise permitted under the laws of this State.

§ 17. SURRENDER OF LICENSE AND EVIDENCES OF REGISTRATION.] (a) Any person whose operator's or chauffeur's license or registration plates have been suspended as provided in this act and have not been reinstated shall immediately return every such license, registration certificates, and registration plates held by such person to the commissioner. Any person willfully failing to comply with this requirement is guilty of a misdemeanor.

(b) The commissioner is hereby authorized to take possession of any license, registration card, or registration plate upon the suspension thereof under the provisions of this act or to direct any peace officer to take possession thereof and to return the same to the officer [office] of the commissioner.

ARTICLE III.

REQUIRED PROOF OF FINANCIAL RESPONSIBILITY.

§ 18. AMOUNT OF PROOF REQUIRED.] Proof of financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred resulting from the ownership, maintenance, use, or operation of a motor vehicle for bodily injury to or death of any one person in the amount of five thousand dollars (\$5,000.00), and subject to said limit for any one person injured or killed, in the amount of ten thousand dollars (\$10,000.00) for bodily injury to or death of two or more persons in any one accident, and for damage to property in the amount of one thousand dollars (\$1,000.00) resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle registered by such person.

§ 19. ALTERNATE METHODS OF GIVING PROOF.] Proof of financial responsibility when required under this act may be given by the following alternate methods: either by proof that a policy or policies of liability insurance have been obtained and are in full force and effect or that a bond has been duly executed or that deposit has been made of money or securities all as hereinafter provided.

§ 20. CERTIFICATE SHOWING INSURANCE POLICY OBTAINED.] (a) Proof of financial responsibility may be made by filing with the commissioner the written certificate or certificates of any insurance carrier duly authorized to do business in this State, certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured a motor vehicle liability policy or policies, or in certain events an operator's policy, meeting the requirements of this act and that said policy or policies are then in full force and effect. Such certificate or certificates shall give

the dates of issuance and expiration of such policy or policies and certify that the same shall not be cancelled unless 10 days' prior written notice thereof be given to the commissioner and shall explicitly describe all motor vehicles covered thereby, unless the policy or policies are issued to a person who is not the owner of a motor vehicle.

(b) The commissioner shall not accept any certificate or certificates unless the same cover all motor vehicles registered in the name of the person furnishing such proof as owner and an additional certificate or certificates shall be required as a condition precedent to the subsequent registration of any motor vehicle or motor vehicles in the name of the person giving such proof as owner.

§ 21. RESTRICTIONS IN OPERATING MOTOR VEHICLES WHEN CERTAIN TYPE OF POLICY ISSUED.] (a) When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate. In such event the commissioner shall designate the above restriction upon the operator's or chauffeur's license of such person.

(b) In the event the owner of a motor vehicle or motor vehicles desires to be relieved of the foregoing restriction and to be permitted to drive any other motor vehicle he may have such restrictions removed upon filing a certificate showing that there has been issued to him a policy of insurance insuring him as insured against liability imposed by law upon such insured for bodily injury to or death of any person or damage to property to the amounts and limits as provided under Section 23 of this act with respect to any motor vehicle operated by him and which otherwise complies with the requirements of this act with respect to such type of policy. Such policy is hereinafter referred to as an operator's policy.

(c) When the person required to give proof of financial responsibility is not the owner of a motor vehicle then an operator's policy of the type and coverage described in the preceding paragraph shall be sufficient under this act.

§ 22. CERTIFICATE FURNISHED BY NONRESIDENT.] (a) The nonresident owner of a foreign vehicle may give proof of financial responsibility by filing with the commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the State in which the motor vehicle or motor vehicles described in such certificate is registered or if such nonresident does not own a motor vehicle then in the State in which the insured resides and otherwise conforming to the provisions of this act and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions of this section.

1. Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State.

2. Said insurance carrier shall duly adopt a resolution which shall be binding upon it, declaring that its policies shall be deemed to be varied to comply with the law of this State relating to the terms of motor vehicle liability policies issued herein.

3. Said insurance carrier shall also agree to accept as final and binding any final judgment of any court of competent jurisdiction in this State duly rendered in any action arising out of a motor vehicle accident.

(b) If any foreign insurance carrier which has qualified to furnish proof of financial responsibility as hereinbefore required defaults in any said undertakings or agreements, the commissioner shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered as proof of financial responsibility so long as such default continues.

§ 23. MOTOR VEHICLE LIABILITY POLICY.] (a) 1. A motor vehicle liability policy as said term is used in this act shall mean a policy of liability insurance issued by an insurance carrier authorized to transact business in this State to or for the benefit of the person named therein as insured which policy shall meet the following requirements:

2. Said policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby intended to be granted.

3. Said policy shall insure the person named therein and any other person using or responsible for the use of said motor vehicle or motor vehicles with the express or implied permission of said insured.

4. Said policy shall insure every said person on account of the maintenance, use or operation of said motor vehicle or motor vehicles within the continental limits of the United States or the Dominion of Canada against loss from the liability imposed by law arising from such maintenance, use or operation to the extent and aggregate amount, exclusive of interest and costs, with respect to each such motor vehicle, of five thousand dollars (\$5,000.00) for bodily injury to or death of one person as a result of any one accident and, subject to said limit as to one person, the amount of ten thousand dollars (\$10,000.00) for bodily injury to or death of all persons as a result of any one accident and the amount of one thousand dollars (\$1,000.00) for damage to property of others as a result of any one accident.

(b) When an operator's policy is required it shall insure the person named therein as insured against the liability imposed by

law upon the insured for bodily injury to or death of any person or damage to property to the amounts and limits above set forth and growing out of the use or operation by the insured within the continental limits of the United States or the Dominion of Canada of any motor vehicle not owned by him.

(c) Any liability policy or policies issued hereunder need not cover any liability of the insured assumed by or imposed upon said insured under any workman's compensation law nor any liability for damage to property in charge of the insured or the insured's employees.

(d) Any such policy may, however, grant any lawful coverage in excess of or in addition to the coverage herein specified or contain any agreements, provisions or stipulations not in conflict with the provisions of this act and not otherwise contrary to law.

(e) Any motor vehicle liability policy which by endorsement contains the provisions required hereunder shall be sufficient proof of ability to respond in damages.

(f) The department may accept several policies of one or more such carriers which together meet the requirements of this section.

(g) Any binder pending the issuance of any policy, which binder contains or by reference includes the provisions hereunder shall be sufficient proof of ability to respond in damages.

§ 24. ADDITIONAL REQUISITES OF MOTOR VEHICLE LIABILITY POLICY.] No motor vehicle liability policy or operator's policy shall be accepted as proof of ability to respond in damages hereunder unless and until all of the following requirements of this section shall be complied with.

(a) A copy of the form of such policy shall be filed with the Commissioner of Insurance who shall within 30 days approve or disapprove the same. If the Commissioner of Insurance approves the same within such time or fails to take action for 30 days the form of policy shall be deemed approved. If within said 30 days the Commissioner of Insurance disapproves such form of policy upon the ground that it does not comply with the requirements of this act he shall give written notice thereof and his reasons therefor to the carrier and said policy shall not be accepted as proof of financial responsibility under this act. Any said form of policy shall specify the name, address, and business, if any, of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability and shall contain an agreement that the insurance thereunder is provided in accordance with the coverage defined in this act as respects bodily injury and death or property damage or both and is subject to all the provisions of this act.

(b) Every motor vehicle liability policy and every operator's

policy accepted as proof under this act shall be subject to the following provisions whether or not contained therein.

1. The liability of the insurance carrier under any such policy shall become absolute whenever loss or damage covered by such policy occurs and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or obligation of the carrier to make payment on account of such loss or damage.

2. The insurance carrier shall, however, have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in the policy.

3. No such policy shall be cancelled or annulled as respects any loss or damage by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage and any such cancellation or annulment shall be void.

4. The policy may provide that the insured, or any other person covered by the policy, shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits specified in this act, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured, and any such policy may further provide for the pro-rating of the insurance thereunder with other applicable valid and collectible insurance.

5. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this act shall constitute the entire contract between the parties.

§ 25. WHEN INSURANCE CARRIER TO ISSUE CERTIFICATES.] An insurance carrier who has issued a motor vehicle liability policy or policies or an operator's policy meeting the requirements of this act shall upon request of the insured therein deliver to the insured for filing, or at the request of the insured shall file direct with the commissioner, an appropriate certificate showing that such policy or policies have been issued, which certificate shall meet the requirements of this act.

§ 26. NOTICE REQUIRED BEFORE CANCELLATION.] When an insurance carrier has certified a motor vehicle liability policy under this act it shall give 10 days' written notice to the commissioner before cancellation of such policy and the policy shall continue in full force and effect until the date of cancellation specified in such notice or until its expiration.

§ 27. ACT NOT TO AFFECT OTHER POLICIES.] (a) This act shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if endorsed to conform to the requirements of this act, shall be accepted as proof of financial responsibility when required under this act.

(b) This act shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, operation, or use by persons in the insured's employ or in his behalf of motor vehicles not owned by the insured.

§28. FILING A BOND AS PROOF OF FINANCIAL RESPONSIBILITY.]

(a) A person required to give proof of financial responsibility may file with the commissioner a bond meeting the requirements of this section.

(b) Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this State or by the person giving such proof and by two individual sureties, each owning real estate within this State and having an equity therein in the amount of such bond, which real estate shall be scheduled therein, and the commissioner shall not accept any such real estate bond unless it is first approved by a judge of a court of record.

(c) The commissioner shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstance as would be required in a motor vehicle liability policy furnished by the person giving such proof under this act.

(d) No such bond shall be cancelled unless 10 days' prior written notice of cancellation is given the commissioner but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

(e) Whenever a judgment is obtained against the principal of any such real estate bond upon a liability covered by the conditions of such bond and a notice to that effect is filed in the office of (the proper clerk or court of the county or city) where such real estate is located, then such bond shall constitute a lien upon such real estate.

(e) (*Alternate*). Before any said real estate bond is accepted by the commissioner it shall be recorded as other instruments affecting real property in the county or counties wherein any real estate described therein is located. Any liability covered by the conditions of said bond shall constitute a lien upon such real estate effective as of the date said bond is so recorded.

(f) If a judgment is rendered against the principal of any such surety or real estate bond upon a liability covered by the

conditions of such bond and such judgment is not satisfied within 30 days after it becomes final, then the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons who executed such bond including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond, which foreclosure action shall be brought in like manner and subject to all the provisions of law applicable to an action to foreclose a mortgage upon real estate.

§ 29. MONEY OR SECURITIES DEPOSITED AS PROOF OF FINANCIAL RESPONSIBILITY.] (a) A person may give proof of financial responsibility by delivering to the commissioner a receipt of the Treasurer of this State showing the deposit with said Treasurer of money in an amount or securities approved by said Treasurer and of a market value in a total amount as would be required for coverage in a motor vehicle liability policy furnished by the person giving such proof under this act. Such securities shall be of a type which may legally be purchased by savings banks or for trust funds.

(b) All money or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this act but shall not otherwise be subject to attachment or execution.

(c) The State Treasurer shall not accept any such deposit or issue a certificate therefor, and the commissioner shall not accept such, certificate unless accompanied by evidence that there are no unsatisfied judgments against the depositor registered in the office of the county clerk of the county where the depositor resides.

§ 30. TRANSFER AFTER SUSPENSION OF REGISTRATION.] This act shall not prevent the owner of a motor vehicle, the registration of which has been suspended hereunder, from effecting a bona fide sale of such motor vehicle to another person whose rights or privileges are not suspended under this act nor prevent the registration of such motor vehicle by such transferee.

§ 31. PERSON HAVING GIVEN PROOF MAY SUBSTITUTE OTHER PROOF.] The commissioner shall cancel any bond or return any certificate of insurance, or the commissioner shall direct and the State Treasurer shall return any money or securities to the person entitled thereto, upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this act.

§ 32. IF PROOF FAILS COMMISSIONER MAY REQUIRE OTHER PROOF.] Whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this act no longer fulfills the purpose for which required, the commissioner shall, for the purpose of this act, require other evidence of ability to respond in damages as required by this act, and shall suspend

the operator's license, chauffeur's license, and registration certificates and registration plates of such person pending such proof.

§ 33. WHEN COMMISSIONER MAY RELEASE PROOF.] The commissioner shall upon request cancel any bond or return any certificate of insurance, or the commissioner shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this act as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

1. At any time after 3 years from the date such proof was required when during the 3-year period preceding the request the person furnishing such proof has not been convicted of any offense referred to in Section 8 of this act; or

2. In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or

3. In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates, and registration plates to the commissioner, but the commissioner shall not release such proof in the event any action for damages upon a liability referred to in this act is then pending or any judgment upon any such liability then outstanding and unsatisfied or in the event the commissioner has received notice that such person has within the period of 3 months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the nonexistence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

Whenever any person to whom proof has been surrendered, as provided in the foregoing paragraph, applies for an operator's or chauffeur's license or the registration of a motor vehicle within a period of 3 years from the date proof of financial responsibility was originally required any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such period.

§ 34. COMMISSIONER TO FURNISH OPERATING RECORD.] The commissioner shall upon request furnish any insurance carrier or any person or surety a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there is no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided, the commissioner shall so certify. The commissioner shall collect for each such certificate the sum of two dollars (\$2.00). Such record shall not be

admissible as evidence in any action for damages or criminal proceeding arising out of a motor vehicle accident.

ARTICLE IV.

VIOLATION OF PROVISIONS OF ACT — PENALTIES

§ 35. OPERATING WITHOUT GIVING PROOF WHEN PROOF REQUIRED.] Any person whose operator's or chauffeur's license or registration card or other privilege to operate a motor vehicle has been suspended or revoked and restoration thereof or issuance of a new license or registration is contingent upon the furnishing of proof of financial responsibility and who during such suspension or revocation or in the absence of full authorization from the commissioner drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway except as permitted hereunder shall be punished by imprisonment for not less than 7 days nor more than 6 months and there may be imposed in addition thereto a fine of not more than five hundred dollars (\$500.00).

§ 36. FORGING OR WITHOUT AUTHORITY SIGNING EVIDENCE OF ABILITY TO RESPOND IN DAMAGES.] Any person who forges or without authority signs any evidence of ability to respond in damages as required by the commissioner in the administration of this act shall be punished by imprisonment for not more than 90 days or by fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or both such fine and imprisonment.

§ 37. OTHERWISE VIOLATING ACT.] Any person who violates any provision of this act for which another penalty is not prescribed by law shall be punished by imprisonment for not more than 90 days or by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or both.

ARTICLE V.

EFFECT OF AND SHORT TITLE OF ACT.

§ 38. ACT NOT TO REPEAL OTHER MOTOR VEHICLE LAWS.] This act shall in no respect be considered as a repeal of the provisions of the State motor vehicle laws but shall be construed as supplemental thereto.

§ 39. UNIFORMITY OF INTERPRETATION.] This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

§ 40. SHORT TITLE.] This act may be cited as the Uniform Motor Vehicle Safety Responsibility Act.

§ 41. ACT NOT RETROACTIVE.] This act shall not have a retroactive effect and shall not apply to any judgment or cause of

action arising out of an accident occurring prior to the effective date of this act.

§ 42. THIS ACT DOES NOT PREVENT OTHER PROCESS.] This act shall not be construed to prevent the plaintiff in any action at law from relying for security upon the other processes provided by law.

§ 43. CONSTITUTIONALITY.] If any part or parts of this act shall be held unconstitutional such unconstitutionality shall not affect the validity of the remaining part of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

§ 44. The (existing motor vehicle safety responsibility act) is hereby repealed.

§ 45. TIME OF TAKING EFFECT.] This act shall take effect from and after the 1st day of July, 1939.

Approved March 15, 1939.

CHAPTER 168

H. B. No. 279—(Committee on Highways and Bridges)

MOTOR VEHICLE REGISTRATION AMENDMENT

An act to amend and re-enact Subdivisions (a) and (c) of Section 19 of Chapter 179 of the 1927 Session Laws as amended by Section 6 of Chapter 160 of the 1933 Session Laws; providing for the registration of motor vehicles, registration fees for motor vehicles except trucks and busses, and when all motor vehicle fees shall become delinquent, and penalties therefor; and repealing all acts and parts of acts in conflict herewith, emergency.

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

§ 1. AMENDMENT.] That Subdivisions (a) and (c) of Section 19 of Chapter 179 of the 1927 Session Laws as amended by Section 6 of Chapter 160 of the 1933 Session Laws be enacted and re-enacted to read as follows:

§ 19. (a) A non-resident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current calendar year in the State, county or other place of which the owner is a resident and which, at all times when operated in this State, has displayed upon it the numbered plate or plates issued for such vehicle and legally required in the place of residence of such owner, may operate or permit the opera-

tion of such vehicle within this State without registering the said vehicle or paying fees to this State therefor, for a total period of not longer than thirty days, in any one registration year, if, under the law of the State of the residence of such owner, as great or greater privileges are granted to vehicles duly registered under the laws and owned by residents of this State.

The Registrar, with approval of the Governor and the chairman of the Board of Railroad Commissioners is hereby authorized to enter into reciprocal agreements not contrary to any provisions of this act with duly authorized officials of other states whereby foreign vehicles may be operated on the highways of this State without North Dakota registration plates, provided, however, that said vehicles are duly registered for the current year in the State where the owner resides.

(c) And except further, that every non-resident, including any foreign corporation, owning and operating any motor vehicle in its business within this State, shall be required to register each such vehicle and pay the same fees therefor as are now required with reference to like vehicles owned by residents of this State, provided, further, that such owner may operate such vehicle within this State for a total time of not to exceed thirty days in any one registration year if such vehicle displays the current legal license required by the State of the owner's residence, and provided the laws of such State allow an equal or greater privilege to such vehicles duly registered under our laws and owned by residents of this State.

The registration fee for the year in which any vehicle covered by this act was purchased new from the dealer shall be the basic fee as above determined. There shall be a reduction of 10% of the basic fee each year thereafter for 4 years, and 5% each year after 4 years. A minimum fee shall be \$3.00; provided, however, that any car which has reached a fee basis of \$3.00 under the existing law shall not be raised from that fee.

§ 2. REPEAL.] And repealing all acts and parts of acts in conflict herewith.

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

Approved March 13, 1939.

CHAPTER 169

S. B. No. 90—(Committee on Appropriations)

APPLICATION OF MOTOR VEHICLE AND GASOLINE
TAXES FOR HIGHWAY PURPOSES

An act to amend and re-enact Chapter 166 of the Session Laws of North Dakota for the year 1937, relating to the application to highway purposes of all special taxes on motor vehicle transportation and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 166 of the Session Laws of North Dakota for the year 1937 be amended and re-enacted to read as follows:

§ 1. The proceeds, after deduction of costs of administration and collection authorized by legislative appropriation only, from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor vehicle owners and operators, except drivers license fees, shall be applied only to construction, improvement, and maintenance of highways and administration expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes.

§ 2. REPEAL.] All other acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 3, 1939.

CHAPTER 170

H. B. No. 341—(Schauss, Schimke, Sharpe and Hougland)

ONE CENT GASOLINE TAX

An act assessing and levying from April 1, 1939 to July 1, 1941 on all licensed dealers of motor vehicle fuels, a special license tax of one cent per gallon of motor vehicle fuels used or sold by them in addition to all other taxes now imposed upon them, appropriating the proceeds of such special tax to the State Highway Fund for specific purposes, making all provisions of initiated measures approved July 30, 1926 and known as the "Motor Vehicle Fuel Tax Law," other than division of proceeds between the State and counties and for costs of administration and collection, applicable to said special license tax and declaring an emergency.

WHEREAS, under acts of Congress relating to grants of monies by the Federal Government to the States for the purpose of constructing and improving highways, there is available to this State out of Federal funds for highway purposes a sum amounting to approximately \$1,732,000.00, which sum will revert and lapse on June 30, 1939, unless this State can furnish funds to match the aforesaid sum, and

WHEREAS, additional sums are available in 1939, 1940 and 1941 for State aid and feeder highways that will total upward of \$7,000,000.00, and

WHEREAS, all of said Federal highway funds will become lost to this State and our citizens will be deprived of the benefits to be derived from the expenditures in this State of these Federal funds, unless this State is able to furnish for highway construction and improvement purposes an amount approximately equal to the amount to be derived from the Federal Government, and

WHEREAS, the completion of this proposed highway construction and improvement at a total cost of approximately \$15,000,000.00 in the years 1939, 1940, and 1941 will give employment to about 2,500 men and is of the utmost importance to our citizens under present financial conditions and during our present unemployment period, and

WHEREAS, the matching of said Federal highway grants or so much thereof as may be possible to complete said highway project can be accomplished only by the State through the imposition of a special tax on motor vehicle fuels.

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

§ 1. LEVY, ASSESSMENT, AND APPROPRIATION OF SPECIAL MOTOR VEHICLE FUEL TAX.] From April 1, 1939 and until and up to the first day of July, 1941 every "dealer" in "motor vehicle

fuels," as defined in initiated measure approved June 30, 1926, and amendments thereto and commonly known as the "Motor Vehicle Fuel Tax Law" of this State, shall pay in the manner, at the times and to the officer specified in said initiated measure of June 30, 1926, and apart from and in addition to any license tax or other tax now imposed upon or applicable to said motor vehicle fuels under the laws of this state, a license tax of one cent per gallon on all motor vehicle fuels used and sold by such dealer, and the proceeds of said special license tax of one cent per gallon is hereby appropriated and shall be allocated and transferred to the State Highway Fund as created by statute and be expended for such purposes only mentioned in the statute creating said State Highway Fund as may come within the purview and restrictions of the acts of Congress and all amendments thereto granting regular and secondary Federal aid road funds for the construction and repair of Federal, State and feeder highways within this State. All definitions of terms, method of procedure for assessment and collection, provisions for reports by licensed dealers and revocation of licenses, method and procedure for refunds on tax exempt fuel sold or used, and penalties for violation and other general provisions by context applicable hereto now contained and provided in said initiated measure of June 30, 1926, and amendments thereto, shall apply and are hereby made applicable to the special license tax imposed under the terms and provisions of this act; provided, however, that all indemnity or surety bonds now provided in said initiated measure shall cover the tax hereby imposed and levied and that no bond additional to the ones provided for in said initiated measure shall be required from any licensed dealer or other person on account of the tax herein imposed; and provided further, that the total proceeds of the tax herein imposed shall be covered, as hereinbefore provided, in said State Highway Fund without any deduction whatever, other than deductions for lawful refunds to the persons and for the reasons applicable to the license tax imposed under the provisions of said initiated measure, and without any deduction for administrative and collection cost.

Approved March 16, 1939.

MOTION PICTURES

CHAPTER 171

S. B. No. 281—(Committee on Delayed Bills)

LIMITING LICENSES TO MOTION PICTURE SHOWS

An act to amend and re-enact Section 548a1 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, relating to the licensing of pool halls, dance halls, theatres, moving picture shows, etc.

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

§ 1. AMENDMENT.] Section 548a1 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

“§ 548a1. No pool hall, billiard room, ball alley or pin alley, dance hall, theatre, moving picture show, taxicab or auto livery, or any place where soft drinks are retailed, or where cigars or tobacco are sold, or public hall owned privately and used for public purposes, shall be opened, maintained, operated or conducted within this State unless the owner, proprietor or managing agent thereof shall first secure a license so to do in the manner in this chapter prescribed;

Provided, however, that no new license shall hereafter be issued for the operation of a moving picture show in any city, town or village of this State where one or more moving picture shows are now being operated under license from the State of North Dakota unless it is established to the satisfaction of the licensing authority that the public needs will be more adequately served by the issuance of such additional license, or unless the applicant for such license purchases or leases one of the moving picture shows then in operation.

Provided further, that nothing in this act contained shall be so construed as to prevent the renewal of any license for the operation of a moving picture show which has been issued prior to the effective date of this act.

Approved March 18, 1939.

MUNICIPAL CORPORATIONS

CHAPTER 172

S. B. No. 147—(Blaisdell)

SPECIAL ASSESSMENTS IN CITIES

An act to amend and re-enact Section 3725 of the 1913 Compiled Laws of the State of North Dakota, relating to special assessments, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3725 of the 1913 Compiled Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 3725. NOTICE TO COMMISSION.] Whenever the work for which a special assessment shall be required to be made by such commission shall have been completed, and approved by the city engineer, and the total cost of such work shall have been ascertained as near as practicable, the city auditor shall notify the chairman of such commission of the completion of such work, and shall certify to him the items of the total cost thereof, to be paid by special assessments, so far as the same have been ascertained, and the chairman of such commission shall thereupon immediately call a meeting of such commission, and such commission shall thereupon as expeditiously as possible proceed to make and return such special assessment as hereinafter provided: provided, however, that if such work consists of improvements on or additions to sewers or water mains already installed, or paving already laid, and all bids for such work were rejected and the work done by the city, and if, in the opinion of the engineer, such work can be done in separate sections or work units, it shall not be necessary that all of the work be completed before such assessments be made, and the city council, by resolution, may at any time before or after the work has been commenced, specify what part of the improvements shall constitute a separate section or work unit, and upon completion of the work in one or more of such separate sections or work units, such special assessments may be made in the same manner and with the same force and effect as if all of the work in the entire improvement district had been completed. Provided, further, that failure for any reason to complete the work in any remaining separate section or work unit included within such improvement district shall not affect the validity of the special assessments made or the special assessment warrants issued for the work completed.

§ 2. EMERGENCY.] An emergency is hereby declared to ex-

ist, therefore this act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 173

S. B. No. 28—(Bilden and Fredrickson)

BOND ISSUES FOR CITY WATER AND SEWER SYSTEMS

An act to amend and re-enact Paragraph (c) of Subsection (2) of Section 4 of Chapter 196, Laws of 1927, as amended by Chapter 169, Laws of 1929 and Chapter 195, Laws of 1931, relating to bond issues of cities to permit the issuance of bonds for the joint construction of a water and sewer system and legalizing elections heretofore held to vote bonds for such purpose, and declaring an emergency.

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

§ 1. AMENDMENT.] Paragraph (c) of Subsection (2) of Section 4 of Chapter 196, Laws of North Dakota 1927, as amended by Chapter 169, Laws of 1929 and Chapter 195, Laws of 1931 be and it is hereby amended and re-enacted to read as follows:

“c. For the construction and extension of water plants or purchase of existing plants, construction and improvements of water-mains, sewers and drains, or for the joint construction of a water and sewer system; to provide the erection, planning, construction and establishment of a sewage disposal plant or system; or for the erection and construction and enlargement of garbage disposal plants, and to purchase sites and grounds, either within or without the limits of the city for the disposal of sewage, garbage and other refuse; or for the leasing or purchase of lands, either within or without the limits of the city, for the purpose of providing airports or landing fields or for the construction of buildings thereon or the procuring of equipment therefor, and other like municipal purposes.”

§ 2. All elections heretofore held for the purpose of voting on the issue of bonds for the joint construction of a water and sewer system are hereby declared legal and valid notwithstanding the combination of such purposes in the question submitted to the voters.

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

Approved February 1, 1939.

CHAPTER 174

S. B. No. 182—(Bridston and Nelson of Grand Forks)

CIVIL SERVICE CITY EMPLOYEES, AMENDMENT

An act relating to the status of municipal civil service in municipalities which change their form of government and amending Chapter 173 of the Session Laws of the State of North Dakota for the year 1937.

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

§ 1. AMENDMENT.] Chapter 173 of the Session Laws of the State of North Dakota for the year 1937 is hereby amended by adding Section 7 as follows:

§ 7. In the event that any municipality in the State of North Dakota, which has established a civil service system in compliance with the requirements of this act hereinbefore described, shall duly change the form of municipal government it is the intent and purpose of this law that such civil service provisions as have previously been established shall maintain under the new form of municipal government, except as the municipal council, commission or governing body may see fit to change within the limitations described in this law. It is further declared to be the intent of this law that the municipal governing body, as described in Paragraph 2 Section 2 of this law, shall designate the departments, class of employees and appointive officials of the city who shall come under the civil service, and may subsequently add thereto, except as restricted by the provisions of this law.

Approved March 13, 1939.

CHAPTER 175

H. B. No. 370—(Byrne)

FILING OF FINAL BUDGETS AND TAX LEVIES
BY MUNICIPALITIES

An act to amend and re-enact Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 and requiring the filing of final budgets and annual tax levies.

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

§ 1. AMENDMENT.] Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3684a3. PRELIMINARY BUDGET STATEMENT.] The council

of each municipality shall make annually between July 1st and July 15th of each year on suitable blanks prescribed by the State Tax Commissioner an itemized statement (to be known as the Preliminary Budget Statement) of the amounts of money which, in the opinion of such council, shall be required for the proper maintenance, expansion or improvement of the municipality during the fiscal year and such other information relating to the finances of the municipality as the State Tax Commissioner may require.

§ 2. FILING OF FINAL BUDGETS AND ANNUAL TAX LEVIES.] As soon as the governing board of any municipality subject to the provisions of Article 17a of Chapter 44 of the Political Code of the Supplement to the Compiled Laws of North Dakota for 1913 and acts amendatory thereof and supplementary thereto shall have completed the final budget and shall have adopted the annual tax levy, the auditor or clerk of said municipality shall immediately thereafter send two certified copies of the levy as adopted and two certified copies of the final budget to the county auditor. As soon as the county auditor has available the data showing the total assessed valuation of said municipality, he shall proceed to calculate the necessary tax rates to produce the sums called for in said final budget; provided, however, that if the county auditor shall find that any amount or amounts called for in the levy cannot be produced by a tax rate which is within the limits prescribed by statute, said auditor shall reduce the amount so that it can be produced by a tax rate which is within legal limits; and said auditor shall at once notify the council of the reductions so made by him. As soon as the county auditor shall have calculated the necessary tax rates to produce the sums called for in the said final budget or such reduced amount or amounts which can be produced by a tax rate which is within legal limits, he shall transmit one copy of said annual tax levy and said final budget to the State Tax Commissioner.

Approved March 16, 1939.

CHAPTER 176

S. B. No. 82—(Magoffin)

PARK DISTRICT TAX LEVIES

An act to amend and re-enact Section six of Chapter 235 of the Session Laws of the State of North Dakota for the year 1929 relating to park district tax levies.

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

§ 1. AMENDMENT.] Section 6 of Chapter 235 of the Session

Laws of the State of North Dakota for the year 1929 be and the same is hereby amended and re-enacted to read as follows:

§ 6. PARK DISTRICT TAX LEVIES.] Park district taxes shall be levied by the park commission at the annual budget meeting of the commission on the fourth Wednesday of July of each year or within ten days thereafter. In levying park district taxes the park commission shall be limited by the amount necessary to raise to meet appropriations included in its annual budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and provide a sinking fund to pay and discharge the principal thereof at maturity. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, shall not exceed such amount as will be produced by a levy of 2 mills on the dollar of the net taxable assessed valuation of the district for the current year; provided, however, that park districts having a population of less than twenty thousand as shown by the last United States census may hereafter levy an additional two mills on the dollar of the net taxable assessed valuation of the district for the current year for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, when first approved by a two-thirds vote of the votes cast at any general or special election called for that purpose.

Approved March 14, 1939.

CHAPTER 177

H. B. No. 253—(Twichell, Fitch and Bergesen)

POLICE PENSION AMENDMENT

An act to amend and re-enact Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937, relating to pensions for policemen and dependents in cities now or hereafter having a population in excess of ten thousand (10,000) inhabitants.

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

§ 1. AMENDMENT.] Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937 is hereby amended and re-enacted to read as follows:

§ 1. POLICE PENSION FUND.] Any city now or hereafter having a population in excess of ten thousand (10,000) inhabitants, according to the last official census, Federal or State, and having an

organized paid police department, may annually levy a tax of not more than one-quarter of one mill, in addition to any other levies authorized by law for general purposes, for the purpose of creating a policemen's pension fund.

Provided further, that cities in which a police retirement system based upon actuarial tables shall be established by law, may levy for the police pension fund a total tax of not more than one-half mill in addition to any other levies authorized by law for general purposes.

Whenever there is a sufficient balance in said fund to meet any proper or legitimate charges that may be made against the same, such city shall not be required to levy a tax for this purpose.

All moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations, and devises for the benefit of such fund shall constitute a fund to be known and designated as a policemen's pension fund.

Provided further, that no member nor the dependent of any member of such police department shall be eligible for a pension unless such member shall have been on active duty with the department for a period of ten years, unless the retirement of such member from the department shall be caused by mental or physical impairment received in line of duty permanently disabling such member.

Approved March 7, 1939.

CHAPTER 178

S. B. No. 55—(Hill, Tweten and Blank)

REFUNDING INDEBTEDNESS OF MUNICIPALITIES

An act to amend and re-enact Sections 1 and 2 of Chapter 195, Session Laws for the year 1935 as amended by Chapter 176 of the Session Laws of 1937, and amending Section 5 of Chapter 195 of the Session Laws of the year 1935, relating to funding and refunding existing indebtedness of municipalities, validating proceedings thereunder and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 195 of the Session Laws of 1935 be, and the same is hereby amended and re-enacted to read as follows:

“§ 1. A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding its existing in-

debtedness at any time prior to July 1, 1941. The terms "governing body" and "municipality" as used herein shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927. The terms "floating indebtedness" and "bonded indebtedness" shall collectively be deemed to include orders, certificates of indebtedness, bonds, contracts and warrants and other instruments evidencing a general municipal indebtedness, issued and outstanding prior to January 1, 1939."

§ 2. AMENDMENT.] That Section 2 of Chapter 195 of the Session Laws of 1935 as amended by Chapter 176, Session Laws of 1937 be, and the same is hereby amended and re-enacted to read as follows:

"§ 2. (a) Any municipality may by resolution of the governing body propose or accept and adopt a plan for funding and refunding floating indebtedness and/or bonded indebtedness or any part thereof existing prior to January 1, 1939. Such resolution shall recite the plan in detail and contain such provisions not inconsistent with this act as shall be found to be for the best interest of the municipality, its creditors, and its taxpayers. The plan may contemplate the issuance of bonds to refund any or all outstanding bonds, including bonds which are not due or about to become due, may provide that bonds may be exchanged in whole or in part for unmatured bonds with the consent of the holders thereof, and may provide for the execution and sale or exchange and delivery of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment or exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it shall become effective. Any municipality may take any action authorized by any present or future bankruptcy or similar law enacted by the Congress of the United States designed to assist in the compounding or compromising and refinancing of indebtedness, including the payment of fees and expenses necessary to make use of such act and approved by the court having jurisdiction thereof."

(b) Option or Redemption. All bonds hereafter issued under this act and which bear interest at the rate of $4\frac{1}{2}\%$ or less payable semiannually and mature serially in twenty years or less, in annual installments of not less than 5 per cent of the principal amount of the bond issue, commencing not later than the third year, may be issued without option of payment and redemption prior to maturity or with such provisions as to prior payment and redemption as the governing body shall adopt.

§ 3. AMENDMENT.] That Section 5 of Chapter 195 of the Session Laws of 1935 be, and the same is hereby amended and re-enacted to read as follows:

“§ 5. Bonds issued hereunder may be sold or exchanged for outstanding bonds or other indebtedness, or part sold and part exchanged in such manner as the governing body shall determine, but none shall be sold or exchanged upon such terms that the annual interest cost of the proceeds, computed to maturities of the bonds of the series according to standard tables of bond values now in general nationwide use by financial institutions and insurance companies, will be more than the interest rate on the bonds or other indebtedness funded or refunded thereby, or exceed six (6) per cent per annum, provided that except as to bonds heretofore contracted to be sold no bonds shall be sold or exchanged hereafter until the municipality has first advertised for bids at a public sale in the manner prescribed by Section 17 of Chapter 196, Laws of 1927 or acts amendatory thereof; provided, further, that it shall be unlawful for any municipality as herein defined or for the governing body thereof, to issue any bonds for any purpose under this act without first being authorized so to do by a vote of the qualified electors of such municipality, which election shall be held and conducted as provided in Chapter 196 of the Session Laws of 1927 or acts amendatory thereof, excepting, however, that this proviso shall not apply to funding bonds which have been contracted to be sold by any such municipality prior to January 1, 1939, nor shall it apply where the funding or refunding bonds bear the same or lower rate of interest than the bonds refunded. The officers may use the proceeds of bonds sold to purchase the outstanding bonds, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all bonds or other indebtedness surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, an equal par value of outstanding bonds or other indebtedness shall be surrendered and cancelled. Insofar as any exchanges are made, the outstanding obligations shall be taken at not more than face amount with accrued interest and the bonds delivered shall be valued at not less than the face amount with accrued interest.”

§ 4. VALIDATION.] All proceedings heretofore taken by any municipality for the funding or refunding of indebtedness, purporting to be taken under the provisions of Chapter 195, Laws of 1935, as amended, which could have been validly taken under this act, are hereby legalized and validated.

§ 5. EMERGENCY.] This act is hereby declared to be an emer-

gency measure and shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

NORTH DAKOTA

CHAPTER 179

S. B. No. 259—(Committee on Education)

FIRE AND TORNADO FUND—INVESTMENT

An act authorizing the State Treasurer to invest and re-invest funds of the State Fire and Tornado Fund, and appropriating such funds for that purpose.

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

§ 1. On and after July 1, 1939, the State Treasurer may upon recommendation of the Commissioner of Insurance, invest, and from time to time, re-invest, any funds in the State Fire and Tornado Fund in the manner and subject to the restrictions in Chapter 149 of the Session Laws of North Dakota for 1937, and for that purpose, the funds of the State Fire and Tornado Fund shall be deemed appropriated.

§ 2. It is the intention of the Legislature, in adopting this act, to comply with the provisions of Section 186 of the Constitution of North Dakota, as amended by the initiated amendment adopted June 28, 1938, should such amendment be construed to require specific legislative appropriation in order to make the funds of the State Fire and Tornado Fund legally eligible for investment and re-investment by the State Treasurer.

Approved February 28, 1939.

CHAPTER 180**S. B. No. 203—(Thorson)**

**AUTHORIZING LEASE OF HETTINGER
EXPERIMENTAL SUBSTATION**

An act authorizing and directing the president of the North Dakota Agricultural College to enter into a leasing agreement in behalf of the North Dakota Agricultural College, with Hettinger Special School District No. 13, leasing the Hettinger Experimental Substation property located adjacent to the Village of Hettinger in the County of Adams, State of North Dakota; and repealing Chapter 185 of the Session Laws of North Dakota for the year 1937.

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

§ 1.] WHEREAS, Hettinger Special School District Number 13 desires to lease the Hettinger Experimental Substation buildings and grounds for vocational agricultural instruction purposes, in return for diligent and faithful care of said Substation buildings and experimental plots; the president of the North Dakota Agricultural College is hereby authorized and directed to enter into such an agreement with Hettinger Special School District No. 13.

§ 2. REPEAL.] Chapter 185 of the Laws of 1937 and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 181**H. B. No. 103—(Holthusen)**

CONCESSIONS IN PUBLIC BUILDINGS AND GROUNDS

An act providing for the granting of concessions in State, county, and municipal public buildings and the grounds adjacent thereto, for cafes, restaurants, and confectionaries; and, providing for the leasing, renting, and licensing of such public concessions, and making it unlawful for any State official, county official, municipal official, and any commission or board thereof, to let anyone have the use and benefits of any such concessions without having complied with the provisions of this act, and providing a penalty therefor.

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

§ 1. GRANTING OF CONCESSIONS FOR CAFES, RESTAURANTS AND CONFECTIONARIES.] Any State official and any State board or commission thereof, any county official and any county board or commission thereof, and any municipal official and any municipal board or commission thereof, who or which have by law the supervision

and control and management of and over any State public building and adjacent grounds thereof, or county public building and adjacent ground thereof, or municipal building and adjacent grounds thereof, may, when they deem it for the public benefit and good, grant concessions therein or thereon for cafes, restaurants, or confectionaries, by renting, leasing, and licensing any such public concessions to the highest bidder, at a reasonable rental thereof per month, for a period not exceeding two years, may reject any or all bids when same are not reasonable or satisfactory for any reason; and, that when the concession granted herein is worth more than the sum of \$100.00 a year, the same shall be let to the highest bidder after the concession has been advertised once in each week for three consecutive week in some legal newspaper published in the city or village where the same are located at or near. The successful bidder shall be required to put up a good and sufficient bond, as may be required, within ten days after notification of the acceptance of his bid, and if not so furnished, the concession may be let to some other party or next highest bidder, as provided for herein; and that said bond, as required by the terms of this act, shall be in a sum and amount guaranteeing the recovery of the total amount of the rent covering the whole leasing and licensing period, together with a reasonable amount fixed for the damage, injury, or destruction to the property so rented leased from the state, county or other municipality, made in favor of the State, county or other municipality, as the case may be, and which bond must be approved and accepted before any renting, leasing or licensing of any such public property shall become effective. Vending, service and merchandising machines shall only be permitted in public buildings upon payment of an adequate compensation for such privileges. All moneys received under the terms of this act shall be turned into the General Fund of the State Treasury, the county treasurer, or any municipal treasurer, as the case may be.

§ 2. RULES AND REGULATIONS, CANCELLED, WHEN. UNLAWFUL USE.] The renting, leasing, or licensing of any public property under the terms of this act shall at all times be subject to the rules and regulations made and prescribed by the official or officials, board or commission having by law the control and management of same; and, that the terms of any renting, or leasing contract to the contrary shall be void. That the renting and leasing term of any contract entered into in relation thereto may be cancelled upon thirty days written notice at any time after a breach of the terms thereof, or a violation of any of the provisions of this act. It is hereby declared to be unlawful to let anyone have the use and benefits of any public property covered by the terms of this act without complying herewith.

§ 3. PENALTY. MISDEMEANOR, HOW PUNISHED.] Anyone violating any of the provisions of this act, and upon conviction for same,

shall be punished by a fine of not less than \$25.00 nor more than \$100.00, or sentenced to not more than 30 days in jail, or both, at the discretion of the court.

Approved March 3, 1939.

CHAPTER 182

S. B. No. 60—(Committee on Military and Indian Affairs)

AUTHORIZING LEAVE OF ABSENCE AND PAY FOR PUBLIC OFFICIALS AND EMPLOYEES IN MILITARY SERVICE

An act to amend and re-enact Section 9 of Chapter 213 of the 1935 Session Laws, providing that State and municipal officers and employees, shall not lose pay while on duty, and including therein members of the Officers Reserve Corps of the United States and repealing all acts or parts of acts in conflict therewith, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 9 of Chapter 213 of the 1935 Session Laws of the State of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 9. STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON DUTY.] All officers and employees of the State, or a subdivision thereof, or a municipality therein, who are members of the National Guard, or members of the Officers Reserve Corps of the United States of America, shall, when ordered by proper authority to active service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved February 14, 1939.

CHAPTER 183

S. B. No. 171—(Senators Skarvold and Braun)

INVESTIGATIONAL WORK SHEYENNE RIVER PROJECT

An act authorizing and directing the North Dakota Agricultural College to enter into: a cooperative and license agreement with the United States of America for agricultural investigational work on land located in the Sheyenne River project in Richland and Ransom counties, State of North Dakota.

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

§ 1. Whereas, a tract of land located in Richland and Ransom counties, State of North Dakota, acquired by the United States in connection with the Sheyenne River Project including all of Section Seventeen (17), Township One Hundred Thirty-five (135), North of Range Fifty-two (52), West of the Fifth Principal Meridian and part of Section Thirteen (13) Township One Hundred Thirty-four (134), North of Range Fifty-three (53), West of the Fifth Principal Meridian, said premises containing 650 acres, more or less, according to the United States Government survey thereof, is well adapted to use by the North Dakota Agricultural College for investigations as to the rehabilitation of lands in this area including studies to determine native and cultivated species of pasture and forage plants suitable to this region; and the United States of America is agreeable that such land be made available for the above uses to the North Dakota Agricultural College on the basis that the North Dakota Agricultural College maintain the property; the North Dakota Agricultural College is hereby authorized and directed to enter into a cooperative and license agreement with the United States of America for the operation of such property in investigational work in connection with the Agricultural Experiment Station established at Fargo, North Dakota.

Approved March 15, 1939.

CHAPTER 184**S. B. No. 275—(Watt)****PROHIBITS USE OF STATE-OWNED AUTOMOBILES
FOR POLITICAL ACTIVITY**

An act prohibiting the use of motor vehicles owned by the State, or any department, board, bureau, commission, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota by any State officer or other public employee, and prohibiting the collection and receipt of any mileage or other traveling expenses for the operation of a privately owned motor vehicle by such State officer or other public employee while engaged in any political activity, and prescribing penalties therefor.

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

§ 1. It shall be unlawful for any person, officer or employee of the State, or of any department, board, bureau, commission, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota, to use or drive any automobile, truck, or other motor vehicle belonging to the State, or to any department, board, bureau, commission, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota, while engaged in any political activity whatsoever.

The term "political activity" as used herein shall include any form of campaigning or electioneering, such as attending or arranging for political meetings, transporting candidates, or workers engaged in campaigning or electioneering, distributing campaign literature, political guide cards and placards, soliciting or canvassing for campaign funds, transporting electors to the polls on election day, and any other form of political work usually and ordinarily engaged in by State officers and employees during primary and general election campaigns.

§ 2. It shall be unlawful for any State officer, or employee of the State, or any department, board, bureau, commission, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota, who uses or drives any privately owned automobile, truck, or other motor vehicle while engaged in political activity, as defined in Section 1 hereof, to collect or receive, directly or indirectly, from the State, or any department, board, bureau, commission, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota, any expense monies whatsoever for the use or operation of any such motor vehicle on any day on which such political work was done, and it shall be unlawful for any such State officer or public employee to collect or receive any traveling expense whatsoever from the State, or any department, board, bureau, commis-

sion, institution, or other agency of the State, including the State Mill and Elevator and the Bank of North Dakota for any day on which said officer or employee has engaged in any political activity, as hereinbefore defined. It is the intention of this act to prohibit the use by State officers and other employees of motor vehicles owned by the State, or any department or institution thereof while engaged in political activity; and to prohibit the payment by the State or any department or institution thereof of any traveling expense to any State officer or other public employee incurred for any day on which such officer or employee has engaged in political activity, even though such officer or employee may have, on the same day performed, or pretended to perform some duty incident to his office or employment.

§ 3. Any person violating the provisions of this act shall be guilty of a misdemeanor; and any officer or employee who collects or receives any expense monies in violation hereof, shall be subject to suit for the recovery of the funds wrongfully collected or received by him, and if his office or position is bonded by the State Bonding Fund, such fund shall also be liable therefor.

Approved March 15, 1939.

CHAPTER 185

H. B. No. 57—(Page)

STATE SECURITIES COMMISSION

An act to amend and re-enact Section 5235a1 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913.

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

§ 1. AMENDMENT.] That Section 5235a1 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 5235a1. There is hereby created a commission to be known as the "State Securities Commission," hereafter referred to as the "commission" whose duty it shall be to administer and provide for the enforcement of all provisions of this act, which shall consist of the Governor, Attorney General and Secretary of State. The State Examiner shall be ex-officio secretary, and the executive officer of said commission. In the absence or disability of the secretary or any of the members of the commission, the duly appointed deputy or designated assistant of such office shall act in his stead upon such commission. The commission shall have power to employ such as-

sistance examiners, accountants, or investigators as may be necessary to carry out the provisions of this act.

Approved February 17, 1939.

CHAPTER 186

S. B. No. 262—(Guthrie)

TRUST FUNDS INVESTMENT

An act authorizing investment of all trust funds by legal custodian; providing appropriations of trust funds for investment purposes and repealing all acts in conflict herewith.

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

§ 1. The Workmen's Compensation Bureau, the State Commissioner of Insurance, the board of trustees of the Teachers' Insurance and Retirement Fund, and any other official, agency or institution, which may now be or may become the legal custodian of any trust funds, are hereby authorized, at the discretion of the official, agency or institution making such investment, to invest all of such trust moneys in the respective funds administered by them, in bonds of the United States of America, bonds of the State of North Dakota or any other State, and certificates of indebtedness of the State of North Dakota, or any political subdivision thereof which constitute the general obligations of the issuing tax authority; subject, however, to the provisions of Chapter 189 of the 1937 Session Laws of the State of North Dakota.

§ 2. In addition to the investments hereinbefore provided for, moneys in the State Fire and Tornado Insurance Fund may be, by the State Commissioner of Insurance, invested in legally issued and registered warrants of any school district in this State issued in payment of salaries. Such warrants shall be bought at par value and only from the payee named in such warrant.

§ 3. Before any investment of any trust fund shall be made, such investment shall be duly authorized by the official, agency or institution making the same, and such security shall be first approved by the Attorney General as to form and legality thereof; provided, that the Treasurer of the State of North Dakota shall be, and is hereby made, the custodian of all such bonds and certificates of indebtedness purchased or acquired by any official, agency or institution through the investment of trust funds, and it shall be the duty of such purchasing official, agency or institution to deliver such securities to the State Treasurer as custodian thereof.

§ 4. There is hereby appropriated out of any moneys in the State Treasury in any of such trust funds at this time or which may hereafter be deposited with the State Treasurer to the credit of such trust funds, not otherwise appropriated, for the biennium beginning July 1, 1939, and for each biennium thereafter, all such moneys that may be necessary for the making of the investments authorized by this act.

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

Approved March 15, 1939.

NURSES

CHAPTER 187

S. B. No. 98—(Committee on Public Welfare)

NURSES PRACTICE ACT, AMENDMENT

An act to amend and re-enact Sections 506a2, 506a3, 506a4, 506a5, 506a6 as amended by Chapter 208 of the Session Laws of 1927, 506a7, 506a9 as amended by Chapter 208 of the Session Laws of 1927, 506a11, 506a12, 506a18, and 506a19 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, relating to creating a board of nurse examiners, providing for the appointment of an inspector of schools of nursing, and for the examination, registration, re-registration, and regulation of graduated nurses, and exempting practical nurses from registration, and empowering the board to prescribe the minimum course of study and standards for schools of nursing, and prescribing a penalty for the violation thereof. Also, defining terms as used in this act; repealing all acts or parts of acts in conflict herewith; and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 506a2 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a2. TERM OF OFFICE; VACANCIES.] Each member of said board shall serve a term of five years and until her successor is appointed and qualified, except in the case of the first board, whose members shall hold office as follows: one member for a period of one year; one member for a period of two years; one member for a period of three years; one member for a period of four years; one member for a period of five years; the members and their respective terms to be designated by the Governor, provided that the

members of the present board shall serve until their respective terms expire.

Hereafter, each vacancy on said board as the same occurs shall be filled by the Governor from a list of three names submitted to him by the North Dakota State Nurses Association, working in conjunction with the State League of Nursing Education. The nurses whose names are thus submitted shall be registered in North Dakota, and shall have had at least five years experience in nursing education; viz; teaching, administration, or other work equivalent thereto in scope and quality. The Governor shall fill such vacancy by appointment of one of the three persons whose names are thus submitted to him within ten days thereafter.

§ 2. AMENDMENT.] That Section 506a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a3. ORGANIZATION OF BOARD; OFFICES.] The members of the board shall meet annually, at their regular place of business, for the purpose of organizing, and shall elect one of their members president; one member vice-president; one member secretary; and one member treasurer, provided that the office of secretary and treasurer may be held by one and the same person, if so determined by the board. The secretary-treasurer, or the treasurer shall furnish to the board a surety bond for the faithful discharge of her duties in an amount equal at least to the largest sum which will come into her hands in any one year to be determined by the board, and in any event not less than \$2,000, which bond shall be filed in the office of the Secretary of State of North Dakota.

The board shall appoint an inspector or inspectors for schools of nursing, whose services may be terminated at the will of the board. Such inspector or inspectors may be either members of the board or other nurses duly registered and qualified.

The board shall maintain its headquarters and office in the State Capitol Building, Bismarck, North Dakota, and shall adopt an official seal which shall remain in the custody of the secretary-treasurer, or secretary. Said board shall record in a suitable book, the names of all nurses and schools of nursing registered under the provisions of this act. The board is hereby empowered to draw up such rules and regulations as are necessary to carry out the provisions of this act

§ 3. AMENDMENT.] That Section 506a4 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a4. COMPENSATION; DISPOSITION OF FEES.] Each member of said board shall receive not to exceed \$5.00 per day while actually and necessarily engaged in the performance of the duties of the office, which together with actual and necessary expenses

incurred in the performance of such duties, shall be paid from fees received by the board under the provisions of this act, and no part of the expenses of said board shall at any time be paid out of funds in the State Treasury and belonging to the State of North Dakota. The secretary-treasurer or secretary, and inspector of schools of nursing shall be paid such salaries for their services as may be fixed by the board. The board may pay, from monies received, all necessary expenditures for clerical help, printing, postage, travel, nursing surveys, preparation and grading of examination papers, office equipment and maintenance, attendance at board meetings and conducting public examinations, and in executing any other legitimate project pertaining to nursing and schools of nursing. At the end of each fiscal year, any money in excess of \$1,000 still in the hands of the secretary-treasurer, or treasurer, shall be deposited by her with the State Treasurer of North Dakota to be kept by him for the maintenance and use of the board for the above named purposes, and to be disbursed by him, upon warrants signed by the president and also by the secretary-treasurer, or by the president and the treasurer.

§ 4. AMENDMENT.] That Section 506a5 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a5. SCHEDULE OF SUBJECTS.] Said board shall examine applicants for registration under the provisions of this act upon such subjects as the board shall determine to be necessary in the course of study required in an accredited school of nursing.

§ 5. AMENDMENT.] That Section 506a6 of the 1925 Supplement to the Compiled Laws of North Dakota, as amended by Chapter 208 of the Session Laws of North Dakota for 1927, is hereby amended and re-enacted so as to read as follows:

§ 506a6. DUTIES OF INSPECTOR OF SCHOOLS OF NURSING; COURSE OF STUDY IN SCHOOLS OF NURSING.] The inspector of schools of nursing shall survey all schools of nursing in North Dakota at least once yearly and shall report in writing to the board the results of her survey. She shall perform such other nursing education and administrative duties as may be assigned by the board. Before any school of nursing shall admit any student for the professional nursing course, such student must present certified evidence that she has completed at least 16 units of high school work, which may include one unit of physical education, or an equivalent education, provided that prior to September 1, 1941, completion of only 8 units of high school work or its equivalent shall be required. Such applicants graduating from graded and consolidated schools with high school departments, and taking State examinations, must present certified evidence from the State Superintendent of Public Instruction to the effect that said student has

earned the prescribed number of units. Those students, graduating from classified high schools, must present certified evidence from the superintendents of such classified schools to the effect that said student has earned the prescribed number of high school units. Applicants from other States or foreign countries must present certified transcripts of credits to show preliminary education equivalent to that required of North Dakota residents.

§ 6. AMENDMENT.] That Section 506a7 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a7. REQUIREMENTS FOR SCHOOLS OF NURSING FOR REGISTRATION.] Any school of nursing shall be entitled to registration as an accredited school of nursing which meets the requirements of the board for such school upon payment of a fee of \$25.00 to the secretary-treasurer or treasurer of said board. In the event that any such school shall subsequently become disqualified by failure to comply with terms and requirements for registration, the board shall have the power to revoke its registration. A school may be reinstated by the board as an accredited school of nursing by showing that it meets the requirements for such schools, and upon the payment of a fee of \$25.00.

§ 7. AMENDMENT.] That Section 506a9 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 208, Session Laws of 1927, is hereby amended and re-enacted so as to read as follows:

§ 506a9. QUALIFICATIONS OF APPLICANTS; REQUIREMENTS FOR REGISTRATION; RENEWAL.] Any person desiring to practice professional nursing in this State shall make application to said board as provided in Section 506a8 of the 1925 Supplement to the 1913 Code, and shall pay to the secretary-treasurer, or treasurer at the time of making application for registration the sum of \$15.00 as an examination fee, and shall present herself at the next regular meeting of said board for the examination of applicants, and upon satisfactory proof that said applicant (1) is of the age of twenty-one (21) years or over; (2) is of good moral character; (3) has received the preliminary education required by Section 5 hereof, provided that any student in training at the time this act takes effect shall be required to show completion of only eight units of high school work or its equivalent; (4) has graduated from or is within three months of graduating from an accredited school of nursing furnishing instruction in a systematic course of theory and practice of nursing meeting the minimum requirements of the board, which course may be received in one or more hospitals and/or institutions of higher education as may be approved by the board; said board shall proceed to examine said applicant.

If the applicant shall attain a general average of at least 75

per cent in her examination, said board shall enter the applicant's name in a register provided for under the provisions of this act, and shall issue to said person a certificate of registration authorizing said person to practice as a registered nurse in the State of North Dakota. No certificate of registration shall be issued until such time as said applicant can produce evidence of having completed satisfactorily the full time course for nursing education as required by the board and the provisions of this act, and provided that no certificate of registration shall be issued to a person who is not a citizen of the United States or has not declared her intention to become such; provided further that the board may at its discretion, in case of emergency, issue temporary permits without such citizenship requirements. The annual fee shall be \$2.00 for such permits, which may be renewed for reasons satisfactory to the board. Registration must be renewed annually, and a fee of \$1.00 is required for the renewal certificate. On January 1, the secretary-treasurer, or secretary of the board shall mail to all registered nurses an application form for re-registration. Re-registration must be completed before February 15 of each year, and the application and fee (\$1.00) must be in the hands of the secretary-treasurer, or secretary of the board by that time. The nurse must be prepared to show the certificate upon request. The failure of any such license holder to renew her registration annually shall suspend the right of such person to practice professional nursing in the State. Re-registration may be obtained by complying with the provisions of this law and the payment of the required fee of \$1.00. A penalty fee of \$1.00, in addition to the registration fee, shall be levied for failure to complete re-registration on time.

§ 8. AMENDMENT.] That Section 506a11 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a11. APPLICANTS REGISTERED IN OTHER STATES.] The board may issue licenses without examination to applicants who have been registered in other States or foreign countries upon the payment of a \$15.00 registration fee, provided said applicant can produce satisfactory evidence of having been duly licensed by said State or foreign country to practice therein as a registered nurse, and provided that the applicant can meet the qualification requirements for nurse registration in North Dakota, and provided that said applicant is a citizen of the United States or has declared her intention to become such. Pending the issuance of a certificate, the board may at its discretion issue to the applicant, upon the payment of a fee of \$2.00 a permit to practice professional nursing in the State until such registration is completed, provided that such temporary permit shall expire at the end of one year, and can only be renewed for reasons satisfactory to the board.

§ 9. AMENDMENT.] That Section 506a12 of the 1925 Supple-

ment to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a12. EXAMINATIONS.] On and after the passage of this act, all applicants for certificates of registration, except those exempt under Sections 506a10 and 506a11 of the 1925 Supplement to the 1913 Code and Section 8 of this act, shall pass the examination required by the board before receiving a certificate of registration.

§ 10. AMENDMENT.] That Section 506a18 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a18. BOARD MAY REVOKE CERTIFICATE FOR CAUSE.] The board shall have the power to revoke any certificate issued by said board in accordance with the provisions of this act for the following reasons: gross incompetency, dishonesty, or any act derogatory to the morals or standing of the profession of nursing, as may be determined by said board, provided that such revocation shall be by a majority vote of the entire board after due consideration of the specific charges, which shall be made in writing, under oath, and filed with the secretary-treasurer, or secretary of the board. A certified copy of such charges and notice of the hearing of the board shall be served on the person whose certificate is sought to be revoked at least thirty days prior to the hearing on the same. The board shall be authorized to furnish a list of the names and addresses of those whose certificates have been revoked to the board of nurse examiners of other States, upon written request of such board.

§ 11. AMENDMENT.] That Section 506a19 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted so as to read as follows:

§ 506a19. PENALTY FOR VIOLATION.] Any person violating any of the provisions of this act, or who shall willfully make a false representation to this board in applying for a certificate of registration, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$100.00 and not less than \$10.00. Subsequent violations shall be punished by a fine of not in excess of \$100.00 or imprisonment in the county jail of not more than thirty days or both.

§ 12. DEFINITIONS.] As used in this act, the feminine pronoun in all cases includes the masculine.

"Board" means the Board of Nurse Examiners of the State of North Dakota.

"Professional nursing" means a blend of intellectual attainments, attitudes and manual skills based upon the principles of scientific medicine acquired by means of a prescribed course in a school of nursing affiliated with one or more hospitals or schools

recognized for such purposes by the State through the board of nurse examiners; and practiced in conjunction with curative and preventive medicine, by an individual licensed to so by the State through the Board of Nurse Examiners.

A "professional nurse" means one who has met all the legal requirements for registration in the State, and who practices or holds a position by virtue of her professional knowledge and legal status, and who holds a certificate from the North Dakota Board of Nurse Examiners, acquired according to the provisions of this act.

Training school and school of nursing are used synonymously.

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

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

Approved March 15, 1939.

PHOTOGRAPHY

CHAPTER 188

H. B. No. 270—(Schauss, Benno and Bergesen)

PHOTOGRAPHY ACT

An act to create a State board of photographic examiners and to regulate the practice of professional photography and to provide for licensing and registration of persons engaged in the practice of professional photography and to protect the public from fraud practiced by unscrupulous and irresponsible persons through misrepresentation and other unconscionable artifices and the obtaining of the possession of property without returning value therefor and for the protection of the public health and safety; providing for the enforcement of the provision of this act and for the punishment for violation thereof.

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

§ 1. PHOTOGRAPHY DEFINED.] The practice of professional photography shall be deemed to be the profession or occupation of production for compensation of images on sensitized materials by the action of light, and with the use of a camera; development and fixation of the latent image to render same visible and permanent, and/or the subsequent reproduction or transfer of such

image, either negative or positive, upon other sensitized material by the aid of light and chemical action. This shall not be deemed to include photo finishing, motion picture photography, the intaglio printing processes, nor the processes known as blue printing, brown printing and photoengraving, nor the use of the photostat or equivalent apparatus.

§ 2. EXCEPTIONS TO APPLICATION OF ACT.] In addition to the exceptions contained in Section 1, nothing herein shall be construed to apply to the following:

(a) Individuals, co-partnerships, associations and corporations engaged in photography solely for their own use, and their employees, provided the photographic reproductions produced by such departments are not sold nor offered for sale nor otherwise disposed of for a consideration in this State.

(b) Individuals receiving a salary and in the employ of newspapers and periodicals, and/or news and picture syndicates when performing acts of photography in the regular course of their employment by such newspapers and periodicals, provided that photographic reproductions produced by such employees are not sold nor offered for sale nor otherwise disposed of in this State, except to other newspapers, news syndicates or periodical publications, and then only by said employer.

(c) Authors and writers engaged in photography for the sole purpose of illustrating their own manuscripts.

(d) Individuals engaged in photography solely for their own use and pleasure, and/or engaged in the casual sale of photographic reproductions of their own making, provided such individuals do not have a regular clientele nor list of customers, and, further provided such individuals do not in any manner, shape or form solicit such orders and/or such individuals selling or otherwise disposing of photographic reproductions made by themselves when the same are exhibited in recognized art or photographic exhibitions and a price for such reproductions is stated in the catalogue or other printed matter of such exhibition.

(e) Individuals engaged in photography in the employ of the Federal Government, this State, or any other political subdivision thereof or of any public institution when acting in the regular course of their employment.

(f) Individuals or institutions engaged in photography solely for educational or scientific purposes.

(g) Medical or dental practitioners engaged in photography, provided the photographic reproductions so produced are used solely for clinical or educational purposes or to illustrate manuscripts for publication.

§ 3. CREATION OF BOARD.] There is hereby created a State

Board of Photographic Examiners, to consist of five members who shall be appointed by the Governor within ten days after the taking effect of this act, each of whom shall be a practicing photographer who shall have been engaged in the practice of professional photography in the State for not less than four consecutive years.

(a) Of the members first appointed to the board, two shall be appointed for one year, two for two years, and one for three years. Thereafter, the terms of all members shall be three year terms, except that appointments to fill vacancies happening in any manner shall be for the unexpired term only. The Governor shall appoint the five original members of the board from a list of seven or more candidates nominated by the professional photographers' association of this State, an organization having nominal dues, membership in which is open to all professional photographers in this State, without restriction. All vacancies thereafter shall be filled by the Governor from nominations made by the professional photographers' association of this State, which shall submit, on each occasion, a list including the names of at least double the number of candidates required.

(b) Members of said board, before entering upon their duties, shall take and subscribe to the oath of office provided for State officers and the same shall be filed in the office of the Secretary of State.

§ 4. ORGANIZATION; DUTIES OF OFFICERS; MEETINGS; COMPENSATION.] (a) Within thirty (30) days after the appointment of the members thereof, the board shall organize by electing one (1) of its members as president, one (1) as vice-president, and one (1) as secretary and treasurer. The board shall make such rules and regulations as may be necessary to the performance of its duties. A majority of the board shall constitute a quorum.

(b) It shall be the duty of the president to preside at all meetings. In the absence or incapacity of the president, the vice-president shall assume his duties. It shall be the duty of the secretary-treasurer to keep a record of all proceedings of the board, which shall be open at all times to public inspection. He shall have custody of all funds and shall hold, use or expend such funds only in the manner hereinafter provided. He shall give such surety bond as the board shall from time to time prescribe, in not less than double the amount of money he would hold at any one time, and the premium shall be a charge against the board.

(c) The board shall hold public meetings at least once each year and as often and at such places as it may deem necessary.

(d) Each member of the board shall receive as compensation five dollars (\$5.00) for each day he is present at and engaged in a session of the board, and/or is actively engaged in the duties of the board or of his office, in addition to actual and necessary traveling expenses and hotel bills incurred in connection with the

performance of such duties. In addition thereto, the secretary-treasurer shall be allowed an annual expense account not to exceed one hundred dollars (\$100.00) for stenographic assistance.

(e) The secretary-treasurer shall receive and be responsible for all fees and other revenue coming into the possession of the board, and shall be the custodian thereof. All expenses, salaries and compensation paid by said board under the provisions of this act shall be paid out of moneys in the hands of the secretary-treasurer of the board, and none thereof shall in any event be paid out of the Treasury of the State of North Dakota. Disbursements shall be made by the secretary-treasurer from such moneys only upon warrant duly signed by the president of said board, attested by the secretary-treasurer, and any moneys in the hands of the secretary-treasurer of the board at the end of the fiscal year shall be kept by him for the future maintenance of the board, to be disbursed only upon warrant as aforesaid. The secretary-treasurer shall keep a complete record of receipts and disbursements, together with vouchers, receipts and other evidence of such receipts and disbursements as may be required by said board, and shall at such times as may be required by said board, furnish to it a complete statement of such receipts and disbursements, under oath.

§ 5. AUTHORITY TO GIVE EXAMINATIONS. CERTIFICATES AND LICENSES.] (a) The board shall have authority to examine applicants who desire to practice photography in the State; to collect fees for such examinations, and to issue certificates of registration and license to practice photography to such as qualify as to competency, ability and integrity. The board shall adopt rules for the issuance of temporary certificates pending an examination, which shall be null and void after the next ensuing examination by the board. For the advancement of the profession, the board shall also provide for temporary certificates to apprentices.

(b) In giving examinations, the board may take testimony, under oath, which may be administered by any member, as to technical qualifications or the business record of the applicant, and the board shall grant or refuse a license to practice to the applicant in accordance with the provisions of Section 8 hereof.

§ 6. FORMS OF TECHNICAL EXAMINATIONS.] The board shall provide two forms of technical examinations, covering respectively portrait and commercial photography, and shall provide separate certificates for each such branch of photography. A certificate for any one branch shall not permit practice of the other branch, but a person may hold certificates in both branches. An applicant may take the examination in one or more such branches of photography, and if taken at the same meeting of the board, one examination fee shall suffice.

§ 7. REPORTS; REMOVAL OF MEMBER.] (a) The board shall

make an annual report of its proceedings to the Governor, not later than the fifteenth (15th) day of December of each year, which report shall contain an account of all moneys received and disbursed, from what source received, and for what purpose paid out.

(b) After a full and complete hearing of charges, the Governor, on a majority vote of the remaining members and himself, may remove any member of the board for continued neglect of duty, incompetency, or unlawful or dishonorable conduct.

§ 8. EXAMINATIONS; FEES; LICENSES.] (a) Every person desiring to commence the practice of photography in this State after this act takes effect, shall file an application, under his true name, for a license to so practice, together with an examination fee of twenty-five dollars (\$25.00), with the secretary of the board. He shall appear before the board for examination within one year, and present such references and credentials as the board may require, and shall give satisfactory evidence as to competency and fitness to practice photography, based on technical knowledge and business integrity.

(b) If the applicant successfully passes the examination, he shall be registered by the board as a qualified photographer and receive a license signed by each member, authorizing him to practice photography. Such license shall not be transferable.

(c) No company, firm, corporation or association shall practice photography under an assumed or fictitious name, unless the name of the concern, together with the name of each person working under such name, or in any way associated with such concern shall be prominently and continuously displayed in the place of business of such concern. Said sign shall be conspicuously printed in plain type in the English language, on a card not less than twelve (12) by fourteen (14) inches, and shall be framed under glass.

(d) Fees paid for examination shall in no case be refunded, but an applicant who fails in the first examination may take a subsequent examination in branches in which he failed, and the fee for such re-examination shall be ten dollars (\$10.00). Should the applicant again fail, and desire to again come before the board for a third examination, he may make application as in the first instance, accompanied by the regular examination fee of twenty-five dollars (\$25.00).

§ 9. LICENSE TO BE RECORDED.] Each recipient of a license to practice photography shall record the same in the office of the register of deeds of the county in which he practices photography, and shall keep such license conspicuously displayed in his camera room.

§ 10. FEES.] (a) Every person licensed to practice photography, who maintains an established place of photographic business,

and who is not merely an employee of an established business, shall pay an annual fee of five dollars (\$5.00) for an establishment license.

(b) Every person licensed to practice photography, who is an employee of an established photographic business, shall pay an annual license fee of three dollars (\$3.00).

(c) All fees shall be paid to the secretary on or before July first (1st), and he shall give a receipt for the same.

(d) The annual establishment fee shall include the issuance of certificates covering portrait and commercial photography when issued to the same person, provided he is qualified to hold the same. The annual employee fee shall cover issuance of both certificates if applicant is qualified to hold same.

(e) The secretary shall notify by mail every licensee, at his last known address, that his license fee is due on July first (1st) of each year after this act takes effect, and that his license will be revoked unless said fee is paid in full on or before October first (1st) of the same year, and thirty (30) days prior to said date shall send a second notice to all who have failed to make payment.

(f) A photographer whose license is revoked for non-payment of the annual fee may make application to the secretary for reinstatement, accompanied by a fee of ten dollars (\$10.00), and if the board shall find the applicant to be guilty of no violation of this act other than default in payment of annual dues, he may be immediately reinstated.

§ 11. REVOCATION OF LICENSE.] The board shall have power to revoke the license of any photographer who, in the opinion of the board, is guilty of fraudulent practices, or of willful misrepresentations, or for professional inactivity within the State for a period of one (1) year, unless given further time by the board, or who is convicted of a crime involving moral turpitude. Before any license shall be so revoked, the licensee shall be given notice in writing, mailed to his last known address, advising him of the charges, and at a date and place specified in said notice, not less than ten (10) days after service thereof, he shall be given a public hearing, and shall have the right to be represented by counsel and to present testimony in his behalf. In the conduct of any such hearing the board shall be governed by the usual rules of evidence, and all testimony shall be taken and a record of the hearing made and filed with the secretary of the board. Any individual, co-partnership, association or corporation, whose license is revoked as the result of such hearing, or to whom a license shall be refused as result of the examination following original application for such license, may commence an action in the district court of the county of his or its residence against the board for the purpose of obtaining relief from such act of the board.

§ 12. PHOTOGRAPHERS PRACTICING AT TIME LAW TAKES EFFECT.] The board may, without examination, upon application in writing to the secretary, accompanied by the fee prescribed in Section 10, which fee shall be deemed to be payment in full to July 1, 1940, and such proof of the qualifications of the applicant as the board may require, issue a photographer's license certificate and identification card to every photographer who has been continuously engaged in the practice of professional photography in this State for a period of at least one (1) year prior to the passage of this act, provided such application is made within sixty (60) days after the effective date of this act.

§ 13. UNLAWFUL TO PRACTICE WITHOUT A LICENSE.] (a) From and after thirty (30) days following the organization of the board, and notification by the board of the requirements of this act with respect to the filing of application for license, it shall be unlawful for any person or firm not licensed as prescribed herein to practice photography, either directly or indirectly, or by agent or employee, or for any person representing himself to be qualified to practice photography in the State.

(b) A person shall be regarded as practicing photography who is a manager, proprietor or conductor of a place in which photographs are made and offered for sale or who is an employee therein within the meaning of the provisions of this act.

§ 14. MISDEMEANOR TO PRACTICE PHOTOGRAPHY WITHOUT LICENSE.] Any individual, co-partnership, association or corporation who or which shall engage or attempt to engage in the practice of professional photography or act in the capacity of a professional photographer in this State either as manager, proprietor or conductor of a photographic establishment, or as an employee therein within the meaning of the provisions of this act, without first having complied with the provisions of this act, or whose license shall have been revoked or suspended, or who shall violate any provisions of this act, or who shall obtain or attempt to obtain a license certificate and/or identification card for money other than the required fee, or any other thing of value or by fraudulent misrepresentations, shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction shall be sentenced to pay a fine for each such offense of not less than fifty dollars nor more than three hundred dollars or any individual so convicted may be sentenced to imprisonment for not less than thirty days nor more than one year, or both fine and imprisonment may be imposed, and each day such violation continues shall be considered a separate offense.

§ 15. SAVING CLAUSE.] If any provision of this act shall be held to be unconstitutional or invalid or unenforcible, such unconstitutional, invalid or unenforcible provision shall be con-

sidered severally from the remainder of this act although contained in sections containing other provisions and shall be excluded from this act and the fact that such provision shall be held to be unconstitutional, invalid or unenforcible, shall in no wise affect any other provision of this act, although contained in the same section; the Legislative Assembly hereby declaring that all sections of this act or parts thereof are independent sections and parts of sections and that it would have passed the remaining sections of said act and each provision thereof notwithstanding the unconstitutionality, invalidity or unenforcibility of any other portion thereof.

Approved March 16, 1939.

PROCEDURE

CHAPTER 189

H. B. No. 337—(Bergesen)

REGULATING ADOPTION PROCEEDINGS

An act amending and re-enacting Section 4444 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to the consent of parents or guardians of children involved in adoption proceedings, relating to the giving of consent therein by the State Board of Administration, or its successor, providing service of notice of such adoption proceedings upon such parents, guardians and/or said Board of Administration, or its successor, and providing for exceptions thereto; providing for method by which decrees of adoption may be attacked and time when such proceedings therefor may be commenced; specifying the procedure by which custody of children involved in such proceedings may be changed; and declaring that an emergency exists.

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

§ I. AMENDMENT.] Section 4444 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 4444. CONSENT OF PARENTS OR GUARDIANS OR STATE BOARD OF ADMINISTRATION, OR ITS SUCCESSOR; CUSTODY OF CHILDREN.] Except as herein provided no adoption of a minor child shall be permitted without the consent of its parent or parents, but the consent of a parent who has abandoned the child, or who cannot be found, or who is insane or otherwise incapacitated from giving consent, or who has lost custody of the child through divorce proceedings or the order of a juvenile court, may be dispensed with, and consent may be given by the guardian, if there be one, or if there be no

guardian by the Board of Administration, or its successor. In case of illegitimacy the consent of the mother shall suffice; provided, however, that her consent may be dispensed with for any of the reasons hereinbefore stated.

When the parents of any minor child are dead, or have abandoned it, and cannot be found, and such child has no duly appointed guardian in the State, the court shall order a hearing, with three weekly published notices to be given, the last publication to be at least ten days before the time set for the hearing. In every such case the court shall cause such further notice to be given to the known kindred of the child as shall appear to be just and practicable; provided, that if there be no duly appointed guardian, a parent who has lost custody of the child through divorce proceedings, and the father of an illegitimate child who has acknowledged its paternity in writing, or against whom paternity has been duly adjudged, shall be served with notice in such manner as the court shall direct in all cases where the residence is known or can be ascertained.

In all proceedings in which a decree of adoption has been duly entered by the court, the validity of such decree may not be attacked except by proceedings brought for that specific purpose by a party interested therein. Such proceedings must be commenced within one year from the date of entering of the decree of adoption, or in all proceedings in which the decree has heretofore been entered, within one year of the time when this act takes effect.

In all proceedings brought in accordance with this act in which the validity of a decree of adoption is drawn in question, the court having jurisdiction of such proceedings shall determine as to the facts which existed at the time when the hearing on the adoption proceedings was had, and if the court determines that the facts which were necessary for the validity of such decree actually did exist at such time the court shall sustain the decree of adoption or shall enter a new decree of adoption nunc pro tunc as of the date when the original decree of adoption was entered.

In all proceedings heretofore or hereafter instituted for the purpose of changing the custody of a child involved in adoption proceedings, the same shall be brought by separate proceedings and the court having jurisdiction thereof shall consider the welfare of the child as being the dominant factor. No such change of custody shall be ordered by the court unless the court finds as a fact that the welfare of the child requires it, and the burden of proving such fact shall be upon the party bringing such proceedings.

§ 2. SAVING CLAUSE.] If any provision of this act shall be held to be unconstitutional or invalid or unenforcible, such unconstitutional, invalid or unenforcible provision shall be considered severally from the remainder of this act and shall be excluded from this act, and the fact that such provisions shall be held to be unconsti-

tutional, invalid or unenforcible, shall in no wise affect any other provision of this act, although contained in the same section; the Legislative Assembly hereby declaring that all parts of this act are independent, and that it would have passed the remaining provisions of said act, and each thereof, notwithstanding the unconstitutionality, invalidity or unenforcibility of any other provision or part thereof.

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

Approved March 13, 1939.

CHAPTER 190

S. B. No. 196—(Guthrie and Lian)

PUBLIC WORKS PROCEDURE ACT, AMENDMENT

An act to amend and re-enact Section 6 of Chapter 198 of the Session Laws of 1937, simplifying the procedure for the construction and financing of public works projects by municipalities, enabling municipalities to make and perform contracts with Federal agencies relating to the construction and financing of such projects and conferring additional power upon municipalities.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 198 of the Session Laws of North Dakota for 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 6. TERMINATION OF ACT.] Except in pursuance of any contract or agreement theretofore entered into by and between any municipality and any Federal agency, no municipality shall exercise any of the powers conferred by this act after December 31, 1941.

Approved March 15, 1939.

PUBLIC WELFARE

CHAPTER 191

S. B. No. 99—(Committee on Public Welfare)

NEEDY BLIND, ELIGIBILITY FOR ASSISTANCE

An act to amend and re-enact Section 2 of Chapter 210 of the Session Laws of 1937, known as the Aid to the Blind Act, and providing for eligibility for assistance to the needy blind, declaring an emergency.

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

§ 1. AMENDMENT.] Section 2 of Chapter 210 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 2. ELIGIBILITY FOR ASSISTANCE TO THE NEEDY BLIND.] Assistance shall be given under this act to any person who:

- (a) Is a citizen of the United States;
- (b) Has attained the age of 18 years;
- (c) Has resided in the State for not less than one year continuously immediately preceding application for assistance.
- (d) Has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential;
- (e) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
- (f) Is not an inmate of or being maintained by any municipal, State or National institution at the time of receiving assistance. An inmate of such institution may, however, make application for such assistance but the assistance, if granted, shall not begin until after he ceases to be an inmate.
- (g) Has no child or other relative of sufficient financial ability to support the applicant and responsible under the law for the support of the applicant;
- (h) Has not made an assignment or transfer of property so as to render himself eligible for assistance under this act;
- (i) Is not a recipient of old age assistance under the North Dakota Act for Old Age Assistance; except that persons, whose ordinary subsistence needs are being provided for through a grant of old age assistance, may be considered eligible under this act for treatment to prevent blindness or to restore vision, as provided in Section 13 of this act, if, upon suitable investigation and consideration, such treatment is approved by the State agency.

§ 2. EMERGENCY.] This act is hereby declared to be an emer-

agency measure and shall be in full force and effect from and after the time of its passage and approval.

Approved March 14, 1939.

CHAPTER 192

S. B. No. 195—(Morgan)

VALIDATING CHAPTER 86—S. L. 1937

An act clarifying, confirming and validating Chapter 86 of the Session Laws of 1937, which is an act making an appropriation to be expending in providing public assistance to the needy aged, the needy blind, and to dependent children, and for providing child welfare services and services to crippled children in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government; and declaring an emergency.

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

§ 1. WHEREAS, there exists a question as to the validity of the appropriation made by Chapter 86 of the Session Laws of 1937, a part of Section 1 of which reads as follows: "There is hereby appropriated from the State Public Welfare Fund created and established by House Bill No. 199 pending in this Legislative Assembly, the sum of \$2,600,000 or so much thereof as may be necessary to be expended by the Public Welfare Board in providing public assistance for the needy aged, the needy blind and to dependent children, and for child welfare services and services to crippled children"; and, because of the use of the following words: "there is hereby appropriated from the State Public Welfare Fund," in Section 1 of Chapter 86 of the Session Laws of 1937, the State Treasurer and the State Auditor have been in doubt as to their authority to pay money from the General Fund of the State of North Dakota to meet such appropriation;

NOW, THEREFORE, it is declared by this Legislative Assembly:

(1) That it was the intention of the 1937 Legislative Assembly, by Chapter 86 of the Session Laws of 1937, to make such appropriation out of any moneys in the State Treasury not otherwise appropriated;

(2) That the words "there is hereby appropriated from the State Public Welfare Fund" were intended to and are hereby construed to mean the same as though the words "there is hereby appropriated from any funds in the State Treasury not otherwise appropriated" had been used; and

(3) That any payments heretofore made or which hereafter

shall be made of the sum of \$2,600,000, or so much thereof as may be necessary, which has been or may be expended by the Public Welfare Board under the provisions of Chapter 86 of the Session Laws of 1937 in providing public assistance for the needy aged, the needy blind, and to dependent children, and for child welfare services and services to crippled children are hereby validated and confirmed.

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

Approved March 6, 1939.

CHAPTER 193

S. B. No. 100—(Committee on Public Welfare)

REGULATION, CHILDREN'S HOMES

An act amending and re-enacting Sections 1 and 9 of Chapter 161 of the Session Laws of 1923, being Sections 5099b1 and 5099b9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota; and declaring an emergency.

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

§ 1. AMENDMENT.] Section 1 of Chapter 161 of the 1923 Session Laws, being Section 5099b1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 1. LICENSE REQUIRED.] Any person, partnership, voluntary association or corporation, which owns or operates a home or institution receiving, during the calendar year, one or more children under the age of eighteen years, shall procure annually from the Division of Child Welfare of the Public Welfare Board a license so to do; provided, however, that this act shall not apply when the children received by such person are related to him by blood or marriage; and provided, further, that this act shall not apply to any home or institution under the management and control of the State.

§ 2. AMENDMENT.] That Section 9 of Chapter 161 of the 1923 Session Laws, being Section 5099b9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 9. PENALTY.] Any person, whether owner or manager or representative of any owner or manager who violates any of the

provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty (30) days or by both such fine and imprisonment.

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

Approved March 15, 1939.

CHAPTER 194

S. B. No. 101—(Committee on Public Welfare)

AID DEPENDENT CHILDREN, DEFINED

An act amending and re-enacting Sections 1, 6, and 16 of Chapter 209 of the Session Laws of 1937, being those parts of the Aid to Dependent Children Act defining a dependent child; naming relatives; providing the amount of assistance; and method of disbursement of Aid to Dependent Children Fund.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 209 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 1. DEFINITION.] The term "State board" as used in this act shall mean the State Public Welfare Board, created by Chapter 221 of the Session Laws of 1935; the term "county board" as used in this act shall mean the county welfare board in each of the counties of the State as created by Chapter 123 of the Session Laws of 1935. The word "assistance" means money payments with respect to dependent children; and "applicant" shall mean a person or agency having the custody of a dependent child or children who is making application for aid for such child or children under the provisions of this act; a "dependent" child means a needy child under the age of eighteen years who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or a child who is either neglected or delinquent or in danger of becoming delinquent or who is in need of special physical care, and whose relatives liable under the law for his support are not able to provide adequate care and support for such child without public assistance, and who is living with his father, adoptive father, mother, adoptive mother, grandfather, grandfather-in-law (including the husband by a second marriage of one of the child's natural grandmothers),

great-grandfather, grandmother, grandmother-in-law (including the wife by a second marriage of one of the child's natural grandfathers), great-grandmother, step-father, step-mother (but not their parents), brother, brother of the half-blood, brother-in-law, adoptive brother, sister, sister of the half-blood, sister-in-law, adoptive sister, step-brother, step-sister, uncle and aunt (of the whole or half blood), uncle-in-law, aunt-in-law, great-uncle, and great-aunt in the place of residence maintained by one or more of such relatives as his or their own home or who is living in a licensed boarding home or in a home maintained or provided by any child-caring or child-placing agency duly authorized under the laws of North Dakota to carry on such work or in a foster home other than that of a relative approved and selected by such agency and approved by the State board. As used in this act "child placement" shall mean the placing of a dependent child in an approved family home for care or adoption.

§ 2. AMENDMENT.] That Section 6 of Chapter 209 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 6. AMOUNT OF ASSISTANCE.] The amount of assistance which shall be granted for any dependent child shall be determined with due regard to the resources and the necessary expenditures of the family and the conditions existing in such case and in accordance with the rules and regulations made by the State board, and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health.

§ 3. AMENDMENT.] That Section 16 of Chapter 209 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 16. DISBURSEMENTS OF AID TO DEPENDENT CHILDREN FUND.] (a) All payments for aid to dependent children and for expenses incident to the administration of aid to dependent children in North Dakota shall be made by checks or warrants drawn on the Aid to Dependent Children Fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the Public Welfare Board of North Dakota.

(b) The treasurer of the State board and all persons having any control over or who handle any money of the Aid to Dependent Children Fund shall be bonded in such sum as the State board by resolution shall require.

Approved March 14, 1939.

CHAPTER 195

S. B. No. 103—(Committee on Public Welfare)

VALIDATING OLD AGE ASSISTANCE PAYMENTS

An act amending and re-enacting Sections 2 and 11 of Chapter 211 of the Session Laws of 1937 and validating payments heretofore made to certain non-citizen old age assistance clients, declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 211 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 2. ELIGIBILITY FOR ASSISTANCE TO THE NEEDY AGED.] Assistance shall be granted under this act to any person who:

(a) Is a citizen of the United States, or has resided thirty years in the United States, five years of which shall be continuous and immediately preceding the date of such application:

(b) Has attained the age of sixty-five years, provided, however, that if at any time the laws of the United States shall authorize funds for old age assistance granted by the United States to the State to be paid to a person less than sixty-five years of age, then the State agency shall have authority to reduce the age of an applicant for old age assistance to such lesser age;

(c) Has resided in North Dakota for at least five years during the nine years immediately preceding the application for old age assistance, and has resided therein continuously for one year immediately preceding application;

(d) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

(e) Is not an inmate of, or being maintained by, any municipal, State or National institution at the time of receiving assistance;

(f) Has no child or other relative of sufficient financial ability to support the applicant and responsible under the law for the support of the applicant;

(g) Has not at any time before or after making application for old age assistance made an assignment or transfer of property for the purpose of rendering himself or herself eligible for old age assistance under this plan;

§ 2. That Section 11 of Chapter 211 of the 1937 Session Laws is hereby amended and re-enacted to read as follows:

§ 11. COUNTY APPROPRIATION.] The board of county commissioners in each county in this State shall appropriate annually such sum as, in its judgment, may be needed to carry out the pro-

visions of this act, including expenses of administration based upon a budget prepared by the county welfare board, after taking into account State aid, and shall include in the tax levy for such county the sum or sums appropriated for that purpose. Should the sum so appropriated, however, be expended or exhausted during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the board of county commissioners.

If the financial condition of any county is such that it cannot make an appropriation or levy a tax for old age assistance or cannot legally issue warrants in an amount sufficient to provide the necessary funds to comply with the provisions of this act, the board of county commissioners shall report such fact to the State board. The State board shall make, or cause to be made, a complete investigation of the financial condition of such county and if such investigation shows that any county cannot appropriate funds or legally issue warrants or levy a tax in an amount sufficient to provide the county's share of funds needed for old age assistance in that county, the State board may provide either as a grant or as a loan that county's share of funds for old age assistance or so much thereof as may be necessary, from State funds appropriated to the Public Welfare Board for old age assistance.

It is further provided that any county in which an Indian reservation is located may make application to the Public Welfare Board for payment, out of State funds, of the entire amount of old age assistance grants paid to ward Indians residing in the county and on the Indian reservation.

When such application is made the State board shall make, or cause to be made, a complete investigation of the financial condition of such county and if such investigation shows that the financial condition of the county is such that it would be inequitable to ask the county to contribute its share of the amount necessary to provide old age assistance to ward Indians that the State agency may use funds appropriated to the Public Welfare Fund for old age assistance to pay such part of the costs of old age assistance to such ward Indians as is not paid by the Federal Government. And it is further provided that the State agency may use funds appropriated to the Public Welfare Fund for old age assistance to pay the entire costs of old age assistance, not paid by the Federal Government, in payment of old age assistance grants to those persons who meet the following requirements:

- (1) Who were formerly cared for by the Federal Transient Bureau;
- (2) Whose residence cannot be determined to be in any county in North Dakota or in any other State in the United States;
- (3) Who have resided in North Dakota for five years and who meet all the other State requirements for old age assistance.

§ 3. That all payments of old age assistance grants heretofore made by the Public Welfare Board of North Dakota to persons whose citizenship could not be verified, but who had resided in the United States for thirty years, five years of which were continuous and immediately preceding the date of their approval for old age assistance, and who were otherwise eligible under the Old Age Assistance Act of this State, are hereby validated and confirmed.

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

Approved March 14, 1939.

CHAPTER 196

H. B. No. 250—(Bergesen)

AUTHORIZING RECIPROCAL AGREEMENTS BY PUBLIC WELFARE BOARD

An act authorizing the Public Welfare Board of North Dakota, with the approval of the Attorney General, to enter into reciprocal agreements with other States having like authority relative to residence, care and transportation of indigent persons; and declaring an emergency.

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

§ 1. The Public Welfare Board of the State of North Dakota shall have the power and is hereby authorized, subject to the approval of the Attorney General, to enter into reciprocal agreements with corresponding State agencies of other States, having like statutory authority, regarding the interstate residence, care and transportation of indigent persons, and to arrange with the proper officials in this State for the acceptance, transfer and support of persons receiving any form of public aid or relief or likely to become a public charge in other States, and for the acceptance, transfer and support of persons from other States receiving any form of public aid or relief or likely to become a public charge in this State in accordance with the terms of such reciprocal agreement; provided that this State shall not, nor shall any county department of public welfare in this State, be committed to the support of persons who the Public Welfare Board determine are not entitled to public support under the laws of this State; and further provided, that any agreement made by the Public Welfare Board for the acceptance, transfer and support of persons from other States shall be binding on the county or county department of public welfare where such person is residing. This section shall be so interpreted and con-

strued as to effectuate its general purpose and to make uniform the laws of such States as enact similar legislation.

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

Approved March 7, 1939.

RAILROAD COMMISSION

CHAPTER 197

H. B. No. 85—(Committee on Ways & Means)

EXTENDING POWERS OF BOARD OF RAILROAD COMMISSIONERS

An act to amend and re-enact Section 591 of North Dakota Compiled Laws of 1913, relative to the powers of the Board of Railroad Commissioners, and extending such powers to include common carrier pipe lines; and declaring an emergency.

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

§ 1. That Section 591 of the Compiled Laws of 1913 for the State of North Dakota be amended and re-enacted to read as follows:

§591. INVESTIGATION OF INTERSTATE RATES.] It is hereby made the duty of the Board of Railroad Commissioners to exercise constant diligence in informing themselves of the rates, charges, rules and practices of common carriers engaged in the transportation of freight, express and passengers, or the transportation by pipe line of crude petroleum or gas or other petroleum products or in the transmission of messages or intelligence, from points in this State to points beyond its limits, and from points in other States to points in this State, also in territory wholly outside of this State, and whenever it shall come to the knowledge of the Board of Railroad Commissioners either from their own investigation or by complaint made to them in any manner whatsoever that the rates charged by any common carrier on interstate business are unjust or unreasonable or that such rates, rules or practices discriminate unjustly against the citizens, industries or interests of this State or place any of the citizens, industries or interests of this State, at an unreasonable disadvantage, as compared with those of other States, or are levied or laid in violation of the act to regulate commerce, or in conflict with the rulings, orders or regu-

lations of the Interstate Commerce Commission, it shall be the duty of the Board of Railroad Commissioners to immediately call the attention of the officials of such common carriers operating in this State to the fact, and to urge upon them the propriety of changing such rate or rates, rules or practices. Whenever such rates, rules or practices are not changed or adjusted so as to remove or remedy such discrimination within a reasonable time, it shall be the duty of the Board of Railroad Commissioners, whenever it can legally be done, to present the facts involved in such discrimination to the Interstate Commerce Commission and appeal to it for relief and thereafter, if deemed necessary, by said Board of Railroad Commissioners, the Attorney-General, with such other assistance as is now provided by law, shall prosecute any charge or charges growing out of any such discrimination.

Approved February 9, 1939.

CHAPTER 198

H. B. No. 168—(Heckman, Rait, Anderson of Benson,
Brown, McIntee and Joiner)

RAILROAD STATIONS AND AGENTS

An act to amend and re-enact Section 4656 of the Compiled Laws of 1913, relative to the maintenance of railroad stations and station agents.

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

§ 1. That Section 4656 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 4656. WHEN STATIONS AND STATION AGENTS TO BE MAINTAINED.] Every railroad corporation in the State of North Dakota shall build a station house and keep a station agent twelve months each year when so ordered by the Railroad Commissioners at all of its sidings where there is grain and merchandise of any description to be shipped, when the outgoing and incoming freight, and all other receipts at said station amounts to six thousand dollars or more on an average of the three last preceding calendar years. Provided, that said stations are not less distant than five miles apart upon the same line of railway.

Provided, further, that in the event the gross revenues do not amount to six thousand dollars or more annually, based on the average of such revenues for the preceding three year period, the Board of Railroad Commissioners shall exercise its discretion, after giving proper consideration to the public need, convenience and safety, in determining whether or not the permission sought by the railroad shall be granted.

Approved March 16, 1939.

REPEAL

CHAPTER 199

H. B. No. 98—(Ritter and Schauss)

REPEAL OF STANDING APPROPRIATION CIVIL WAR VETERANS

An act to repeal Chapter 28 of the 1925 Session Laws, being Section 1796a5 of the 1925 Supplement, making an appropriation for Civil War veterans; and declaring an emergency.

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

§ 1. REPEAL.] Chapter 28 of the 1925 Session Laws of the State of North Dakota, being Chapter 1796a5 of the 1935 Supplement, be and the same is hereby repealed.

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

Approved March 1, 1939.

CHAPTER 200

S. B. No. 39—(Young, Bilden, Braun)

REPEAL, INVESTMENT OF FUNDS OF COUNTY MUTUAL INSURANCE COMPANIES

An act to repeal Chapter 168 of the Session Laws of the State of North Dakota for 1927, as amended by Chapter 151 of the Session Laws of North Dakota for 1929, relating to the investment of funds of county mutual insurance companies, and prescribing the character of the investment.

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

§ 1. REPEAL.] That Chapter 168 of the Session Laws of the State of North Dakota for 1927, as amended by Chapter 151 of the Session Laws of 1929, be, and the same hereby is repealed.

Approved February 28, 1939.

CHAPTER 201**H. B. No. 1—(Page)**

REPEAL GRAIN STORAGE COMMISSION

An act to repeal Chapter 138 of the Session Laws of the State of North Dakota for the year 1929 creating the office of Grain Storage Commissioner, and declaring an emergency.

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

§ 1. REPEAL.] That Chapter 138 of the Session Laws of the State of North Dakota for the year 1929 be and the same is hereby repealed.

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

Approved February 1, 1939.

CHAPTER 202**H. B. No. 245—(Committee on Ways and Means)**

MOTION PICTURE THEATRE ACT—REPEAL

An act to repeal Chapter 165 of the Session Laws of the State of North Dakota for the year 1937, relating to the operation of motion picture theatres, and declaring an emergency.

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

§ 1. REPEAL.] Chapter 165 of the Session Laws of the State of North Dakota for the year 1937, relating to the operation of motion picture theatres is hereby in all things repealed.

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

Approved February 20, 1939.

CHAPTER 203

H. B. No. 51—(Schauss, Schimke, and Ritter)

REPEAL STATE PLANNING BOARD

An act to repeal Chapter 217 of the Session Laws of the State of North Dakota for 1935, relating to the State Planning Board.

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

§ 1. REPEAL.] Chapter 217 of the Session Laws of the State of North Dakota for 1935 be and the same is hereby repealed.

Approved January 28, 1939.

CHAPTER 204

S. B. No. 66—(Committee on Appropriations)

REPEAL APPROPRIATION FOR SUPREME COURT
COMMISSIONER

An act to repeal Section 17, Chapter 27, of the Session Laws of 1929 relating to the standing appropriation for the Supreme Court Commissioner.

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

§ 1. REPEAL.] That Section 17 of Chapter 27 of the Session Laws of 1929 be and is hereby repealed.

Approved February 14, 1939.

CHAPTER 205

S. B. No. 172—(Owings, Skarvold and Streibel)

TEACHERS OATH—REPEAL

An act to repeal Chapter 255 of the Session Laws of the State of North Dakota for 1931.

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

§ 1. REPEAL.] That Chapter 255 of the Session Laws of the State of North Dakota for 1931 be and the same is hereby repealed.

Approved March 13, 1939.

SCHOOLS

CHAPTER 206

S. B. No. 29—(R. M. Streibel)

ARBITRATION CONTROVERSIES AS TO SCHOOL FACILITIES

An act to amend and re-enact Section 1189 of the Compiled Laws of 1913, as amended by Chapter 236 of the 1931 Session Laws of North Dakota; and to provide for minimum attendance under which school boards may discontinue a school.

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

§ 1. AMENDMENT.] Section 1189 of the Compiled Laws of 1913, as amended by Chapter 236 of the 1931 Session Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 2. The district board shall determine and fix the length of time the schools in the district shall be taught each year, and when each term of school shall begin and end. It shall so arrange such terms as to accommodate and furnish school privileges equally and equitably to pupils of all ages; provided, that every common school shall be kept in session for not less than seven months in each school year; and provided further that any school may be discontinued when the average attendance of pupils therein for ten consecutive days shall be less than six, and all contracts between school boards and teachers shall contain a provision that no compensation shall be received by such teacher from the date of such discontinuance, if proper and convenient school facilities be provided for the pupils therein in some other school; and such proper and convenient facilities must be provided for the pupils in the territory of such school until such time as the school may be reopened by the board. In determining what shall constitute proper and convenient school facilities the school board shall consider the distance of such child from the nearest other school, and all surrounding circumstances, and may furnish transportation to such other school, or pay an extra allowance of transportation, or furnish the equivalent thereof in tuition or lodging at some other public school. In case of dispute between the patron and the school board as to whether or not the school board has furnished or arranged to furnish adequate facilities, the matter may be submitted by the patron to a board of arbitration consisting of the county superintendent of schools, one arbitrator named by the patron, and one arbitrator named by the school board, and the determination of such arbitrators, after hearing, shall be binding upon the school board. Provided further, that when any school which has been closed by reason of the terms of this section, upon demand in

writing of the parents or guardians of *six* or more children of compulsory school age, all of whom reside within two and one-half miles of such school, the school board shall re-open such school for the next ensuing term following such demand. Such school may be re-opened by the board at any time upon its own motion without any petition having been presented.

Approved March 7, 1939.

CHAPTER 207

H. B. No. 195—(Johnson of Cass, Nelson of Dickey & Mittag)

STATE BOARD OF HIGHER EDUCATION—POWERS AND DUTIES

An act providing that the State Board of Higher Education created and established by an initiated act submitted to the electors and approved June 28, A. D. 1938, shall be and hereby is vested with all the rights, powers, duties, obligations and perogatives heretofore vested in the Board of Administration, as to vocational education, vocational rehabilitation, and of the Extension Division of the North Dakota Agricultural College.

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

§ 1. POWERS TRANSFERRED.] That the State Board of Higher Education in order that Federal cooperation and aid may be secured and continued to such projects and activities, and Federal requirements complied with, is hereby vested with all the rights, powers, duties, obligations and perogatives heretofore and now vested in the Board of Administration, as to vocational education, and vocational rehabilitation, and as to the Extension Division of the North Dakota Agricultural College, and its work and activities.

Approved March 7, 1939.

CHAPTER 208

S. B. No. 189—(Committee on Education)

CONSOLIDATION OF SCHOOLS AND TRANSPORTATION
OF PUPILS

An act to amend and re-enact Section 1190 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended and re-enacted by Chapter 243 of the Session Laws of North Dakota for 1927, and as amended and re-enacted by Chapter 231 of the Session Laws of North Dakota for 1937, relating to consolidation of schools and transportation of pupils; and repealing all laws or parts of laws in conflict therewith.

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

§ 1. AMENDMENT.] That Section 1190 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended and re-enacted by Chapter 243 of the Session Laws of North Dakota for 1927, and as amended and re-enacted by Chapter 231 of the Session Laws of North Dakota for 1937, be amended and re-enacted to read as follows:

§ 1190. CONSOLIDATION OF SCHOOLS AND TRANSPORTATION OF PUPILS.] The district school board may call, and, if petitioned by one-third of the voters of the district, shall call an election to determine the question:

(1) To consolidate two or more schools or the territory usually served by two or more schools and select a site and provide a suitable building; or,

(2) To select a school already established and, if necessary, make suitable additions thereto to accommodate the pupils of the schools to be vacated. Said election except as hereafter otherwise provided shall be conducted, both as to notices and as to manner of canvassing the votes, in the same manner as the annual school election. If a majority of the votes cast at such election are in favor of either proposal, then the board shall carry out the decision of the district within four months thereafter, and such school shall be known as a consolidated school. It shall also be the duty of the board, if deemed expedient, to move to the site selected school houses already built, or to sell such school houses. In the case of any consolidated school heretofore or hereafter established under the provisions of this act, the school board may in its discretion and at its option pay to each family residing more than two miles from such school, by the nearest route, whose child or children shall attend such consolidated school, not including children in the high school department thereof, a sum per day for each day's attendance, in proportion to the distance from such school, according to the following schedule:

From 2 miles to $2\frac{1}{4}$ miles	5 cents per day
From $2\frac{1}{4}$ miles to $2\frac{1}{2}$ miles	8 cents per day
From $2\frac{1}{2}$ miles to $2\frac{3}{4}$ miles	11 cents per day
From $2\frac{3}{4}$ miles to 3 miles	14 cents per day
From 3 miles to $3\frac{1}{4}$ miles	17 cents per day
From $3\frac{1}{4}$ miles to $3\frac{1}{2}$ miles	20 cents per day
From $3\frac{1}{2}$ miles to $3\frac{3}{4}$ miles	23 cents per day
From $3\frac{3}{4}$ miles to 4 miles	26 cents per day
From 4 miles to $4\frac{1}{4}$ miles	29 cents per day
From $4\frac{1}{4}$ miles to $4\frac{1}{2}$ miles	32 cents per day
From $4\frac{1}{2}$ miles to $4\frac{3}{4}$ miles	35 cents per day
From $4\frac{3}{4}$ miles to 5 miles	38 cents per day
From 5 miles to $5\frac{1}{4}$ miles	41 cents per day
From $5\frac{1}{4}$ miles to $5\frac{1}{2}$ miles	44 cents per day
From $5\frac{1}{2}$ miles to $5\frac{3}{4}$ miles	47 cents per day
From $5\frac{3}{4}$ miles to 6 miles	50 cents per day

And for each one-fourth of one mile over and beyond such distance of six miles from such school the further sum of five cents per day.

Provided that such distance shall be measured from the front door of the school house to the front door of the family's residence according to the most convenient public course of travel; provided that the board at its option in lieu of such payment may

(1) Furnish vehicular transportation by public conveyance to such family, or

(2) Furnish such family the equivalent of such payment in lodging or tuition at some other public school if acceptable to the family, and when the school board or board of education by resolution, provides for such payment, transportation, lodging or tuition, the compulsory attendance law shall apply to all school children of school age living not to exceed six miles from school and shall also apply to such children living more than six miles from school if vehicular transportation is furnished; provided, further, that demand for such payment shall be made by such family before the close of the school year or same will be deemed to have been waived.

Provided, that the provisions for transportation shall not apply to deaf, blind and feeble-minded children in this State, and this section shall not be construed to apply to parents, guardians, or other persons having control of any child or children of compulsory school age, who desire to send such child or children for a total period of not exceeding six months, which may be taken in one or more years, to any parochial school for the purpose of preparing such child or children for religious duties. It shall be the duty of the clerk of the school board to include in his annual statement an item setting forth the amount spent for transportation of pupils.

§ 2. REPEAL.] All laws or parts of laws in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 209

S. B. No. 237—(Committee on Education)

STATE EQUALIZATION FUND

An act to provide for the creation of the State Equalization Fund; providing for its distribution in the payment of costs of correspondence work, costs of vocational education, high school tuition and in the payment of direct aid to school districts upon a teacher-unit and per pupil basis and providing for the distribution of an emergency fund and to provide methods for the ascertainment and payment of the sums payable to school districts; and to provide for penalty for making false reports; repealing Chapter 227 of the Session Laws of 1937 and all acts or parts of acts in conflict therewith.

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

§ 1. STATE EQUALIZATION FUND CREATED.] There is hereby created a fund to be known as the State Equalization Fund. The State Treasurer shall credit to such fund all sums appropriated by the legislature for that purpose from any source of income whatever, and in the case of direct biennial appropriations, the State Treasurer shall apply one-half of the total appropriation of the biennium to each year thereof, and the amount so applied for each year, plus all accumulations from other sources, shall be construed to the amount available in such fund for the current year.

All monies now in the State Equalization Fund as it was created by Chapter 227 of the Laws of 1937, are hereby transferred to and shall become a part of the State Equalization Fund as hereby re-created.

§ 2. HIGH SCHOOL CORRESPONDENCE WORK.] First, the amount of money appropriated by the legislature for correspondence work for the biennium or so much thereof as may be necessary, accruing to the State Equalization Fund shall be expended by the State Board of Higher Education for high school work by correspondence.

§ 3. VOCATIONAL EDUCATION IN AGRICULTURE, HOME ECONOMICS AND DISTRIBUTIVE OCCUPATIONS IN COOPERATION WITH FEDERAL PROGRAMS.] After setting aside the sum hereinbefore required for high school correspondence work, the amount of money appropriated by the legislature for vocational education for the biennium or so much thereof as may be necessary shall be ex-

pended by the State Board of Higher Education in accordance with the following provisions: Not to exceed \$18,000 per year shall be used for the purpose of matching Federal grants for vocational education in agriculture and home economics and not to exceed \$2,000.00 per year shall be used for the purpose of matching Federal grants for vocational education in distributive occupations. Said sum of \$20,000 per year shall be paid by the State Auditor upon the certificate of the State Board of Higher Education to such school districts and in such manner as may be directed by such certificate. The State Board of Higher Education shall be charged with the duty of administering said funds through the State Director of Vocational Education and the State Supervisors of Vocational Agriculture and Home Economics and said board and its said officers shall do all things necessary to cooperate with the program of the so-called Smith-Hughes Act, George-Deen Act, and other Federal legislation for vocational education.

§ 4. EMERGENCY FUND: \$250,000 PER YEAR OR SUCH PORTION THEREOF AS NECESSARY TO BE SET ASIDE FOR DISTRIBUTION AS AN EMERGENCY FUND.] \$250,000, or such portion thereof as may be necessary, accruing to the State Equalization Fund in each fiscal year from July 1st to June 30th inclusive shall be allocated and set aside as an emergency fund to aid financially distressed schools in the manner hereinafter set forth:

(a) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE MONTHLY MINIMUM COST OF MAINTAINING PUBLIC SCHOOLS.] The State Superintendent of Public Instruction shall be charged with the duty of investigating the inquiring into the general subject of public school costs and needs of financially distressed districts within the State. It shall be his duty to prepare the necessary application blanks and forms upon which the information required by him shall be certified to by such school authorities as may be designated by him. From the information so acquired the State Superintendent of Public Instruction shall from month to month determine the minimum amount of money required to operate each of the various classes of public schools.

(b) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE MONTHLY CERTIFICATE TO STATE AUDITOR OF SCHOOLS IN NEED.] From the information obtained as provided in the preceding subdivision, the State Superintendent of Public Instruction shall monthly certify to the State Auditor a list of school districts of the State which are unable to pay for the operation of their schools the minimum amount determined in the manner hereinbefore set forth, after having made the maximum financial effort to do so, together with a statement of the amount of money required by such districts to meet such minimum standards.

(c) MAXIMUM FINANCIAL EFFORT DEFINED.] In determining whether or not a school district has made the maximum finan-

cial effort mentioned above, it must appear: (1) that the district shall have provided the maximum mill levy which means that in addition to having provided for the normal maximum levy, it shall have held an election and increased the normal maximum levy by the 50% increase allowed under the law and made such levy, provided that the governing board may exercise its discretion in judging the good faith of school districts to carry out this provision; (2) that revenues from local taxes, and from State and county sources have been exhausted; (3) that such district is unable to sell in the manner now provided by law certificates of indebtedness in an amount sufficient to maintain adequate school facilities; or that it is either unable to issue further certificates of indebtedness or registered warrants, or if able to issue same, they cannot be marketed; (4) that any school district expecting to apply for aid from the emergency fund must have its budget for the fiscal year approved by the Department of Public Instruction before such grant is allowed; this budget must include an itemized and certified statement of the exact financial condition of the school district as of the current date; (5) that no school district shall participate in the emergency fund unless and until it is shown to have a reasonable teacher-pupil ratio; in determining what constitutes a reasonable teacher-pupil ratio, the Superintendent of Public Instruction shall consider the type and size of the school, its proximity, and the transportation facilities to adjacent schools. To qualify for aid on the emergency fund basis, the following standards shall be used as guides on this teacher-pupil basis: Schools with seven or more teachers should maintain a teacher-pupil ratio of at least twenty-five pupils per teacher; in smaller schools, a teacher-pupil ratio of less than twenty pupils per teacher shall be considered unreasonable. Schools participating in this emergency fund should have a minimum enrollment of twenty-five pupils for four years of high school work, and a minimum enrollment of fifteen pupils for two years of high school work. Schools participating in the emergency fund must not pay transportation charges in excess of the amount that would be allowed under the family system of transportation.

(d) Aid granted to school districts from the emergency fund shall first be applied for the payment of teachers' salaries.

(e) ADMINISTRATION.] The Governor, Attorney General, and the Superintendent of Public Instruction shall constitute the board which is hereby authorized, empowered and directed to carry out and perform the provisions of Section 4 of this act dealing with the distribution of the emergency fund, and to prescribe such additional rules and regulations as they deem reasonable and necessary.

§ 5. HIGH SCHOOL TUITION: WHEN AND HOW PAYABLE.] After setting aside the sums hereinbefore required for high school correspondence work and for vocational training, there shall be paid out of said State Equalization Fund to each public school dis-

trict in this State which during the previous school year offered four or more units of standard high school work, approved by the State Superintendent of Public Instruction as by law provided, and which has employed only teachers duly certified by the State Superintendent of Public Instruction and who have been paid not less than the minimum salary required by law, the sum of \$1.50 per week of attendance for each non-resident high school student who attended such high school during the preceding semester, and be it further provided that high school tuition shall be paid to any school district for any pupil or student who has completed the eighth grade, living in a district having no high school and residing in a county that is on the border line of another State who may be attending a four-year high school in the adjoining State; provided that the term "non-resident high school student" shall include only students who have completed all the work of the first eight grades, who are residents of the State of North Dakota and of school districts which did not, during the preceding school year, offer four full units of high school work, approved by the State Superintendent of Public Instruction, for which the student was prepared, and who had not previously attended high school for four years nor completed fifteen or more full units of high school work. Immediately upon the close of each semester and in any event not later than February tenth and June thirtieth of each school year, the superintendent or principal of each district claiming high school tuition under this act shall certify and the clerk shall attest to the county superintendents of schools a verified claim, giving the name, residence, number of weeks of attendance and number of units of high school work taken by each non-resident student for whom tuition is claimed. The county superintendent of schools shall investigate the propriety of the claim for each student, and determine the residence and other qualifications of each, and on or before February twentieth, or on or before July twentieth as the case may be, shall certify to the State Superintendent of Public Instruction the number of non-resident high school students for which each district is entitled to payment of high school tuition, and shall at that time notify the school districts of the names of any students for which the claim has been disallowed by him, and such district may, if it so desires, on or before August fifth of such year, appeal to the State Superintendent of Public Instruction, who may, if in his judgment the evidence submitted by the district warrants it, change or modify the certificate of the county superintendent of schools, and his judgment thereon shall be final. Immediately upon receiving the certificate of the county superintendent of schools, and in any event not later than March twentieth for the first semester and not later than September first for the second semester, the State Superintendent of Public Instruction shall certify to the State Auditor a list of the districts entitled to payment of high school tuition together with the amount to which each district is entitled. It is the

purpose of this section to assure the payment in full of the said high school tuition before any payments are made on the teacher unit basis or the per pupil basis as hereinafter set forth. Such high school tuition payments shall be the sole and only compensation received by such districts for non-resident high school students, and no district shall charge or collect from any non-resident student, his parents or guardian or the district of his residence, any tuition fees, registration fee, textbook fee, laboratory fee or any other fee or charge which is not also charged of all resident students; provided, however, that this act shall not affect the right of a district to charge and collect from students who are not residents of this State such tuition as may be agreed upon.

§ 6. PAYMENT ON TEACHER-UNIT BASIS.] After the payment for high school tuition and other proper charges against the fund have been provided for, there shall be paid from said Equalization Fund to the public school districts and county agricultural and training schools of the State upon the basis of \$120 for each grade or high school teacher-unit maintained by such school districts and county agricultural and training schools during the preceding year, where the schools have one to four teachers. If the said schools have more than four teachers, each school district shall receive \$100 for each grade or high school teacher unit maintained. If the school term is less than nine months the payments shall be such fractional part of full payment as the number of months the school is actually open is of nine.

§ 7. "TEACHER-UNIT" DEFINED BY STATE SUPERINTENDENT OF PUBLIC INSTRUCTION. EXCEPTIONS.] The State Superintendent of Public Instruction shall, on or before the first day of August after this act shall take effect, define the terms "grade school teacher-unit" and "high school teacher unit" for the purposes of this act and therein fix the number of pupils and teachers required to constitute such "teacher-unit" and shall give notice of such definitions to all county superintendents of schools in the State and such other publicity thereto as shall, in his judgment, be sufficient to appraise the school officers of the State as to the requirements of such definitions. Such definitions may provide for the allowance of fractional credit for partial compliance with the requirements of the definitions. Such definitions shall be framed and formulated with the end in view of efficiency in schools. In defining teacher-unit as applied to consolidated schools, consideration shall be given to the teacher-pupil ratio and to the territory served by such schools. If, in any particular case it shall appear that the then existing definitions or either of them would work an injustice or hardship upon any individual school district, because of any peculiar facts existing in such district, the State Superintendent of Public Instruction may, in his sole judgment and discretion, upon request of such district, modify such definitions, or either of them, as the same shall be

applied to such individual district; and in all such cases the decision of the State Superintendent of Public Instruction shall be final. No aid on the teacher-unit basis shall be paid to any school district unless and until said school district shall have filed with the county superintendent its statement giving the name of each teacher employed, the number of said teacher's certificate, the subjects taught by said teacher, and the monthly salary paid to said teacher and no such aid shall be given to any district for such teachers as were not properly certified and did not receive at least the minimum salary provided by law. The duties imposed upon the State Superintendent by this section are mandatory and no aid upon the teacher-unit basis shall be extended to any district except in compliance with the terms of this and the following section.

§ 8. COUNTY SUPERINTENDENT OF SCHOOLS AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CERTIFY AS TO TEACHER-UNITS.] As soon after the close of each semester or half year as possible, and in any event not later than February twentieth for the first semester and July twentieth for the second semester, the county superintendent of schools of each county shall certify to the State Superintendent of Public Instruction a list of all public districts in his county and the number of high school and grade school teacher units maintained by each during the preceding semester or half year, and shall also notify each district as to the number of teacher-units so certified. Any school district feeling aggrieved by the certificate of the county superintendent of schools, may, on or before August fifth of such year, appeal to the State Superintendent of Public Instruction, who may, if in his judgment the evidence submitted by the district warrants it, change or modify the certificate of the county superintendent of schools, and his judgment thereon shall be final. Immediately upon receiving the certificates of the county superintendent of schools, and in any event not later than March twentieth for the first half of the school year and not later than September first for the second half of the school year, the State Superintendent of Public Instruction shall certify to the State Auditor a list of all public school districts in the State, together with a statement as to the teacher-units maintained by each. The State Auditor shall thereupon pay for the first half of the school year one-half of the said sum of \$120.00 or \$100.00, as the case may be, and for the second half of the school year one-half of the said sum of \$120.00 or \$100.00 as the case may be, for each grade or high school teacher-unit so certified to him, which payment shall be made from said State Equalization Fund after payment of the amount certified for payment for high school tuition, high school correspondence, vocational education and agriculture, home economics and distributive occupations, and other proper charges against the fund as hereinbefore set forth. Should the balance in said fund prove insufficient to make payment in full of the

amounts shown by said certificates to be due the several school districts, the State Auditor shall pro-rate such balance among the districts.

§ 9. DISTRIBUTION ON PER PUPIL BASIS.] After the payments, and distributions hereinbefore provided, the remainder of the State Equalization Fund or so much thereof as may be necessary, shall be distributed to the school districts of the State on a per-pupil basis, inversely proportional to the assessed valuation back of each pupil in said districts and in the following manner: The county superintendents of schools, on forms supplied by the State Superintendent of Public Instruction, shall on or before the first day of December of each year report to the State Superintendent of Public Instruction the number of teachers employed, their salaries and the number of bone-fide residents students enrolled as of November first in each school and the assessed valuation of the property on which taxes can be levied for the current school year for each school district. Such assessed valuations shall be certified by the county auditors. Where there is more than one school in a school district the report shall be so prepared as to readily indicate the schools belonging to said school districts. In one teacher schools where the enrollment is less than fifteen pupils it shall be considered as fifteen for the purpose of this calculation. From the reports the State Superintendent of Public Instruction shall determine the assessed valuation back of each thus enrolled pupil in the district and from the following table determine the per pupil payment for each district and this payment multiplied by the total bona fide resident school enrollment of all schools in the district shall be the payment to the district. Such payment shall be computed for all districts in the State.

<i>Assessed Valuation Per Pupil</i>	<i>Payment Per Pupil</i>
\$3200-3300 -----	\$.50
3100-3200 -----	1.00
3000-3100 -----	1.50
2900-3000 -----	2.00
2800-2900 -----	2.50
2700-2800 -----	3.00
2600-2700 -----	3.50
2500-2600 -----	4.00
2400-2500 -----	4.50
2300-2400 -----	5.00
2200-2300 -----	5.50
2100-2200 -----	6.00
2000-2100 -----	6.50
1900-2000 -----	7.00
1800-1900 -----	7.50
1700-1800 -----	8.00
1600-1700 -----	8.50

1500-1600 -----	9.00
1400-1500 -----	9.50
1300-1400 -----	10.00
1200-1300 -----	10.50
1100-1200 or less -----	11.00

The State Superintendent shall on or before the first day of January of each year estimate the money available for the per pupil distribution for the year, after the payments and distributions provided in the preceding sections have been made, and shall then determine what percentage of its total per pupil payment each school district will receive. Each school district shall then be paid one-half of its thus estimated payment for the year. The balance of the amount due under this section shall be paid on or before September first of each year, when the county superintendent has certified the number of months that the school was conducted, and the enrollment of bona fide pupils who have attended school at least ninety days during the school year. Where the school term is less than nine months the payments shall be such fractional part of full payment as the number of months the school is actually open is of nine. Upon the information thus furnished the State Superintendent of Public Instruction shall correct the previous estimate for the year and authorize such further payment up to the total payment thus computed as the money available for per pupil distribution will permit so that each district will receive the same per cent of the total payment thus computed. Provided, however, that in no case shall such per pupil payments exceed 40% of the salaries paid by such district for teachers for the current year. The State Auditor shall make such payments on certificates furnished by the State Superintendent of Public Instruction.

§ 10. METHOD OF MAKING PAYMENT.] Upon receipt of the certificates of the State Superintendent of Public Instruction as aforesaid the State Auditor shall make said payments for high school correspondence, vocational education in agriculture, home economics and distributive occupations, high school tuition, teacher-unit basis, and per pupil basis by the Auditor's warrant upon the Equalization Fund. Said warrants may be sent by the Auditor direct to the clerks of the said school districts or to the county superintendents of school, which ever may be deemed by the State Superintendent of Public Instruction to be most effective for the efficient administration of this act. Said warrants shall be made payable to the school districts, and shall be delivered to the clerk thereof, who shall make a record of the receipt thereof and deliver same to the school district treasurer, who shall deposit the same to the general funds of their respective districts, and the funds so received shall be available for use by the districts solely for the payment of current expenses. The State Auditor may make the

payments herein provided for by separate warrants or combine such payments, as the convenience and efficiency of his may dictate.

§ 11. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE RULES AND PREPARE BLANK FORMS.] The State Superintendent of Public Instruction may make such rules and regulations governing the certification from county superintendents of schools of the information and evidence required by this act to enable him to make his certificates, and governing appeals from decisions of county superintendents of schools as may be reasonably necessary to accomplish the purposes herein set forth. He shall also prepare and circulate among the county superintendents of schools blank forms for the certificates of the school districts to the county superintendents of schools and of the county superintendents of schools to the State Superintendent of Public Instruction.

§ 12. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO SECURE INFORMATION AND MAKE ESTIMATES.] Immediately after the close of each fiscal year the State Superintendent of Public Instruction shall secure from the State Auditor a statement of the balance in the State Equalization Fund as of the close of the year, and he shall thereupon make an estimate as to the probable amount which may be expected to be paid for each teacher-unit and on the per pupil basis, in the State, and shall, on or before July fifteenth give notice of such estimate to each county superintendent of schools, and give the same publicity through the various news channels, so that the same may be available for the school district in making up their budgets for the ensuing year.

§ 13. TRANSFER OF SURPLUS.] If at the close of any bien-nium the amount remaining on hand in said Equalization Fund exceeds \$100,000, the amount in excess of such sum shall be converted into the General Fund of the State of North Dakota. The appropriations and allocations made herein shall be a first charge and claim upon and against all monies appropriated and coming into the fund hereby created in the order in which said appropriations and allocations are set forth herein.

§ 14. PENALTY FOR FALSE REPORTS.] It shall be a misdemeanor, punishable by fine or imprisonment, or both, for any school official to falsify any report in connection with the administration of this fund.

§ 15. REPEAL.] Chapter 227 of the Session Laws of 1937 and all other acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 210**S. B. No. 190—(Committee on Education)**

**ACTUARY, TEACHERS INSURANCE AND RETIREMENT
FUND**

An act authorizing the board of trustees of the Teachers' Insurance and retirement Fund to employ an actuary and clerical assistance and making an appropriation therefor.

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

§ 1. The board of trustees of the Teachers' Insurance and Retirement Fund is hereby authorized to employ an actuary, and such other clerical assistance as may be necessary to make an actuarial survey of the State Teachers' Insurance and Retirement Fund, under the supervision and direction of the board.

§ 2. APPROPRIATION.] There is hereby appropriated out of the State Teachers' Insurance and Retirement Fund the sum of \$3,000.00 or so much thereof as may be necessary, to pay the necessary expenses of such actuarial survey.

Approved March 15, 1939.

CHAPTER 211**S. B. No. 283—(Committee on Delayed Bills)**

TEACHERS OATH

An act prescribing the oath to be taken and subscribed to by professors, instructors and teachers in public schools, colleges and universities of the State.

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

§ 1. That every person who applies for a certificate or any renewal thereof, to teach in any of the public schools of the State, shall subscribe to the following oath:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.

Such oath or affirmation shall be executed in duplicate and one copy thereof shall be filed with the State Superintendent of Public Instruction at the time when the application for a certificate is made, and the other copy shall be retained by the person who sub-

scribed to such oath or affirmation. No certificate shall be issued unless such an oath shall have been filed.

§ 2. Every professor, instructor or teacher who shall be employed hereafter by any university, college or normal school in this State which is supported in whole or in part by public funds, shall, before entering upon the discharge of his or her duties subscribe to the oath as prescribed by Section 1 of this act, before some officer authorized by law to administer oaths. Such oath shall be filed with the Board of Higher Education and one copy shall be retained by the person who subscribed to such oath.

§ 3. Any person who is a citizen or subject of any country other than the United States, and who is employed in any capacity as a professor, instructor or teacher in any university, college or normal school in this State, which is supported in whole or in part by public funds, shall before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the State.

§ 4. The several township supervisors, school directors, member of the Board of Higher Education, and members of school boards are hereby authorized to administer the oath required by this act to persons who apply for certificates to teach in the public schools of the State.

§ 5. All laws or parts of laws in conflict herewith are hereby repealed.

Approved March 13, 1939.

CHAPTER 212

S. B. No. 187—(Committee on Education)

TRANSPORTATION OF CERTAIN HIGH SCHOOL STUDENTS

An act to permit school districts, discontinuing high schools, to furnish for high school students, transportation to other school districts having high school facilities.

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

§ 1. TRANSPORTATION OF HIGH SCHOOL STUDENTS.] Any school district in the State, which for economy discontinues high school work may, at the option of the school board, provide for pupils, who are eligible to attend high school, and who reside in the district, transportation from their place of residence in the district

to a high school in such other school district in the county or in an adjoining county, as shall be determined by the board of the school district furnishing the transportation.

§ 2. REPEAL.] That all laws or parts of laws in conflict herewith are hereby repealed.

Approved March 14, 1939.

CHAPTER 213

S. B. No. 198—(Wog and Brant)

TREASURER'S REPORT, COMMON SCHOOL DISTRICTS

An act to amend and re-enact Section 1218 of the Supplement to the Compiled Laws for 1913 of the State of North Dakota, and relating to the report of the treasurer in common school districts; and repealing all acts or parts of acts in conflict therewith.

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

§ 1. AMENDMENT.] That Section 1218 of the Supplement to the Compiled Laws for 1913 of the State of North Dakota be amended and re-enacted to read as follows:

§ 1218. TREASURER'S ACCOUNTS ANNUAL SETTLEMENT.] The district treasurer shall open new accounts with each fund at the beginning of each school year, and the balance of each fund shall be brought down and become a part of the first entry in opening the account for the new year. On the second Tuesday in July, the school board shall make settlement with the district treasurer and shall carefully examine his books, accounts and vouchers, and shall ascertain if the amount of all warrants, bonds and coupons paid and redeemed or paid in part, together with the cash in his hands or under his control, is equal to the amount of cash on hand at the beginning of the school year, together with all money received by him from all sources for school purposes during the year. The district treasurer shall deliver to the board at such annual meeting, all warrants, bonds and coupons paid and redeemed by him during the school year and held by him as vouchers, taking the receipt of the board therefor, and such vouchers shall forthwith be filed with the district clerk. He shall at that meeting make his annual report in quadruplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk of the school board, one to the Bank of North Dakota, one to be transmitted to the county superintendent of schools, and the board shall cause to be published an itemized statement of the receipts and expenditures of the preceding year in the newspaper of the county nearest said school district; provided,

that if said board or treasurer shall have failed to publish said statement by the first of September following the presentation of the treasurer's annual report, then it shall be the duty of the county superintendent of schools to cause the publication of the same in the newspaper of the county nearest said school district. Such publication shall be paid for by the school district at the following rate: not to exceed seven dollars and fifty cents (\$7.50) if the district shall be free from bonded indebtedness and ten dollars (\$10.00) if the district shall have a bonded indebtedness. When such annual statement is transmitted to the newspaper for publication, the board of such school district may provide said newspaper with the names and addresses of not more than thirty (30) patrons and taxpayers in the school district and it shall be the duty of the publisher of said newspaper, accepting such report for publication, to mail to said patrons and taxpayers a copy of the newspaper containing such school treasurer's statement. The treasurer's reports shall show the following:

RECEIPTS

The balance at the close of the year.
The amount received into the State tuition fund.
The amount received into the special fund.
The amount received into the county tuition fund.
The amount received into the sinking fund.

EXPENDITURES

The amount paid for school houses, sites and furniture.
The amount paid for apparatus and fixtures.
The amount paid for teachers' wages.
The amount paid for services and expenses of school officers.
The amount paid for redemption of bonds.
The amount paid for interest on bonds.
The amount paid for incidental expenses.
The cash on hand at the close of the school year.

Such report shall include such other items as may be required by the district board, or the Superintendent of Public Instruction, and shall be upon and in conformity with the blanks furnished him for that purpose.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 214

S. B. No. 77—(Blaisdell)

TUITION FEES FROM NON-RESIDENTS
INSTITUTIONS OF HIGHER EDUCATION

An act providing for reciprocity in fixing tuition fees of non-resident students attending institutions of higher education in the State of North Dakota and defining non-resident students, and fixing registration and tuition fees of non-resident students residing in foreign countries other than the Dominion of Canada.

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

§ 1. At all institutions of higher education in the State of North Dakota there shall be charged and collected from each non-resident student an amount equivalent to the amount charged students from North Dakota by similar schools in the State, Territory, or Province of which said non-resident student shall be a resident; said amount to be determined and fixed by the governing boards of the several institutions in which said non-resident student may register; but in no event shall such amount be less than that charged students resident in North Dakota.

§ 2. A non-resident student is hereby defined to be a student less than 21 years of age living away from his family and whose family resides in another State, Territory, or foreign country, or whose family has resided within the State of North Dakota for a period of less than 12 months immediately prior to the date of registration; or a student of the age of 21 years or over who resides out of the State of North Dakota or who has resided within the State of North Dakota for a period of less than 12 months after reaching his majority and prior to the date of registration.

§ 3. The provisions of this act shall apply to students who are residents of the various States and Territories of the United States of America and the Provinces of the Dominion of Canada.

§ 4. Non-resident students residing in any foreign country other than the Dominion of Canada shall pay a registration and tuition fee of one hundred dollars per semester.

Approved March 15, 1939.

SOCIAL SECURITY

CHAPTER 215

S. B. No. 159—(Committee on Insurance)

UNEMPLOYMENT INSURANCE ACT, AMENDMENT

An act to amend and re-enact Sections 2, 5 and 6 of Chapter 232 of the Session Laws of North Dakota for the year 1937, transition provisions for simplification, relating to base period and benefit year, and also to amend and re-enact Sections 3, 5, 12, 13 and 14 of Chapter 232 of the Session Laws of North Dakota for the year 1937 to comply with that Act of Congress known as the Railroad Unemployment Insurance Act, and amending and re-enacting Section 10 of Chapter 232 of the Session Laws of 1937, authorizing the United States Government or Social Security Board to allow the Commissioners of the North Dakota Workmen's Compensation Bureau compensation for services as administrative heads of Unemployment Compensation Division and State Employment Service, repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

TRANSITION PROVISIONS FROM INDIVIDUAL BENEFIT YEAR AND EXTENSIBLE BASE PERIOD TO INDIVIDUAL BENEFIT YEAR WITH FIXED INDIVIDUAL BASE PERIOD

A. As used in this section unless the context clearly requires otherwise:

(1) "Old law" means the Unemployment Compensation Law prior to its amendment by Sections 2, 5 and 6 of this act.

(2) "New law" means the Unemployment Compensation Law as amended by Sections 2, 5 and 6 of this act.

(3) "Effective date" means the date upon which the new law becomes effective.

B. Except as otherwise specifically provided in Subsection C of this section, the new law shall be exclusively applicable with respect to any individual on and after the effective date. No provision of the old law shall be construed to limit or to extend the rights of any individual as fixed by the new law, after the new law becomes exclusively applicable with respect to such individual as provided in this section.

C. (1) With respect to any individual for whom there is current a benefit year, established pursuant to the old law, which has not expired prior to the effective date, Sections 2(r) (benefit year) 2(s) (base period), 5(e) (duration of benefits), and 6(e)

(qualifying wages) of the old law, and the weekly benefit amount determined pursuant to Section 5(b) and 5(e). For the purposes of this subsection wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of Section 2(e) or Section 2(f) with respect to becoming an employer. 5(b) and 5(c) of the old law, shall be exclusively applicable until the expiration of such current benefit year, except that: (A) Notwithstanding any provision of Sections 2(s) and 5(d) of the old law to the contrary, the base period of such individual and the period usable in the determination or redetermination of his full-time weekly wage, shall in no event extend after the last day of the next to the last completed calendar quarter immediately preceding the effective date, and

(b) Notwithstanding any provision of Section 6(d) of the old or new law to the contrary, no waiting period shall be required of any such individual after the effective date and before the expiration of such current benefit year, and (c) Notwithstanding any provision of the old law to the contrary, the weekly benefit amount and the maximum total benefits payable during such current benefit year shall, if not a multiple of \$1.00, be computed to the next higher multiple of \$1.00, with respect to all weeks of unemployment occurring after the effective date.

(2) Section 2(r), 2(s), 5(b), 5(d)(1) and 5(d)(2) and 6(e) of the new law shall be exclusively applicable with respect to such individual after the expiration of such benefit year.

§ 2. DEFINITION.] As used in this act, unless the context clearly requires otherwise—

(1) "Annual pay roll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(2) "Average annual pay roll" means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever average is higher.

(b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

(c) "Bureau" means the North Dakota Workmen's Compensation Bureau consisting of three commissioners, appointed for terms of six years.

(d) "Contributions" means the payments to the State Unemployment Compensation Fund required by this act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor

thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day in each of twenty different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment eight or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit, not an employer subject to this act, and which if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection:

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, or interests, or both, would be an employer under Paragraph (1) of this subsection.

(5) Any employing unit which, having become an employer under Paragraph (1), (2), (3), or (4), has not, under Section 9, ceased to be an employer subject to this act; or

(6) For the effective period of its election pursuant to Section (9)(c) any other employing unit which has elected to become fully subject to this act.

(g) "Employee" means every individual, whether male, female, citizen, alien or minor, who is performing, or subsequent to January

1st, 1936, has performed services for an employer in an employment subject to this act.

(h) (1) "Employment," subject to the other provisions of this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "Employment" shall include an individual's entire service, performed within or both within and without this State if—

(a) The service is localized in this State; or

(b) The service is not localized in any State but some of the service is performed in this State and (1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (2) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

(3) Services not covered under Paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this State and the bureau approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a State if—

(a) The service is performed entirely within such State; or

(b) The service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown, to the satisfaction of the bureau that—

(a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(b) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business;

(6) The term employment shall not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(2) Services performed in the employ of any other State or its political subdivisions, or of the United States Government, or of any instrumentality of any other State or States or their political subdivisions or of the United States.

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the bureau is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in Section 11(b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this act.

Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act.

No employee shall have or assert any right to unemployment benefits under the unemployment compensation law of this State with respect to unemployment occurring after June 30, 1939, based upon 'employment' as defined in the Railroad Unemployment Insurance Act.

(4) Agricultural labor;

(5) Domestic service in private home;

(6) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(7) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(i) "Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

(j) "Fund" means the Unemployment Compensation Fund es-

tablished by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

(k) "Insured work" means employment for employers.

(l) "State" includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

(m) "Unemployment." An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The bureau shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the bureau deems necessary.

(n) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration Fund established by this act, from which administrative expenses under this act shall be paid.

(o) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the bureau.

(p) "Week" means such period of seven consecutive days, as the bureau may by regulation prescribe. The bureau may by regulation prescribe that a week shall be deemed to be "in," "within," or "during" that benefit year which includes the greater part of such week.

(q) "Weekly benefit for unemployment." Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of \$3.00. Such benefit, if not a multiple of \$1.00 shall be computed to the next higher multiple of \$1.00.

(r) "Benefit year" with respect to any individual means the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52-consecutive-week period beginning with the first day of the first week with respect to which the

individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with Section 6 of this act shall be deemed to be a "valid claim" for the purposes of this subsection if the individual has earned the wages for insured work required under Section 6(e) of this act.

(s) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(t) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the bureau may by regulation prescribe.

§ 5. PAYMENT OF BENEFITS.] Beginning twenty-four months after the date when contributions first accrued under this act, benefits shall become payable from the fund; provided all benefits shall be paid through employment offices in accordance with such regulations as the bureau may prescribe. Such benefits shall be determined as follows:

(a) Individuals with Fixed Rate of Pay. The full-time weekly wage of an individual who most recently in his base period was employed in insured work at a fixed rate of pay per week or longer period, where such fixed report of pay has been reported by his employer, shall be deemed to be such fixed rate of pay computed at a rate per week; and the full-time weekly wage of an individual who most recently in his base period was employed in insured work at a wage rate per hour or longer period of less than a week and for whose occupation in the enterprise in which he last earned wages for insured work during his base period there prevailed customary scheduled full-time weekly hours shall be deemed to be the weekly wage such individual would receive if he were employed at such wage rate for such full time hours. An individual's weekly benefit amount shall be an amount equal to 50 per-cent of his full-time weekly wage as above determined, except that if such amount is more than \$15.00 the weekly benefit amount shall be \$15.00 and if less than \$5.00 the weekly benefit amount shall be \$5.00, and if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00.

(b) Weekly Benefit Amount—No Full-Time Weekly Wage. If the bureau finds that the full time weekly wage as defined in Section 5(a) hereof would be unreasonable or arbitrary or not readily determinable with respect to any individual such individual's weekly benefit amount shall be an amount equal to $1/26$ of his total wages for insured work during that quarter of his base period in which such total wages were highest, except that if such amount

is more than \$15.00 the weekly benefit amount shall be \$15.00 or if less than \$5.00 such weekly benefit amount shall be \$5.00 and if not a multiple of \$1.00, shall be computed to the next highest multiple of \$1.00.

(c) Duration of Benefits. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (1) sixteen times his weekly benefit amount, and (2) one-third of the wages earned by him for insured work during his base period; provided that such total amount of benefits, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00. For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of Section 2(e) or Section 2(f) with respect to becoming an employer.

Any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another State or of the United States, provided that if the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

(d) Benefit in Seasonal and Irregular Employment. The bureau shall make such studies of season and irregular employment as it deems feasible and present with appropriate methods of handling these claims to the 1941 session of the legislature.

§ 6. BENEFIT ELIGIBILITY CONDITIONS.] An unemployed individual shall be eligible to receive benefits with respect to any week only if the bureau finds that—

(a) He has made a claim for benefits with respect to such week in accordance with such regulations as the bureau may prescribe.

(b) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the bureau may prescribe, except that the bureau may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act; provided that no such regulation shall conflict with Section 5(a) of this act.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of two weeks. Such weeks of unemployment need not be consecutive. No week shall be counted as a week of unemployment for the purposes of this subsection:—

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment, and provided further that the week or the two consecutive weeks immediately preceding a benefit year, if part of one uninterrupted period of unemployment which continues into such benefit year, shall be deemed (for the purposes of this subsection only) to be within such benefit year as well as within the preceding benefit year.

(2) If benefits have been paid with respect thereto.

(3) Unless the individual was eligible for benefits with respect thereto as provided in Sections 5 and 6 of this act, except for the requirements of this subsection and of Subsection (e) of Section 7.

(e) He has during his base period earned wages for insured work equal to not less than thirty times his weekly benefit amount.

§ 9. ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE.]

(b) Except as otherwise provided in Sub-section (c) of this section an employing unit shall cease to be an employer subject to this act only as of the first day of January of any calendar year only if it files with the bureau, prior to the 5th day of January of such year, a written application for termination of coverage, and the bureau finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this act. For the purpose of this sub-section, the two or more employing units mentioned in Paragraph (2) or (3) or (4) of Section 2(f) shall be treated as a single employing unit.

COMPLIANCE WITH THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

§ 3. (a) UNEMPLOYMENT COMPENSATION FUND. ESTABLISHMENT AND CONTROL.] There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an unemployment compensation fund, which shall be administered by the bureau exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to Section 14 of this act; (2) all fines and penalties collected pursuant to the provisions of this act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposit. The State Treasurer shall be ex-officio the treasurer and custodian of the fund, who shall administer

such fund in accordance with the directions of the bureau and shall issue his warrants upon it in accordance with such regulations as the bureau shall prescribe. He shall maintain within the fund three separate accounts; (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the bureau, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 15 of this act may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the bureau. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from the State's account in the Unemployment Trust Fund. Except as otherwise herein provided moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the bureau, in the Bank of North Dakota, but no public deposit insurance charge or premium shall be paid out of the fund. The Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the bureau and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals. Moneys shall be requisitioned from this State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the bureau. The bureau shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this State's account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the counter-signature of a member of the bureau or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be de-

ducted from estimates for, and may be utilized for the payment, of benefits during succeeding periods, or, in the discretion of the bureau, shall be re-deposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in Sub-section (b) of this Section.

(d) Management of Funds upon Discontinuance of Unemployment Trust Fund. The provisions of Subsections (a), (b), and (c) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such moneys, properties, or securities in a manner approved by the bureau in accordance with the provisions of this act; provided, that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America or the State of North Dakota. Provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the bureau.

(e) Notwithstanding any requirements of the foregoing subsections of this section, the bureau shall, prior to whichever is the later of (i) 30 days after the close of this session of the legislature and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is the later of (i) 30 days after the close of this session of the legislature and (ii) January 1, 1940, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said Unemployment Trust Fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liqui-

dating amount. The Social Security Board shall determine both such amounts after consultation with the bureau and the Railroad Retirement Board. The preliminary amount shall consist of that proportion of the balance in the Unemployment Compensation Fund as of June 30, 1939, as the total amount of contributions collected from 'employers' (as the term 'employer' is defined in Section 1(a) of the Railroad Unemployment Insurance Act) and credited to the Unemployment Compensation Fund bears to all contributions theretofore collected under this act and credited to the Unemployment Compensation Fund. The liquidating amount shall consist of the total amount of contributions collected from 'employers' (as the term 'employer' is defined in Section 1(a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this act during the period of July 1, 1939, to December 31, 1939, inclusive."

§ 12. RECIPROCAL BENEFIT ARRANGEMENTS.] (a) The Bureau is hereby authorized to enter into arrangements with the appropriate agencies of other States or the Federal Government whereby individuals performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 2(h) of this act or under similar provisions in the unemployment compensation laws of such other States shall be deemed to be engaged in employment performed entirely within this State or within one of such other States and whereby potential rights to benefits accumulated under the unemployment compensation laws of several States or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the bureau finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(b) The bureau is also authorized to enter into arrangements with the appropriate agencies of other States or of the Federal Government (1) whereby wages or service, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another State or of the Federal Government, shall be deemed to be wages for employment by employers for the purposes of Section 5 and Section 6(e) of this act, provided such other State agency or agency of the Federal Government has agreed to reimburse the fund for such portion of benefits paid under this act upon the basis of such wages or services as the bureau finds will be fair and reasonable as to all affected interests, and (2) whereby the bureau will reimburse other State or Federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other States or of the Federal Government upon the basis of employment or wages for employment by employers, as the bureau finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for

the purposes of Sections 5(e) and 3 of this act, but no reimbursement so payable shall be charged against any employer's account for the purposes of Section 4 of this act. The bureau is hereby authorized to make to other State or Federal agencies and receive from such other State or Federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

§ 13. EMPLOYMENT SERVICE.] (a) State Employment Service. The North Dakota State Employment Service is hereby established in the Workmen's Compensation Bureau as a division thereof. The bureau, through such division, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act, and for the purpose of performing such duties as are within the purview of the act of Congress entitled "An Act to Provide for the Establishment of a National Employment System and for Co-operation with the States in the Promotion of Such System, and for Other Purposes, approved June 6, 1933 as amended. The said division shall be administered by a full time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States, having powers or duties under the provisions of the said act of Congress, as amended, and to do and perform all things necessary to secure to the State the benefits of the said act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said act, and this State will observe and comply with the requirements thereof. The North Dakota State Employment Service is hereby designated and constituted the agency of this State for the purpose of said act. The bureau is directed to appoint the director, other officers, and employees of the North Dakota State Employment Service. Such appointments shall be made in accordance with regulations prescribed by the director of the United States Employment Service. The bureau may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) Financing. All moneys received by this State under the said act of Congress, as amended shall be paid into the special "Employment Service Account" in the Unemployment Compensation Administration Fund, and said moneys are hereby made available to the North Dakota State Employment Service to be expended as provided by this section and by said act of Congress. For the purpose of establishing and maintaining free public employment offices, the bureau is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation

law, with any political subdivision of this State, or with any private, nonprofit organization, and as a part of any such agreement the bureau may accept moneys, service, or quarters as a contribution to the employment service account.

§ 14. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND. SPECIAL FUND.] There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the bureau. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, the Railroad Retirement Board and the United States Employment Service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balances in this fund shall not lapse at any time but shall be continuously available to the bureau for expenditure consistent with this act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the bureau and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Compensation Fund under Section 3 of this act, shall be paid from the moneys in the Unemployment Compensation Administration Fund. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be paid into this fund and the employment service account thereof, on the same basis as expenditures are made for such services or facilities from such fund and account.

§ 10. ADMINISTRATIVE ORGANIZATION.] There is hereby created in the North Dakota Workmen's Compensation Bureau a division to be known as the Unemployment Compensation Division. The North Dakota State Employment Service, as created by Chapter 161 of the Session Laws of 1935, is hereby transferred together with all its records, contracts, agreements and funds, and established as a division of the Workmen's Compensation Bureau and shall with the Unemployment Compensation Division, constitute two coordinate divisions of such bureau, each of which shall be administered by a full time salaried director, who shall be subject to supervision and direction of the bureau. Upon passage and approval of this act the Workmen's Compensation Bureau shall have all of

the powers and duties heretofore placed in the Commissioner of Agriculture and Labor in Sub-sections 5, 6, 7, 8 and 9 of Chapter 161 of the 1935 Session Laws. Each of the three commissioners of the bureau shall be entitled to receive and retain as remuneration for their services under this act, such sums as the United States Government or the Federal Social Security Board may allow to them not to exceed the sum of six hundred (\$600.00) dollars per annum in addition to compensation they now receive as commissioner of the bureau. Each division of the bureau as herein created shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budgets and duties, except in so far as the bureau may find that such separation is impractical because of the small size of the territory served or of the volume of work performed. The bureau is authorized to appoint, fix the compensation of, and prescribe the duties of the director of the Unemployment Compensation Division, provided that such appointment shall be made on a nonpartisan merit basis, and to appoint, fix the compensation of, and prescribe the duties of the director of the North Dakota State Employment Service Division in accordance with the provisions of Section 13 of this act.

REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

EMERGENCY.] This act is hereby declared to be an emergency measure and shall take effect from and after the approval.

Approved March 15, 1939.

STATE LANDS

CHAPTER 216

H. B. No. 142—(Panko)

AUTHORIZING EXCHANGE OF LANDS BETWEEN STATE, COUNTY AND GOVERNMENT UPON INDIAN RESERVATION

An act for an act authorizing the State and counties to exchange tracts of State and county lands within Indian reservations of this State, for tracts of lands owned by the United States Government, providing for appraisals, execution of conveyances, and repealing all acts or parts of acts in conflict therewith.

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

§ 1. The State of North Dakota, through its several departments and agencies, is hereby authorized and empowered to exchange tracts and sections of land on Indian reservations within the State, belonging to the State of North Dakota, and not a part of the original grant of land to the State provided in the Enabling Act, which lands shall be appraised as now provided by law in the case of sale of real property, for lands of like character and value belonging to the United States Government on Indian reservations within this State, subject to the approval of the appropriate department of the Federal Government and to execute and deliver proper conveyances thereof in the manner and form as provided by law, without the necessity of complying with any statute requiring notice of exchange or competitive bidding, and to accept in return therefor a proper instrument of conveyance to the state of the lands for which such lands are exchanged.

§ 2. The various counties of the State of North Dakota, through their boards of county commissioners, are hereby authorized and empowered, to exchange tracts and sections of land belonging to the respective counties and on Indian reservations within said counties, which lands shall be appraised as now provided by law for the sale of real property acquired by the county for delinquent taxes, for lands of like character and value belonging to the United States Government on Indian reservations within the State, subject to the approval of the appropriate department of the Federal Government, and to execute and deliver proper conveyances thereof in the manner and form as now provided by law, but without the necessity of complying with any statute requiring notice of exchange or competitive bidding, and to accept in return therefor a proper instrument of conveyance to the county of the lands for which such lands are exchanged.

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

Approved February 20, 1939.

CHAPTER 217

H. B. No. 147—(Byrne)

CEDING CERTAIN LANDS—MILITARY RESERVATION

An act ceding to the United States exclusive jurisdiction over certain lands in Burleigh County which are parts of the Fort Lincoln Military Reservation.

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

§ 1. Exclusive jurisdiction is hereby ceded to the United States over the following tracts of land which were reserved from the public domain and set apart for military purposes as additions to the Fort Lincoln Military Reservation by Executive Orders of the President of the United States dated May 17, 1899, June 8, 1901, and January 17, 1907, to-wit: Lots 2, 3, and 4 Section 10, Township 137 north, Range 80 west, and Lots 11 and 13, Section 34, Township 138 north, Range 80, west of the fifth principal meridian, situated in Burleigh County, and all accretions thereto; *provided, however*, that jurisdiction over the above-described lands is ceded upon the express condition that all civil process issued from the courts of this State and such criminal process as may issue under the authority of this State against any person charged with crime committed within the jurisdiction of this State may be served and executed thereon in the same manner and by the same officers as if this act had not been passed.

Approved March 1, 1939.

CHAPTER 218

H. B. No. 126—(Agriculture)

LEASING AND SALE OF SCHOOL AND OTHER PUBLIC LANDS

An act to amend and re-enact Section 336, Compiled Laws of 1913, as amended by Chapter 177, Laws of 1925, relating to the leasing and sale of school and other public lands of the State, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 336, Compiled Laws of 1913, as amended by Chapter 177, Laws of 1925, be hereby amended and re-enacted to read as follows:

§ 336. LANDS SUBJECT TO LEASE.] All the common school lands and all other public lands of the State that are not of such value as will admit of appraisal at ten dollars or more per acre, at the time of any regular appraisal, may be leased; provided, that no leases can be granted for a period longer than ten years, and only for pasturage and meadow purposes, and at public auction after notice as hereinafter provided; provided, further, that all of such school and public lands now under cultivation may be leased at the discretion and under the control of the Board of University and School Lands for other than pasturage and meadow purposes until sold; provided, further, that in case of a sale of the lands so leased during the term of the lease, the lessee shall be given ninety days' notice; provided, further, that at the expiration of said lease or within ninety days of the date of receiving the aforesaid notice, the said lessee may remove from said lands so leased, all fences, sheds, water tanks, windmills, etc., used upon said lands by said lessee. All rents shall be paid annually in advance and in the event such land is leased or sold to any person, other than the lessee at the time of such sale or lease, the party purchasing or leasing such land shall, in addition to purchase price or rental of said land, pay to the prior lessee the fair and reasonable value of all permanent improvements placed on said land by such prior lessee with the written consent and permission of the Commissioner of University and School Lands, and in the event of the parties being unable to agree, the value of such improvements to be fixed and determined by a board composed of such commissioner, or some one designated by him, and a member appointed by each of said parties.

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

Approved March 4, 1939.

CHAPTER 219**H. B. No. 149—(Skartvedt, Schwartz and Morland)****TRANSFER OF CERTAIN SCHOOL LANDS TO GAME AND
FISH COMMISSION**

An act providing for a transfer of certain school land situated in Slope County, North Dakota, to the Game and Fish Commission of the State of North Dakota in cooperation with an act of Congress to provide that the United States shall aid the State in wild-life restoration projects, and for other purposes to be used and maintained under the direction of the Game and Fish Commission to aid in wild-life restoration in the State of North Dakota, and providing for an appropriation to reimburse the Permanent School Fund of the State of North Dakota; and declaring an emergency.

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

§ 1. The Governor of the State of North Dakota and the Board of University and School Lands are hereby authorized and directed to transfer and convey all of Section 34, Township 133 North of Range 98, West of the Fifth Principal Meridian, situated in Slope County, North Dakota, containing 640 acres more or less according to the United States Government survey thereof, to the Game and Fish Commission of the State of North Dakota for wild-life restoration projects as defined in said act of Congress.

§ 2. That there be and is hereby appropriated to reimburse the Permanent School Fund of the State of North Dakota the sum of six thousand four hundred dollars, (\$6,400.00) payable out of any monies in the State Treasury not otherwise appropriated in the manner and in installments as follows; the sum of four hundred dollars (\$400.00) for the year 1939; one thousand dollars (\$1,000.00) for the year 1940; one thousand dollars (\$1,000.00) for the year 1941; one thousand dollars (\$1,000.00) for the year 1942; one thousand dollars (\$1,000.00) for the year year 1943; one thousand dollars (\$1,000.00) for the year year 1944; and one thousand dollars (\$1,000.00) for the year 1945.

§ 3. EMERGENCY.] It is hereby declared that an emergency exists; and this act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1939.

CHAPTER 220

S. B. No. 228—(Holl and Fredrickson)

SCHOOL LANDS TRANSFER TO WILLIAMS AND BARNES COUNTIES

An act providing for transfer of certain school lands situated in Williams and Barnes counties, respectively State of North Dakota, to Williams and Barnes counties to be used and maintained as public parks, and authorizing the exchange of lands belonging to said counties therefor; and declaring an emergency.

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

§ 1. EXCHANGE AUTHORIZED AND DIRECTED.] (a) The Board of University and School Lands is hereby authorized and directed to transfer and convey to Williams County for public park purposes the southeast quarter ($SE\frac{1}{4}$) of section sixteen (16), township one hundred and fifty-five (155) north of range one hundred and one (101) west of the principal meridian, located in Williams County, State of North Dakota, containing one hundred and sixty (160) acres, more or less, according to the United States Government survey, in exchange for the east half of the southwest quarter ($E\frac{1}{2}SW\frac{1}{4}$) and the west half of the southeast quarter ($W\frac{1}{2}SE\frac{1}{4}$) of section eleven (11) of township one hundred and fifty-five (155), north of range one hundred and one (101) west of the fifth principal meridian located in Williams County, State of North Dakota, containing one hundred and sixty (160) acres, more or less, according to the United States Government survey, which said land the Board of county commissioners of Williams County is hereby authorized and directed to transfer and convey to the Board of University and School Lands.

(b) The Board of University and School Lands is hereby authorized and directed to transfer and convey to Barnes County, North Dakota, for public park purposes the south half of the southwest quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) of section thirty-six (36), township one hundred thirty-seven (137) north, range fifty-eight (58), west of the fifth principal meridian, located in Barnes County, North Dakota, containing eighty (80) acres, more or less, according to the United States Government survey thereof in exchange for the northwest quarter ($NW\frac{1}{4}$) of section four (4), township one hundred forty-two (142), range sixty (60) west of the fifth principal meridian located in Barnes County, North Dakota, containing one hundred sixty (160) acres, more or less, according to the United States Government survey thereof which said land the board of county commissioners of Barnes County is hereby authorized and directed to transfer and convey to the Board of University and School Lands.

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

Approved March 16, 1939.

CHAPTER 221

H. B. No. 151—(Solberg, Ireland, Erickson, Anderson of McKenzie and Rohde)

TRANSFER CERTAIN SCHOOL LANDS TO WILLISTON EXPERIMENT STATION

An act providing for the transfer of certain school lands situated in the Lewis and Clark Irrigation District of McKenzie County, North Dakota, to the State of North Dakota to be used in connection with the experiment station, established at Williston, North Dakota, pursuant to the provisions of Section 1629 of the Compiled Laws of 1913, for the purpose of establishing, maintaining and operating thereon an irrigation demonstration and experiment farm; providing for an appropriation to reimburse the Permanent School Fund of the State, providing for an exchange of such lands for other lands more suitably situated, and declaring an emergency.

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

WHEREAS, the State Water Conservation Commission has created and established, in cooperation with the North Dakota Rural Rehabilitation Corporation and the Farm Security Administration, in the Lewis and Clark Irrigation District of McKenzie County, North Dakota, an irrigation project which, when completed, will supply water for the irrigation of approximately 5,000 acres of land, and

WHEREAS, a similar project has been established, and is now being constructed and completed near Cartwright in McKenzie County, North Dakota, and

WHEREAS, several other projects for the irrigation of lands in McKenzie County, Williams County, and adjoining counties, have been proposed and found practicable and economically feasible which, when completed, will do much to stabilize agriculture, particularly the livestock industry, in that section of the State; therefore

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

§ 1. The Governor and the Board of University and School Lands are hereby authorized and directed to transfer and convey to the State of North Dakota the north half (N½) of the southwest quarter (SW¼) of section sixteen (Sec. 16) township one

hundred fifty-three (Twp. 153), north of range one hundred one (Rge. 101), west of the fifth principal meridian, McKenzie County, North Dakota, less that portion of said premises heretofore transferred and conveyed for highway right-of-way, said premises containing 79.32 acres, more or less, according to the United States Government survey thereof.

§ 2. That said lands, after their transfer to the State of North Dakota, shall be used, operated and maintained as an irrigation demonstration and experiment farm under the supervision, direction and control of the North Dakota Agricultural College at Fargo, and in connection with the experiment station established at Williston, North Dakota, pursuant to Section 1629 of the Compiled Laws of 1913, to demonstrate and show: (1) what crops can best be grown and profitably produced under irrigation; (2) how to irrigate growing crops; (3) when various crops can and should be irrigated to produce the best results, and (4), in general, to aid, assist and instruct farmers, by practical demonstration, in irrigating their lands.

If it shall be found that the lands described in Section 1 of this act may, without additional consideration, be exchanged for a tract of land of equal size and value within the Lewis and Clark Irrigation District of McKenzie County, which tract of land is more suitably and conveniently located for such irrigation demonstration and experiment farm, then and in that case the lands described in Section 1 of this act may be exchanged for such tract of land, and in order to effect such exchange the Governor is hereby authorized to execute and deliver for and on behalf of the State the necessary instrument or deed conveying title to the lands mentioned in Section 1 hereof.

§ 3. To reimburse the Permanent School Fund, there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of eight hundred (\$800.00) dollars payable to the Permanent School Fund as follows: the sum of one hundred and sixty (\$160.00) dollars for the year 1939 and the sum of one hundred and sixty (\$160.00) dollars for each of the years 1940, 1941, 1942, and 1943.

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

Approved March 16, 1939.

CHAPTER 222**S. B. No. 261—(Committee on Delayed Bills)**

AUTHORIZING EXCHANGE STATE LANDS FOR MILITARY PURPOSES

An act authorizing the State Treasurer as Trustee for the State of North Dakota to transfer lands owned by him to owners of other lands of approximately equal value in exchange for transfers of such other lands, and declaring an emergency.

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

§ 1. The State Treasurer, as Trustee for the State of North Dakota, and the Industrial Commission of the State of North Dakota, are hereby authorized in their discretion to transfer farm lands now owned by the State Treasurer as Trustee, or hereafter acquired by such trustee, to owners of other lands in exchange for transfers of such lands, provided however, that all lands exchanged shall be of approximately equal value, and further provided that the transfers hereby authorized shall be made only to facilitate the development of artillery range, maneuver grounds, or area for other military purposes for the use of the North Dakota National Guard; and further provided that the lands so acquired by exchange shall be held by the State Treasurer, subject to all the conditions of the trust under which the land so exchanged may now be held.

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

Approved March 13, 1939.

CHAPTER 223**S. B. No. 130—(Blank, Guthrie and Brant)**

PROTECTION OF HISTORIC DEPOSITS FOUND ON STATE OWNED LANDS

An act providing for the protection of pre-historic deposits, relics, Indian mounds, graves, village sites and other archaeological material; providing for licensing persons engaged in exploring and excavating for ancient ruins and archaeological materials, restricting such exploration and excavation on State owned lands and requiring that one-half of such materials be delivered to the State Historical Society and providing a penalty for violation of this act.

WHEREAS, the public has an interest in the preservation of all archaeological material in the State for the study of the geological, climatic and habitational history of the State and their bearing on the future, and

WHEREAS, a large amount of archaeological material has been removed from the State and placed in museums in other States, and

WHEREAS, Indian mounds, graves and village sites have been carelessly dug into and excavated, thereby destroying much material of historical and archaeological significance, and

WHEREAS, the State Historical Society, and particularly the museum maintained by the State Historical Society, and the public have suffered great and irreparable loss because of careless excavation into Indian mounds, graves and village sites; therefore:

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

§ 1. Any person, firm, association, or corporation, before making any investigation, exploration or excavation on any pre-historic ruins, Indian mounds, graves and/or village sites for archaeological material, on any lands in North Dakota, shall first obtain a permit or annual license from the Superintendent of the State Historical Society of North Dakota. Such permit or license shall be issued when an application has been filed with him setting forth: (1) the location of the site where applicant proposes to explore or excavate for such archaeological material and (2) the qualifications and scientific fitness of the applicant to make such investigation, exploration or excavation. Each such application shall be accompanied by a filing fee of five dollars (\$5.00).

§ 2. Each permit or license shall accurately describe the location and site of the ruins, mounds, graves and/or deposits where the exploration or excavation is to be conducted and shall authorize or permit explorations or excavations only at the described location; provided, that a supplementary permit or license shall be granted for any other location upon the payment of a fee of \$2.50, provided, that no permit shall be granted for investigation, exploration or excavation on any land owned by the State until the superintendent shall be satisfied that the applicant has the scientific training and fitness to make such investigation, exploration or excavation and such permit shall not be granted until the applicant has agreed to deliver one-half of all articles, fossil remains and archaeological materials found and removed from such State land.

§ 3. All such permits or licenses shall terminate on the thirty-first day of December of the year in which issued but may be renewed thirty days after the expiration thereof upon payment of two dollars; provided, that any permit or license to explore or excavate on any land belonging to the State of North Dakota or any county or municipality, may be revoked by the said superintendent at any time that it appears that explorations or excavations authorized by the permit or license are being conducted negligently, carelessly

or improperly and without regard for the careful preservation and conservation of the archaeological material contained in such location, site or deposit.

§ 4. All fees collected by the Superintendent of the State Historical Society under the provisions of this act shall be deposited in the revolving fund of the State Historical Society and shall be used by the superintendent in making investigations of applicants for such permits or licenses and of the sites or locations sought to be explored by such applicants.

§ 5. Nothing contained in this act shall be construed to limit or prohibit any person owning land in North Dakota from exploring or excavating for archaeological material on his land.

§ 6. Where land is sold, conveyed, transferred or leased by the State of North Dakota, or by any department or agency thereof, or by any municipal sub-division thereof, the title to any and all archaeological materials, whether such materials are found upon the surface or below the surface of such land, shall be retained by the State or by the municipal sub-division thereof, as the case may be.

§ 7. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall forfeit to the State all archaeological articles and materials discovered by him and shall be fined not exceeding one hundred dollars (\$100.00), and in case of failure to pay such fine, shall be imprisoned in the county jail for a period not exceeding thirty days. The violation of this act shall be held to be committed in the county where the exploration or excavation for archaeological material was undertaken.

§ 8. The sections of this act and each part of such sections are hereby declared to be independent sections and parts of sections, and the holding of a section, or part thereof, or the application to any person or circumstances, to be invalid, ineffective or unconstitutional shall not effect any other section, or part thereof, or the application of any section, or part thereof, to other persons or circumstances.

Approved March 13, 1939.

CHAPTER 224

H. B. No. 186—(Committee on Tax and Tax Laws)

RESALE OF STATE OWNED LANDS

An act providing for the resale of lands acquired by the State on foreclosure of mortgages given to secure loans of permanent school funds, or by deed given in lieu of foreclosure; giving a preference to mortgagors whose lands are resold or to their heirs; providing for the terms and conditions of resale; and declaring an emergency.
Preamble:

WHEREAS, by reason of the adverse economic conditions prevailing in the State of North Dakota during the past decade, hundreds of farmers have been wholly unable to repay to the State, loans of moneys belonging to the Permanent School Funds of the State of North Dakota secured by mortgages upon their farms; and

WHEREAS, many thousands of acres of lands so mortgaged have been acquired by the State of North Dakota through foreclosure of such mortgages or by deeds given by the borrowers in lieu of foreclosure; and

WHEREAS, such lands so acquired by the State of North Dakota are withdrawn from taxation so long as they are held by the State, and all taxing districts are crippled by such withdrawals; and

WHEREAS, it is of the utmost importance that such lands be returned to private ownership as soon as possible; and

WHEREAS, it is evident that this purpose can only be accomplished by the sale of such lands upon easy terms to persons who will reside upon and farm such lands;

Now, Therefore, Be it enacted by the Legislative Assembly of the State of North Dakota:

§ 1. This act is intended to provide for sales of lands acquired by the State of North Dakota upon foreclosure of mortgages given to secure loans of moneys belonging to the Permanent School Funds of the State of North Dakota or by deed given in lieu of foreclosure upon contract providing for payment from the income produced upon the lands sold, and the method of sale herein provided is declared to be in addition to the method or methods now provided by law for the sale of such lands, and this act shall not be construed to repeal or amend any other law now in force in this State.

§ 2. The Board of University and School Lands is hereby authorized and empowered to sell lands described and referred to in Section 1 of this act upon the terms and conditions herein provided as follows, to-wit:

(1) No lands shall be sold under the provisions hereof unless the proposed purchaser agrees to personally reside upon the land purchased or upon lands contiguous to or lying in the immediate vicinity thereof and has farming equipment adequate in the judgment of the Board of University and School Lands to enable him to farm the lands to be bought successfully; and unless said board determine that the proposed purchaser has had sufficient experience in farming to enable him to farm the lands to be purchased successfully.

(2) No more than three hundred twenty (320) acres, or such additional acreage as may be required to make an economic farm unit under the regulations of the Federal Farm Security Administration, shall be sold to any person under the provisions of this act; except in a case where a tract of land containing more than three hundred twenty (320) acres and less than four hundred eighty (480) acres has been acquired through any one mortgage, such entire tract may be sold to one purchaser; and if the greater portion of the tract to be purchased is principally fit only for grazing and stock raising not to exceed one section may be sold to an individual purchaser.

(3) Lands sold pursuant to the provisions of this act shall not be sold for less than the principal sum of the loan through which the State acquired title plus all actual expense incurred by the State in connection with said loan.

(4) Before any lands are sold pursuant to the provisions hereof, said lands shall be appraised by the Board of Appraisers charged with the duty of appraising school lands, and no lands shall be sold for less than the appraised value; provided that lands once appraised need not be re-appraised unless the same be not sold within two years of any such appraisal.

(5) The purchaser shall farm the lands in a good and husbandman-like manner according to the practice of farming in the vicinity in which the land lies and according to the manner of farming of lands of like character, and shall produce therefrom such income as such lands are reasonably capable of producing, having due regard to climatic conditions and to the prices of agricultural products such as said lands are reasonably adapted to raising, including live-stock, dairy products, vegetables, fruits, grain and forage crops.

(6) The purchase price shall be paid by the payment to the State Land Commissioner at the time of the execution of the contract of not less than twenty-five (25) cents per acre and in no case less than the then regular land department's leasing price for lands of like character; and the balance of the purchase price to be paid by the payment of the one-fifth part of the gross income produced by said lands as provided in Sub-section 5 hereof, payments from the various sources of income to be made quarterly on the 1st

days of January, April, July and October each year. All income so paid shall be credited as of the date of actual payment as follows:

First: In payment of interest upon the purchase price of said lands at the rate of three percent (3%), per annum.

Second: The remainder of income paid after deducting interest as aforesaid shall be credited upon the purchase price agreed to be paid for said lands. Provided that the balance of the purchase price shall be due twenty (20) years after the date of the contract.

(7) The Board of University and School Lands shall at the time of execution of the contract and annually thereafter on or before the 1st day of January, furnish the purchaser with a pamphlet so arranged as to enable the purchaser to keep an accurate account and record of the income from the land for the then current year; and such pamphlet, duly verified by the purchaser shall be delivered to the Land Commissioner on or before the 31st day of December of the year the income of which was accounted for therein.

(8) Any and all moneys received by the purchaser for compliance with any law or laws heretofore or hereafter enacted by the Congress including crop insurance shall be deemed and considered to be income received from said lands and shall be disposed of as other income as provided by Sub-section 6 hereof.

(9) It is hereby expressly provided that the purchaser may use not to exceed two acres of said lands for home garden purposes and that no part of the produce thereof shall be considered income and no part of the proceeds thereof need be accounted for as income of said lands so purchased; and provided further that said purchaser shall have the right to use milk, cream, butter and any other dairy products he may make from milk produced on the lands purchased necessary for himself and his family and dairy products so used shall not be considered income from said lands and need not be accounted for as such.

(10) It is further provided that the purchaser may raise a reasonable amount of barnyard poultry and use feed produced upon the lands purchased for such purpose and need not account for any part of the income from such poultry to the State of North Dakota, except if the purchaser shall raise turkeys for market he shall account for the proceeds of all in excess of ten (10) turkeys as income as aforesaid.

(11) Forage and other feed crops raised and fed to livestock on said lands shall be accounted for only as income from the sale of such livestock.

(12) Lands acquired as aforesaid shall be advertised for sale annually in the same manner as lands are now, or may hereafter be advertised by the State Land Department for rental and shall be sold at public auction at the time other lands are leased to the highest responsible bidder whose bid may be approved by the Board

of University and School Lands, but no land shall be sold for less than the minimum as hereinbefore provided.

It is further provided that if any mortgagor or his heirs desire to repurchase his original land lost by him or her through foreclosure or by deed given in lieu of foreclosure, he or they may do so at anytime before such lands are offered at public sales to the highest bidder, that they shall be notified by registered mail by the State Land Commissioner to the effect that they are given the privilege to make such repurchase at the price of the principal sum or remaining balance of such principal sum of the original loan plus all costs, and expenses of foreclosure as provided in Section 2 hereof. Should the former mortgagor or his heirs fail to make such repurchase within ninety (90) days from date of notice by the State Land Commissioner, such lands shall be offered for sale to the highest bidder.

(13) The successful bidder for each tract shall be required to pay the regular appraisal fee of \$12.50 with the application before entering into a contract for the purchase of such lands, the State acting through the State Land Commissioner within thirty (30) days after the date upon which his bid was received, and if the successful bidder shall not make such contract within such time, or if his bid shall not be approved by the Board of University and School Lands, the tract so bid for and all tracts for which there were no bidders, may be sold by the Board of University and School Lands at private sale for not less than the minimum price as hereinbefore provided upon the terms and conditions herein provided.

(14) The State of North Dakota shall have a first lien and hold title to all the produce of said lands, a portion of which is payable on the purchase of lands purchased as herein provided, provided that in case the purchaser is financed to enable him to operate the lands purchased by any Federal agency, the lien of the State may be waived as to personal property only in favor of such Federal agency by agreement in writing, and the Board of University and School Lands is hereby authorized to make such agreement if it so elects.

(15) Upon the making of any contract for the sale of lands as herein provided, the State Land Commissioner shall notify the county auditor of the county wherein the land lies, in writing, of the date of the contract, the name of the purchaser, and the description of the land purchased. The county auditor shall put said lands upon the tax list of his county for taxation provided that said land shall not be subject to taxation until January 1st of the year following the date of such contract.

(16) Taxes levied upon lands purchased on contract pursuant to the terms hereof as authorized by Subsection 15 hereof may be collected by sale of the premises taxed as other taxes are collected, provided that the purchaser at such tax sale, in case no redemption

is made, shall have only such right as he might have acquired by the assignment of such contract to him; and no tax deed shall issue upon any such tax sale so long as the State is the holder of the legal title to said lands and any portion of the purchase price remains unpaid.

(17) Contracts made pursuant to the terms of this act may be assigned by the purchaser only upon the written consent of the State Land Commissioner, and no assignment shall be recognized by the Board of University and School Lands or the State Land Commissioner unless such consent be given.

(18) In case the purchaser shall fail and neglect to fully and fairly account for and pay over to the State Land Commissioner the one-fifth part of the income of said lands as hereinbefore provided, or in case the purchaser fails to pay any taxes levied and assessed upon lands purchased by him pursuant to the provisions hereof before the same is sold for such taxes, the contract shall be voidable, and the Board of University and School Lands may in their discretion declare such contract of sale void, and in case of such declaration, the State Land Commissioner shall notify the holder of such contract of such declaration by written notice mailed to his post-office address, if known to the State Land Commissioner, and, if not known, such notice may be mailed to the post-office nearest the lands described in such contract, and the State Land Commissioner shall send a duplicate copy thereof by mail to the auditor of the county in which such land is situated. Such county auditor shall thereupon strike said lands from the tax lists of his county. Upon such declaration and after the mailing of notices as aforesaid, the State Land Commissioner shall take possession of said land.

(19) The purchase[r], or the heirs, executors, administrators, or assigns of the purchaser may redeem the premises from the effects of such declaration of avoidance made as aforesaid by the payment to the State Land Commissioner of all sums delinquent, and the average of the income for the three years preceding such declaration of avoidance, for each year from such declaration to date of payment in addition to all taxes due and delinquent and the further sum of fifty dollars (\$50.00) which shall be credited upon the principal unpaid, at any time before the resale of said premises. Upon the making of the payments aforesaid, said contract shall be deemed to be reinstated and shall be in full force and effect the same as if no such declaration of avoidance had been made.

(20) When the purchase price and interest has been fully paid, the State shall convey the premises purchased to the purchaser by quit claim deed executed in the name of and in behalf of the State of North Dakota, by the State Land Commissioner and Secretary of the Board of University and School Lands, and attested by the Secretary of State with the Great Seal of the State of North Dakota attached.

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

Approved March 14, 1939.

TAXATION

CHAPTER 225

S. B. No. 41—(Thorson, Nelson of Grand Forks, Wog, Morrison and Drew.)

ABATEMENT EXCESSIVE ASSESSMENTS

An act declaring all tax charges based on original final values of property assessed by local assessors, in excess of amount that would have been charged had said original final value been limited to the full and true value in money, null and void providing remedy to the taxpayer; and repealing all laws or parts of laws in conflict therewith.

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

§ 1. TAXES BASED ON VALUATIONS IN EXCESS OF FULL AND TRUE VALUE VOID.] Any and all taxes levied and assessed against taxable property valued by local assessors, to the extent that said tax charges exceed the amount that said tax charge would have been had the original final determination of value been limited to the full and true value thereof in money, shall be null and void.

§ 2. WHO MAY OBJECT. CONSIDERATION OF APPLICATION.] Each individual property owner, and each person having an interest in taxable property valued by local assessors, either individually, or jointly, or collectively, including taxing districts as such, may within one year after any assessment becomes final, bring such proceedings as are herein provided for, or as may be provided for by law, to determine and limit the tax obligations of such property as provided for in Section one hereof, and each such proceedings shall be by the board, commission, commissioners, or any person having jurisdiction thereof, and the courts, decided, determined, and the valid tax determined as to the application thereof to the specific property or properties involved in said proceeding or proceedings and without reference to county necessities, or other municipal requirements, and without reference to the valuation applied or tax obligations charged against other properties.

§ 3. APPLICATION FOR RELIEF FROM EXCESSIVE VALUATION.]

Any person or persons referred to in Section two hereof aggrieved by the acts of any assessor, township board of review and equalization, board of county commissioners sitting as a board of equalization, board of county commissioners sitting as such, the county auditor, or any other officer having jurisdiction over valuation for the purpose of taxation of taxable property valued by local assessors may petition the board of county commissioners to make its order fixing the basic full and true value, in money, of any such property, or properties as may be described or referred to in the petition and to correct or modify any other act or thing done, committed or permitted in connection with the taxation thereof and to re-determine any tax charges against any such property to conform to the amount that would ultimately result from a reduction of the valuation thereof to the full and true then value thereof. Such petition shall contain such representations in connection with said property, and with reference to the original and basic full and true value thereof in money, as the petitioner or petitioners may be advised, and in addition to allegations of value as value may be now by law determined, said petitioner or petitioners may allege and prove, by affidavit or otherwise, the full and true value of said property, in money, by reference to the average cash rental value thereof, and such allegations and proof may be considered along with other evidence in determining the full and true value in money. The board of county commissioners shall have jurisdiction to and it shall be their duty to hear and determine said petition, and to make a finding of the then full and true value of said property in money. If said petition requires the determination of the tax charges it shall be the duty of the board of county commissioners to determine the amount of said tax by the application of and applying thereto the consolidated levy applied in said taxing district, for each year in the petition referred to. Upon the receipt by the county treasurer of the amount of tax so determined as to any parcel of land or personal property, the county treasurer shall issue a tax receipt for each year for which payment is thus made and in its order the board of county commissioners shall provide that upon payment of the amount thus fixed and determined for each year upon payment of the amount thus fixed for any year the balance of the tax charges for that year against such property shall be abated.

§ 4. FAILURE TO APPEAR AT BOARD OF EQUALIZATION DOES NOT CAUSE LOSS OF REMEDY.] The failure to appear before any board of equalization or the failure on the part of any person interested in any such property to do or perform any other act or thing shall not preclude such owner or person interested in said real estate from having the full merit of his individual petition heard and determined.

§ 5. APPEAL TO DISTRICT COURT.] In the event that the petitioner or petitioners are dissatisfied with decision of the board of

county commissioners, said petitioner or petitioners may, at any time within thirty days, after notice of the decision of the board of county commissioners, appeal to the district court of the county in which said property may be situated, in the manner now provided by law for appeals from decisions of the board of county commissioners. Upon appeal the district court shall try the issues de novo, and shall hear the testimony that may be offered by the petitioner or petitioners and the board of county commissioners touching upon the then true and full value, in money, of said property, including all methods of determining value referred to in Section 3 hereof. And the district court shall have full right, authority and jurisdiction and it shall be the duty of such court to fix and determine the proper and legal tax charges for any year or years as may be involved in said petition, from which appeal was taken by the application of the procedure as set out in said Section three hereof.

§ 6. APPEAL TO SUPREME COURT.] Appeals from any judgment of the district court shall be taken to the Supreme Court in the manner now provided by law, and the Supreme Court shall have jurisdiction to hear and try the issues de novo in the Supreme Court upon the records presented in the district court, and make such orders in the premises as shall carry out the spirit and purpose of the act.

§ 7. CONSTRUCTION.] This act shall not be construed to repeal or in anywise impair or amend the provisions, force, intent or effect of Section 2122a of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended and re-enacted by the initiated measure approved June 29, 1932 and set out on page 493 of the Session Laws of 1933, and the matter of application of valuation in this act set out contemplates the application of said initiated measure for the purpose of determining taxable value.

§ 8. REPEAL.] That all laws or parts of laws in conflict herewith are hereby repealed.

Approved March 15, 1939.

CHAPTER 226

H. B. No. 216—(Myers & Jensen)

PERMITTING COURT ACTION TO DETERMINE
A FAIR TAX ON PROPERTY

An act permitting actions to be brought against the State involving levy and assessment of property made by the State Board of Equalization, or involving the refund of taxes levied thereunder, giving jurisdiction thereof to the District Court of Burleigh County, with right of Appeal to the Supreme Court, prescribing procedure to be followed; repealing all acts or parts of acts in conflict herewith; and declaring an emergency.

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

§ 1. WHEN AND WHERE ACTION MAY BE BROUGHT.] Any person, firm or corporation, whose property is now being, or has been valued and assessed for taxation purposes by the State Board of Equalization under the Constitution or the statutes of this State, or against whom any tax be levied or assessed by said board, feeling aggrieved for any reason with the assessment or levy so made may bring an action for relief, at law or in equity, against the State and any or all of its subdivisions therein interested, in the District Court of Burleigh County, North Dakota, and without the necessity of bringing a separate action against each of said subdivisions; provided any such action is brought on or before the date on which the taxes to be collected under the levy and assessment involved become due; and provided, further, that no action shall be brought against the State under this act for refund of taxes already paid unless said taxes, sought to be refunded, were paid under protest in writing before delinquency thereof.

§ 2. PROCEDURE.] The District Court of Burleigh County, North Dakota, is hereby given jurisdiction over any and all actions hereinbefore provided, whether such actions are brought against the State only or against the State and one or more of its subdivisions jointly. At any time after such action is brought, either before or during trial, the District Court of Burleigh County may allow the plaintiff to pay to the State or municipalities interested any part of the taxes involved in the action under such agreement as may be made between the plaintiff or plaintiffs and the attorney general in behalf of all defendants, or under such terms as the court may fix, and such agreement when ratified by the court shall be binding upon all parties to the action. At the time the action is brought, the plaintiff shall be required to file with the clerk of the District Court of Burleigh County a bond, running to the State of North Dakota, in such form as may be fixed by said District Court of Burleigh County, and in an amount sufficient to cover all anticipated costs of the action, said bond to be approved as to

amount and form by the clerk of said court. The decision of the district court in such action shall be subject to appeal to the Supreme Court in the manner now provided by statute for appeal in civil actions. Providing, that the provisions of Section 2241c of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913 shall not apply to actions brought under the provisions of this act.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 14, 1939.

CHAPTER 227

H. B. No. 194—(Jensen and Page)

CONTRACT SETTLEMENTS OF DELINQUENT TAXES

An act to amend and re-enact Chapter 240 of the Session Laws of North Dakota for 1937, providing for an adjustment of delinquent taxes for 1937 and prior years, authorizing boards of county commissioners to make extension contracts for the payment of delinquent taxes and for the cancellation of such contracts, providing for the suspension of tax collection and tax deed laws as to taxes affected by such contracts, repealing all acts and parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. That Section 1, Chapter 240 of the Session Laws of North Dakota for 1937 be amended and re-enacted to read as follows:

§ 1. (1) All delinquent real and personal property taxes, except as hereinafter provided, for the year 1937 and prior years, together with accrued interest and penalties thereon, shall be cancelled and discharged in full upon the payment of the full amount of the original tax; provided that all payments hereunder must be made on or before March 1, 1940; and, provided, further, that such taxes shall remain payable separately according to years, and any person, or corporation, having an interest in, or lien, or mortgage upon any property affected by this act shall be entitled to take advantage of the provisions hereof. This act shall not apply to any real estate taxes, the tax certificates for which have been sold or assigned to any purchaser other than the county, nor to special

assessments levied for local improvements, nor special assessments levied by drainage or irrigation districts.

(2) The auditors and treasurers of each county shall accept in full payment and discharge of all such delinquent real estate taxes, including interest and penalty thereon, payments made in accordance with the provisions of this act, and the sheriff of each county shall accept in full payment of all delinquent personal property taxes, including interest and penalties, payments made hereunder.

(3) The board of county commissioners may, upon application of any person owning property upon which taxes, either real or personal, are delinquent for the year 1937, or prior years, permit the payment of any such delinquent taxes, except special assessments levied for local improvements and special assessments levied by drainage or irrigation districts, on the reduced amounts hereinbefore provided for, in not to exceed ten (10) annual installments, without interest, at the rate of 4% per annum from April 1st, 1939, payable on or before October 15th of each year, provided that ten per cent (10%) of the principal is paid when the extension is allowed, ten per cent (10%), on the following October 15th, and ten per cent (10%) on each succeeding year until the amount is fully paid; and upon the payment in full of such installments, with accrued interest, such delinquent taxes shall be cancelled and discharged of record.

§ 2. That Section 2 of Chapter 240, of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted as follows:

§ 2. The board of county commissioners shall require the owner of the property upon which there is delinquent taxes and who applies for an extension hereunder, to enter into a contract with the county wherein the owner agrees to pay the full amount of the balance of the principal of such delinquent taxes; provided that no owner shall be entitled to enter into such an extension contract unless he shall have first paid any delinquent taxes for the year 1938, and subsequent years; and, provided, further that such owner shall stipulate in his contract that if he fails to pay taxes subsequently to become due against the property described in said contract on or before the date of delinquency, his contract may be cancelled.

§ 3. That Section 3 of Chapter 240 of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted, as follows:

§ 3. Upon the execution and delivery of an extension contract as herein provided, all proceedings for the collection of delinquent taxes, including any tax deed proceedings, which may be pending, shall be suspended and shall remain suspended while such

contract is in force; provided, that upon the failure of the owner, or his successor in interest, to pay one or more installments due upon such contract, or upon the failure to pay any installments of taxes for the year 1938, or any subsequent years, prior to the date of delinquency, the board of county commissioners shall have the power, in its discretion, to declare such contract cancelled, and thereupon the proper officers shall proceed to enforce the collection, in the manner provided by law, of the full amount of the unpaid delinquent taxes, with penalty and interest, as though no extension contract had been made.

§ 4. That Section 4 of Chapter 240 of the Session Laws of North Dakota, for 1937 be amended and re-enacted to read as follows:

§ 4. Any owner who has entered into an extension contract under the provisions of Chapter 240 of the Session Laws of North Dakota for 1937 and which contract is in force when this act goes into effect, shall be entitled to take advantage of the provisions of this act upon complying with all of the provisions hereof. Any owner who has entered into an extension contract, or his successor in interest, or any lien or mortgage holder, shall have the right to pay the full amount remaining unpaid upon such extension contract, at any time while such contract is in force.

§ 5. It is hereby declared to be the object and purpose of this act to provide for the payment of the delinquent taxes herein specified upon the reduced basis herein provided in order to permit taxpayers to place themselves upon a current tax-paying basis but it is also declared to be the future fixed policy of this State that no further reductions in the payment of taxes shall be given, and that no further extension of the period of redemption from tax sales or suspension of the issuance of tax deeds shall be granted.

§ 6. All acts and parts of acts in conflict herewith are hereby repealed, except that such parts of Chapter 240 of the Session Laws of North Dakota for 1937 as may be necessary for the enforcement of any contracts made pursuant thereto, shall remain in force.

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

Approved March 14, 1939.

CHAPTER 228

H. B. No. 351—(Brown and Morland)

INCOME TAX ACT AMENDMENT

An act to amend and re-enact Section 2346a18 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Section 4, Chapter 283 of the Session Laws of 1931, as amended by Section 2, Chapter 241, Session Laws of 1937, to repeal Section 4 of Chapter 241 Session Laws of 1937; and declaring an emergency.

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

§ 1. AMENDMENT.] Section 2346a18 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended by Section 4 of Chapter 283 of the Session Laws of 1931 as amended by Section 2 of Chapter 241, Session Laws of 1937, is hereby amended and re-enacted to read as follows:

§ 2346a18. DEDUCTIONS ALLOWED.] In computing net income, there shall be allowed as deductions:

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

(2) Interest paid or accrued within the year on tax-payer'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, but state income taxes are not deductible.

(4) (1) No losses shall be deducted from the fixed income of the taxpayer derived from salaries, wages, or taxable dividends, but losses actually sustained in the carrying on of any trade or business, sustained within the year and not compensated by insurance or otherwise, may be deducted, provided further that no loss may be allowed in the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or the destruction of property by fire, flood, or other casualty, or a loss sustained in any sale of the residence of the taxpayer. In the case of a taxpayer other than a resident of the State, losses shall be allowed only as to transactions in real property or in tan-

gible personal property having an actual situs in this State, and losses in connection with any business, trade, profession or occupation carried on in this State, provided, however that the aggregate amount which may be deducted in connection with losses incurred in connection with sale or exchange of capital assets shall not exceed the aggregate gains reported from the sale or exchange of capital assets in any year.

(2) Losses sustained from the operation or conducting of any farming or agricultural pursuit sustained within the year and not compensated for by insurance; providing, however, that the person claiming such deduction must have been the legal owner of the land on which the loss accrued for at least one year prior to claiming the deduction. Provided, however, that no deduction for loss sustained from any farming or agricultural pursuit as provided in this section shall exceed the sum of five hundred dollars.

(5) Debts ascertained to be worthless and charged off within the income year. In the case of a debt existing on January first, nineteen hundred and nineteen, no more than its fair market value on that date shall be deducted. A worthless debt arising January first, nineteen hundred and nineteen, from unpaid wages, salary, rent or any other similar item of taxable income, is not an allowable deduction unless the income which such item represents has been included as income by the taxpayer in a return rendered under this act.

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

(7) Dividends or income received by any person from stock or interest in any corporation, the income of which has been assessed and paid by a corporation under this act, received by the taxpayer and included in the gross income within the income year; provided that when only part of the income of any corporation shall have been assessed and income tax paid under this act, only a corresponding part of the dividends or income received therefrom shall be deducted; and providing further that such corporation has reported the name and address of each person owning stock and the amount of dividends or income paid each such person during the year.

(8) Contributions or gifts made within the income year to (a) the State of North Dakota, or any political subdivision thereof, exclusively for public purposes, or (b) to any community chest,

corporation, association or trust, or fund, or foundation, organized and operated exclusive for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or (c) to posts or organization, of war veterans or auxiliary units or societies of such organizations, if such posts, organizations, units or societies are within North Dakota and if no part of their net income inures [inures] to the benefit of any private shareholder or individual; provided, that such contributions or gifts may be deducted only to an amount which in all the above cases combined does not exceed fifteen percent (15%) of the taxpayer's net income as computed without the benefit of this subdivision.

§ 2. REPEAL.] Section 4 of Chapter 241, Session Laws of 1937, is hereby repealed.

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

Approved March 16, 1939.

CHAPTER 229

S. B. No. 212—(Morrison, Owings, and Dahl)

LISTING PROPERTY FOR TAXATION PURPOSES

An act amending and re-enacting Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to the manner of listing real and personal property for assessment purposes, and providing that as to general merchandise, or any inventory of goods and wares, the average value of the same for the year preceding the time of the assessment, shall be taken as the value thereof for assessment purposes, repealing all acts in conflict therewith and declaring an emergency.

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

§ 1. AMENDMENT.] Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 2093. Listing of real and personal property for taxation purposes making special provisions for the assessment of stock of goods, wares, and merchandise. All real property subject to taxation shall be listed and assessed every odd numbered year with reference to its value on April first of that year and shall not be re-assessed in the following year, except by order of the board

of county commissioners or Tax Commissioner. Property assessed in odd numbered years shall be taxed upon the assessed valuation as equalized by the State Board of Equalization in such year and in the following year except as herein otherwise provided. All real property becoming taxable in any intervening year shall be listed and assessed with reference to its value on April first in that year. Personal property shall be listed and assessed annually with reference to its value upon April first of each year. The value of a stock of merchandise whether owned by an individual, co-partnership, association or corporation, for the purpose of assessment for taxation shall be taken to be the monthly average of the inventory on the first day of each month of the year preceding the date of the assessment. Such monthly average shall be determined as follows: an actual inventory taken on or about the first day of any month shall be taken to be the inventory so taken; the inventory for the succeeding month shall be determined by adding to such actual inventory the wholesale cost price of all merchandise purchased during such succeeding month, and subtracting therefrom the wholesale cost price of the merchandise sold during such month except such taxpayers that now have a monthly perpetual inventory system. The inventory for any succeeding month shall be determined likewise by adding to the inventory of the preceding month the wholesale cost price of all merchandise purchased during such succeeding month and deducting the wholesale cost price of all merchandise sold during such month. The average inventory for the tax year shall be determined by adding the inventories so determined as above for each of the twelve months preceding the first day of April for the assessment year, and dividing the total of such twelve inventories by twelve. The dividend thus obtained shall be the average monthly inventory for the assessment year and shall be the assessment value of such stock of merchandise for the purpose of assessment for the assessment year. It shall be necessary for each place of business to keep a copy of all inventories to be available at all times for the assessor and other taxing authorities. In every even numbered year at the time of assessing personal property, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, and all buildings or other structure of any kind, whether completed or in process of completion, or improvements on any structures of over one hundred dollars (\$100.00) in value, the value of which has not been previously added to or included in the valuation of the land or lots on which they have been erected, excepting farm buildings now exempt from taxation. Whenever after the first day of April and before the first day of June in any year, it is made to appear to the assessor by the oath of the owner or owners, that any buildings, structure or other improvement or tangible personal property, which is listed for taxation for the current year has been destroyed or in-

jured by fire, flood or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property, an amount which in his judgment, fairly represents such deduction as should be made; no deduction shall be made on account of damages covered by insurance, or damages amounting to less than one hundred dollars (\$100.00). In case of an abatement by the board of county commissioners and Tax Commissioner of the valuation of any parcel of real estate as assessed in an odd numbered year pursuant to Chapter 227, Session Laws of 1917 (amending Section 2165, 3646; post) or acts amendatory thereof, the valuation as abated shall be the assessed valuation in the even numbered year next following, except as otherwise herein provided.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 3, 1939.

CHAPTER 230

S. B. No. 104—(Magoffin)

DEDUCTION DELINQUENT PERSONAL PROPERTY TAXES FROM OFFICIAL SALARIES, ETC.

An act to amend and re-enact Chapter 274 of the Session Laws of North Dakota for the year 1935 as amended by Chapter 243 of the Session Laws of North Dakota for 1937 relating to the deduction of delinquent personal property taxes from salaries or other compensation of elective and appointive officers, agents and employees of the State of North Dakota, all bureaus, boards, commissions and departments and all persons receiving public funds, extending the application thereof to persons receiving, claiming or demanding money from municipalities and political sub-divisions within the State and providing that entering into of installment contracts for payment of personal property taxes shall not relieve anyone from the operation of this act, repealing all acts or parts of acts in conflict herewith and declaring an emergency.

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

§ 1. That Chapter 274 of the Session Laws of North Dakota for the year 1935 is hereby amended and re-enacted to read as follows:

§ 2. DEDUCTIONS TO PAY DELINQUENT PERSONAL PROPERTY TAXES.] That from and after the passage and approval of this

act it shall be the duty of all persons who are required to issue warrants for or pay any of the salaries or other compensation of the officer and employees herein named, to ascertain from the tax records of the county or counties wherein the services were performed and/or the county wherein the person making claim for such compensation resides, whether the person making such claim for such payment is indebted to any school district, municipal corporation, county or state for personal property taxes delinquent, and, if such indebtedness is found to exist, to deduct fifteen per centum (15%) of the amount claimed for such salary or other compensation each month until such personal property taxes, with interest and penalty are fully discharged.

§ 3. WHO SUBJECT TO THE PROVISIONS OF THIS ACT.] This act shall apply to all elective and appointive officials and/or their deputies, all courts, bureaus, boards, commissions, departments, and committees, all agents, clerks, inspectors, employees and contractors and in fact each and every person, firm, corporation or co-partnership receiving, claiming or demanding any money from the State of North Dakota, or any of its various departments, bureaus, boards, or commissions whether especially named herein or not; or from any county, township, or other political subdivision of the State of North Dakota; or from any city, village, school district, park district, or municipality in the State of North Dakota. It is intended hereby to insure the payment of personal property taxes by all persons, firms or corporation receiving public funds from the State of North Dakota or any of its political subdivisions, or municipalities within the State, or from any of the bureaus, boards, departments or commissions of the State and for which there is now no provision made for deducting such personal property taxes from the amount due to the persons, firms or corporations making claim upon public funds, provided, however that in any case where the item or items amount to less than ten dollars (\$10.00), one dollar (\$1.00) shall be deducted.

§ 4. It is further provided that the entering into of a contract by any person, firm, corporation or co-partnership subject to the provisions of this act, for the purpose of paying taxes on a contract or installment basis under the terms of Chapter 240 of the Session Laws of North Dakota for 1939 or any contract of any kind for the compromise or payment of delinquent personal property taxes, shall not relieve such person, firm, corporation or co-partnership from the operation of this act and the deduction of fifteen per centum (15%) shall be made in all such cases.

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

Approved March 14, 1939.

CHAPTER 231

S. B. No. 193—(Olson)

AUTHORIZING DECREE OF DISTRIBUTION WITHOUT
PAYMENT OF REAL ESTATE TAXES

An act permitting the county court to make decrees of distribution and close estates without the payment of real estate taxes levied upon real property of the estate.

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

§ 1. The county court is hereafter permitted to make decrees of distribution and close estates without the payment of real estate taxes levied upon real property of the estate.

Approved March 14, 1939.

CHAPTER 232

S. B. No. 276—(Committee on Delayed Bills)

PRIORITY OF LIENS AND ASSIGNMENTS

An act to amend and re-enact Section 6 of Chapter 244 of the Session Laws of 1937 relating to liens and assignments acquired in proceedings for the collection of rents to be applied on real estate taxes; providing for priority of liens acquired by the United States Government or any agency thereof and repealing all acts in conflict herewith; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 244 of the Session Laws of 1937 be amended and re-enacted to read as follows:

§ 6. PRIORITY OF LIENS AND ASSIGNMENTS.] The payments of the rent provided for in the order of the court shall have precedence over and be paid prior to any subsequent assignment of such rents or lien upon such rents and no part of such rent shall be exempt from the payments required herein; provided however, that the payments of the rent provided for in the order of the court shall be subject and inferior to any lien which the Government of the United States or any agency thereof may acquire as security for the payment of any seed, feed or crop production loans.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared to be an emer-

gency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

CHAPTER 233

S. B. No. 49—(Tax and Tax Laws)

REBATE REAL ESTATE TAXES

An act to amend and re-enact Chapter 245 of the Session Laws of 1937.
An act to encourage and promote the payment of taxes by providing for a rebate on pre-payments; declaring an emergency.

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

§ 1. That Chapter 245 of the Session Laws of 1937 be amended and re-enacted to read as follows:

There shall be an allowance of five (5) per cent rebate to all payers of taxes on real property who shall pay the same in one payment and in full on or before the fifteenth (15th) day of February next prior to the date of delinquency. Such rebate shall apply to all general taxes including State, county, city, township, village and school taxes but shall not apply to special assessments or to hail indemnity taxes.

§ 2. This act is new legislation. It is supplementary to existing laws and is not intended to change or affect existing legislation relating to penalties imposed for failure to pay taxes before delinquency.

§ 3. 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 February 20, 1939.

CHAPTER 234

S. B. No. 76—(Committee on Taxes and Tax Laws)

SALES TAX ACT

An act to amend and re-enact Section 2 and Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937, relating to the levying and imposing of a retail sales tax and the disposition of the funds collected therefrom.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 249 of the Session Laws of North Dakota for 1937 be, and the same is hereby amended and re-enacted to read as follows:

§ 2. TAX IMPOSED.] There is hereby imposed, beginning the first day of July, 1939, and ending June 30th, 1941, a tax of two per cent (2%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this act, sold at retail in the State of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this act, when sold at retail in the State of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events, except as otherwise provided in this act.

The tax herein levied shall be computed and collected as hereinafter provided.

§ 2. AMENDMENT.] That Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 25. ALLOCATION OF REVENUES.] All monies collected and received under this act shall be paid into the State Treasury and shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund." Out of this fund the State Treasurer shall first provide for the payment of refunds allowed under this act. The net amount of monies remaining in said "Retail Sales Tax Fund" shall be covered in and transferred to the General Fund of the State of North Dakota.

Approved March 14, 1939.

CHAPTER 235

H. B. No. 64—(Committee on Tax and Tax Laws)

TAX DEED PROCEEDINGS

An act to amend and re-enact Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Chapter 266 of the Session Laws of 1927 as amended by Chapter 288 of the Session Laws of 1931, the same being an amendment of Section 2202 of the Supplement to the Compiled Laws of 1913, relating to giving notice of expiration of period of redemption on property forfeited to the county at tax sale, issuance of tax deeds to county and sale by county of property acquired by tax deed; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2202 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 266 of the Session Laws of 1927 as amended by Chapter 288 of the Session Laws of 1931, be amended and re-enacted to read as follows:

§ 22-2. NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION UPON LANDS FORFEITED TO THE COUNTY AT TAX SALES. ISSUANCE OF TAX DEED TO COUNTY. SALE OF PROPERTY ACQUIRED BY THE COUNTY THROUGH TAX DEED.] All pieces or parcels of real property bid in for the county under the provisions of this chapter and not redeemed or assigned within three (3) years from the date of the certificate of sale or subsequent tax sale certificate, shall upon the giving of the required notice of expiration of period of redemption become the absolute property in fee of the county and the county auditor shall issue a tax deed therefor to the county in the same manner as to individual purchasers.

(2) Upon issuance of tax deed to the county, such county acquires title to the property included in the tax deed free from all incumbrances. Upon obtaining tax deed to any real estate, the board of county commissioners shall, by general resolution, provide for the cancellation of all general taxes and all special assessment taxes of record which are then due or delinquent except such as were included in the notice of expiration of period of redemption. The assessment made on any real estate acquired by the county through tax deed in the year in which the county takes title, shall be abated and cancelled. So long as the county retains title to any real estate acquired by tax deed, such real estate shall be exempt from all general property taxes and all special assessment taxes.

After the county has disposed of any such real estate acquired through tax deed, such property shall cease to be tax exempt and shall be subject to all general taxes and to all installments of special assessment taxes coming due after such date. After notice of expiration of period of redemption is given, a redemption of real estate taxes may be made at any time up to October first following the

date of the notice of expiration of the period of redemption on any one or more parcels of real estate described in said notice; provided, the redemptioner shall pay the cost of service of the notice of expiration of period of redemption.

(3) NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION AND MANNER OF SERVICE.] It shall be the duty of the county auditor on or before the first day of June of each year to give notice of the expiration of the period of redemption as to all tracts of real estate on which the period of redemption will expire on October 1st following. Such notice shall be given:

First: to the record title owner.

Second: To the person in possession thereof.

Third: Such notice shall also be given to mortgagees, lien holders and other persons interested therein as may appear from the records of the register of deeds and clerk of the district court of said county.

Notice of expiration of period of redemption shall be served by registered mail as hereinafter specified and in the manner prescribed. Such notice may contain any number of parcels of real estate which stand in the name of the same record title owner, shall contain the information indicated in the following form and may be substantially in the following form:

NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION

To-----, the record title owner of the real estate hereinafter described, and to all mortgagees, lien holders, or other persons interested in said real estate, and to the person in possession thereof:

I, ----- County Auditor of----- County, North Dakota, hereby give notice that the real estate hereinafter described was at the tax sale held in this county on the----- day of-----19-----, offered for sale for delinquent taxes against it and was sold to said county, and that redemption has not been made therefrom and that the same is still the property of such county, and unless redemption is made from such tax sale on or before the first day of October after the date of this notice appearing above my signature, tax deed will be issued to the county granting to it and vesting in it absolute title in fee to said property and foreclosing all rights of redemption, and any and all other rights of the owner and of all mortgagees and lien holders and other persons interested therein as may appear from the records of the register of deeds and clerk of the district court of said county. There is given herewith the description of such parcels of real estate, and set opposite each description is the amount which will be required upon the date of the expiration of the period of redemption to redeem such real estate from such tax sale exclusive of the cost of serving this notice upon the owner and the person in possession

thereof. (Description of real estate and amounts required for redemption to be inserted.)

Given under my hand and the seal of the county auditor of _____ County, North Dakota, this _____ day of _____, 19____.

County Auditor of _____
County, North Dakota.

(a) SERVICE UPON MORTGAGEES AND OTHER LIEN HOLDERS.

Notice shall be sent by registered mail to the owner and to the occupant or tenant in possession, if any, and also to each mortgagee, lien holder or other person interested therein as may appear from the records of the office of register of deeds and clerk of the district court. It shall be the duty of the register of deeds and clerk of the district court within ten days after request by the county auditor to furnish him with a certified list giving the names, and so far as they appear on the records in the office of the register of deeds and clerk of the district court, the addresses of all persons who appear to be interested as owners, mortgagees, lien holders or otherwise in such real estate which has been sold to the county for taxes as may be specified by the county auditor in making such request.

Such service by registered mail shall be made by the county auditor and the expense of such service shall be added to the amount required to redeem and be paid by the person making the redemption in addition to the amount stated in the notice.

(4) NOTICE, BY PUBLICATION, WHEN MADE.] The county auditor shall also on or before August first of each year give notice of the expiration of the period of redemption by publication as to all tracts of real estate on which the period of redemption will expire on the following October first.

(5) NOTICE BY PUBLICATION, FORM AND MANNER OF PUBLICATION.] The county auditor shall prepare under his hand and official seal a notice containing the information indicated in the following form and which may be in substantially the following form:

NOTICE OF EXPIRATION OF THE PERIOD OF REDEMPTION ON LAND
SOLD TO THE COUNTY AT TAX SALE.

I, _____ County Auditor of _____ County, North Dakota, do hereby give notice that the parcels of real estate hereinafter described were sold for taxes at the annual tax sale of this county on December _____, 19____, and that at said sale said parcels of real estate were sold to this county, and that such sales have not been redeemed from and they are still the property of this county, and that unless redemption shall be made from such tax sale on or before October first from and after the date of such notice, the same will become the absolute property in fee of this county and the former owners thereof and all lien holders and other persons interested therein will be forever foreclosed and debarred

of any and all rights of redemption or other rights in or to such real estate. Following is a list of the real estate sold at such tax sale on which the period of redemption has expired. Opposite each description of real estate appears the name of the record title owner thereof as it appears by the records in the office of register of deeds of such county and also opposite each tract appears the amount which will be required to redeem from the effects of such tax sale at the expiration of the period of redemption, including the amount for which the said land was sold, interest and penalty thereon, subsequent delinquent taxes prior to those of the year 19---, and penalties and interest thereon.

(Here insert description of real estate, names of owners and amounts due.)

Given under my hand and the seal of the county auditor
-----County, This-----day of-----
19---.

County Auditor of -----
County, North Dakota.

Such notice shall be published once in the official paper of the county in which such real estate is situated, the date of such publication to be not later than August first prior to the expiration of the period of redemption. The amounts stated in such notice shall include a charge of fifty cents for each parcel of real estate described therein to reimburse the county in part for the expense of such publication and for the mailing of such notice hereinbefore provided for. There may be included in a single published notice any number of parcels of real estate. The caption of said notice shall be in bold face type, but only one heading shall be necessary for the entire list.

§ 2. AMENDMENT.] That Subdivision 6 of Section 1, of Chapter 266, of the 1927 Session Laws of the State of North Dakota, as amended by Chapter 288 of the Session Laws of 1931 be amended and re-enacted to read as follows:

(6) SALE OF PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED.] Property so acquired by tax deed shall, under the direction of the board of county commissioners be sold at public or private sale, notice of which shall be given by posting at the front door of the court house thirty (30) days prior to the sale, a description of the parcels to be sold and if the assessed value of such property exceeds \$100.00 by publishing a notice of such sale in the official newspaper of the county, giving a description of the parcels to be sold, such notice to be published once not less than ten (10) days prior to the date of the sale. The description of all parcels of real estate to be sold at such sale shall be included in a single notice.

Before publishing such notice the board of county commissioners shall appraise each lot or parcel of land and fix a tentative minimum sales price thereon. Such minimum sales price shall be sufficient to cover all general taxes, special assessments, penalties, in-

terest and costs which were charged against the property and which were delinquent at the time notice of the expiration of period of redemption was issued plus cost of service of such notice; provided if the fair cash value of the property is less than the aggregate of such general taxes, special assessments, penalties, interest and costs the board shall fix a fair and equitable minimum sales price. The board shall thereupon set a date for hearing objections to the minimum sales price thus determined and the county auditor shall, at least ten (10) days previous to such hearing, mail to the auditor of any city, or the clerk of any village, or of any township board where such lots or tracts of land are located, a notice in writing that at the time and place mentioned therein objections to the minimum price fixed by the board, and specified in such notice, will be heard. At such hearing any member of the governing body of any such city, village or township or any representative thereof, shall be heard with reference to the fair value of such lot or parcel of land, and the board shall thereupon make such modifications and changes in the sales price of such property as it shall deem to be fair and just. The governing body of any such city, village or township may, if dissatisfied with the action of the board, appeal therefrom within ten (10) days after such hearing and determination to the district court and the perfecting of such appeal shall conform to the procedure prescribed by Sections 3298 and 3299 of the Compiled Laws of 1913, or acts amendatory thereof, except that no bond shall be required to perfect such appeal. All such determinations of value which in the opinion of any governing body are too low shall be combined in one appeal and shall be heard de novo by the court without a jury.

The board of county commissioners may fix the minimum sales price at an amount sufficient to cover all general taxes, special assessment taxes, penalties, interest and costs which were a charge against the property and which were delinquent at the time notice of expiration of period of redemption was issued plus cost of service of said notice; provided, such amount shall not exceed the fair cash value of the property. The foregoing provision is intended to cover those cases where general taxes were struck off to the county and special assessment taxes were struck off to the city and were not included in the tax forfeiture proceedings of the county.

None of the foregoing provisions is intended to limit the minimum price which the board of county commissioners is required to fix, at less than their determination of the fair cash value of the tax title which the county is empowered to give.

Such sale shall take place at the county seat on the third Tuesday of November in each year and shall continue from day to day until completed.

Each parcel shall be sold to the highest bidder therefor but not for a sum less than the minimum sales price finally fixed by the board of county commissioners unless the governing body of the

city, village or township where such property is located, by resolution, consents to an amount less than such minimum price.

Such sale may be either for cash or for one - fourth of the purchase price in cash and the balance in equal annual payments not to exceed a period of ten years; provided, however, that any purchaser may at any time within said ten year period pay any or all unpaid installments.

If the sale is for part cash, the purchaser shall forthwith pay the amount of the first installment of the bid to the county treasurer.

Whereupon the purchaser shall be given a contract for deed, setting forth the terms of the said sale executed in the name of the county by the chairman of the board of county commissioners and the county auditor.

Such contract shall be in the usual form and shall give the county the right, upon failure to comply with all the terms and conditions of the said contract by the purchaser, to cancel the said contract in manner and form now provided for by law between private individuals. Upon the execution and delivery of the said contract the real estate described therein shall be placed upon the assessment roll and be subject to assessment and taxation the same as though a deed had been issued therefor.

Such unpaid balance of purchase price shall draw interest at the rate of five per cent per annum upon all unpaid balances. Upon the payment of the balance due upon the said contract the county shall execute and deliver to the purchaser a deed conveying all right, title and interest, in and to such property.

If the sale is for cash the purchaser shall forthwith pay the amount so bid, to the county treasurer.

Upon complying with such requirements, the purchaser shall be given a deed executed in the name of the county by the chairman of the board of county commissioners and the county auditor, conveying all rights, title and interest in and to such property acquired by the county through the tax proceedings, which deed may be substantially in the following form:

TAX DEED

This indenture, made this_____day of_____
19___, between the County of_____North Dakota,
party of the first part, acting by and through the chairman of its
board of county commissioners and its county auditor, and_____
_____party of the second part, witnesseth:

That, Whereas, the real property hereinafter described did revert to and become the property of said county on account of the nonpayment of taxes assessed and levied against the same for the years_____and_____, and the said taxes, interest and penalties aggregating in the sum of_____
_____Dollars, and

Whereas, in conformity with law the said property was duly offered for sale pursuant to law on the _____ day of _____, 19____, and at said sale said second party became the purchaser of the whole thereof for the sum of _____ Dollars,

Now, therefore, the said county as party of the first part in consideration of the premises and in pursuance of the statutes in such case made and provided, does hereby grant, bargain, sell and convey to the said second party, his heirs and assigns, that certain real property situated in the said County of _____ North Dakota, more particularly described as follows, to-wit:

To have and to hold, said mentioned tract__or parcel__of land, with the appurtenances thereunto belonging to the said party of the second part__heirs, and assigns, forever, in as full and ample manner as the said county is empowered by law to sell the same.

In Witness Whereof _____ and _____ as chairman of the board of county commissioners and auditor respectively of the said county, do hereby set their hands the day and year first above written, and do cause the seal of said county to be affixed hereto.

_____ County
North Dakota.
By _____
Chairman of the Board of County
Commissioners.

_____ County Auditor

State of North Dakota }
County of _____ } ss.

On this _____ day of _____, 19____, personally appeared before me, a Notary Public within the aforesaid county and State, _____ and _____ to me personally known to be the chairman of the board of county commissioners and the auditor, respectively, of the said county and each acknowledged to me that he executed the foregoing deed on behalf of the said county.

_____ Notary Public for _____ County, N. D.
My Commission expires _____

Whenever in any action at law or in equity, the validity of any such tax deed is questioned, upon the pleadings or otherwise, such action shall not proceed until the party assailing such deed shall within such time as the court shall deem reasonable deposit in court for the benefit of the party claiming thereunder, an amount equal to the sum paid by said party to the county for the purchase of the property covered by the tax deed together with costs and disburse-

ments of the action then incurred by the party claiming under such deed.

§ 3. AMENDMENT.] That Subdivision 7 and 8 of Chapter 266 of the Session Laws of 1927 be amended and re-enacted to read as follows:

(7) The proceeds of such sale shall be paid into the county treasury, and the amount due the State or any city, township, incorporated village, school district or other taxing district, from the taxes for which the same was sold, or a just proportion thereof which may be determined by the levy for the years' taxes for which the certificate was issued, be apportioned and placed to the credit of the State, city, township, incorporated village, school district, or other taxing district entitled thereto. After general property taxes and hail insurance taxes, including penalty and interest thereon have been satisfied, the balance or a sufficient portion thereof to satisfy special assessments shall be placed to the credit of the proper taxing district. If the balance is insufficient to satisfy all installments of special assessment taxes delinquent at time of issuance of notice of expiration of period of redemption, there shall be apportioned to each such fund such proportion of the balance as such item is of the total of all such delinquent installments of special assessments. If there is any remainder it shall go into the general fund of the county.

(8) In case no bids are received on any parcel of real property or in case all bids are rejected and such property is retained by the county, the county shall not be liable to any city or subdivision for any special assessment taxes levied on such property. Any parcels of real estate not disposed of at the November sale hereinbefore provided for may be sold at any subsequent time by the county auditor provided that no such sale shall be made at a price less than the minimum sales price theretofore fixed by the board of county commissioners prior to the November sale. Any parcels of real estate not disposed of at the November sale or not disposed of subsequently thereto, shall be revalued and shall again be offered for sale at the regular November sale in the following year.

§ 4. Provided, however, that this act shall not affect proceedings commenced under existing laws, except that the time for the expiration of the period of redemption and the time fixed in this act for sale, by the county, of land acquired by it under tax deed proceedings, shall be applicable to such pending proceedings.

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

§ 6. This act is hereby declared an emergency measure, and shall be in full force and effect from its passage and approval.

Approved February 7, 1939.

CHAPTER 236**S. B. No. 27—(Kamrath)****TAX DEEDS—EXTENSION PERIOD OF REDEMPTION**

An act providing that in proceedings taken under the provisions of Chapter 266 of the Session Laws of 1927, no tax deed shall be issued prior to October 1, 1939 and the period of redemption from any tax sale made under the provisions of said chapter is hereby extended to October 1, 1939 and declaring an emergency.

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

§ 1. In proceedings taken under the provisions of Chapter 266 of the Session Laws of 1927, no tax deed shall be issued prior to October 1, 1939, and the period of redemption from any tax sale made under the provisions of said chapter is hereby extended to October 1, 1939.

§ 2. SAVING CLAUSE.] Providing, however, that this act shall not prohibit appraisals or sales of any of the property heretofore acquired under the provisions of the foregoing acts to which the county has acquired title at or before the time of taking effect hereof.

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

Approved January 28, 1939.

CHAPTER 237**H. B. No. 99—(Committee on Taxes and Tax Laws)****LEASE PROVISIONS COUNTY TAX DEED PROPERTY**

An act to authorize county commissioners to lease real property acquired by tax deed and not sold or leased; to limit term of lease; to permit longer leases to cooperative grazing associations, soil conservation districts, and individuals; to limit expense of supervising and collecting rentals; to provide that net revenue be distributed to taxing districts; to repeal any acts in conflict; and to declare an emergency.

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

§ 1. The county commissioners of the respective counties of this State, for and in behalf of their respective counties, shall have the right, power and authority to lease and demise any and all pieces or parcels of real property now acquired or which may here-

after be acquired by their respective counties by tax deed except lands leased for oil and gas purposes, and for which sale cannot be had as provided by law, as, in the judgment of the said boards of county commissioners, shall seem best suited to advance the public benefit and welfare.

§ 2. All leases of such lands shall be made subject to sale and shall be limited in duration to a term of not to exceed five years; provided, however, that, in the discretion and sound judgment of said county commissioners, any piece or parcel of grazing land may be leased for grazing purposes without being subject to sale and for a term of not to exceed ten years to any duly incorporated co-operative grazing association or to any duly incorporated soil conservation district, or to any individual within this State.

§ 3. Said county commissioners shall not expend more than ten percent of the total revenue collected from all such leases to defray any and all costs in connection with the supervision and collection of the rentals.

§ 4. All of the net revenue derived from said leases including all Federal payments made in connection therewith, in an amount not less than ninety percent of the total revenue collected, shall be paid into the county treasury of the respective counties. On or before the 10th day of January in each year, the county treasurer of each county in this State shall apportion and distribute all such net revenue, so paid into the county treasury, to the State, county, city, village, school district, township or other taxing districts, in proportion that the amount due each such taxing district, for unpaid taxes levied against any piece or parcel of land so leased, bears to the total amount of delinquent taxes for which such land was forfeited and sold to the county in which said lands is situated.

§ 5. All acts and parts of acts, insofar as they conflict herewith are hereby repealed.

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

Approved March 15, 1939.

CHAPTER 238

S. B. No. 51—(Young, Blaisdell, Thatcher, Braun, Blank)

REDEMPTION OF COUNTY TAX DEED PROPERTY

An act providing for the redemption of real estate forfeited to the county for delinquent taxes by former owners, prescribing the conditions therefor, providing for the re-purchase of real estate forfeited to the county for delinquent taxes on contract for deed, prescribing the terms therefor, and declaring an emergency.

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

§ 1. Any real estate heretofore or hereafter forfeited to the county under tax deed proceedings, shall be subject to redemption by the owner whose title was forfeited, or his successor in interest, at any time while the tax title thereto remains in such county and prior to re-sale, upon the payment of the amount which would have been required to effect a redemption had no tax deed been issued thereon, plus interest at the rate of four (4%) per cent per annum, from the date of the execution of such tax deed; provided that such right of redemption shall not interfere with the existing right of the county to re-sell real estate acquired by tax deed at any time as otherwise provided by law. Where a redemption is made under this act, the county auditor shall execute a quit claim deed in behalf of the county for such real estate to the person making such redemption.

§ 2. Any person making redemption under this act shall be entitled to take advantage of the benefits of any tax reduction, or other tax adjustment terms provided for by this legislature for the purpose of encouraging and facilitating the payment of delinquent taxes.

§ 3. The board of county commissioners shall also have the power to enter into a contract for deed for the re-sale to the former owner, or his successor in interest, of any real estate which has been forfeited to the county on tax deed proceedings, upon the same terms as redemption could be made hereunder, provided, that no such contract for deed shall be made unless at least twenty-five (25%) per cent of the redemption amount is paid in cash at the time of the execution of such contract for deed, and the balance, with accrued interest, at the rate of four (4%) per cent per annum, shall be made payable in annual installments within three (3) years. When the deferred installments of any such contract for deed, with accrued interest, have been paid in full, the county auditor shall execute a quit claim deed in behalf of the county to the vendee, or his assignee. In case the vendee, under such re-purchase contract, fails to pay one or more of the installments due thereunder, the board of county commissioners shall have the power to declare such

contract for deed cancelled, and thereupon all rights of such vendee in such real estate shall be forfeited to the county.

§ 4. This act is in the nature of supplemental emergency legislation designed to encourage and facilitate the redemption or repurchase of real estate forfeited to the counties on tax deed by former owners and shall be liberally construed to carry out that purpose.

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

Approved February 18, 1939.

CHAPTER 239

S. B. No. 258—(Committee on Taxes and Tax Laws)

SUSPENSION OF TAX LIENS ON STATE ACQUIRED LANDS

An act providing suspension of remedies to enforce or effectuate tax liens, certificates and titles affecting lands acquired by the State Treasurer as Trustee for the State of North Dakota under the provisions of Sections 2290b9 and 2290c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, and acts amendatory thereof, providing for removal of such suspension upon sale of said lands, providing authority for payment of the original amounts of general taxes, and cancellation of liens, certificates and titles based thereon, and providing for repeal of all inconsistent acts, including Chapter 290 of the North Dakota Session Laws of 1931, and declaring an emergency.

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

§ 1. In all transactions where the State Treasurer as Trustee for the State of North Dakota has heretofore acquired or hereafter acquires title to any tracts of land pursuant to the provisions of Sections 2290b9 and 2290c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, and acts amendatory thereof, and there are listed and legally charged against such tracts of land unpaid general property, hail indemnity, or other taxes, or tax sales certificates, or tax deeds, the holders of the liens of such taxes or certificates or tax titles shall be without power to enforce or to effectuate such liens or titles, all remedies for the enforcement or enjoyment of such liens or titles shall be wholly suspended, and all proceedings to enforce or effectuate such liens or titles subsequent to the acquisition of such tracts of land by the said Trustee and during the time such tracts are owned by said Trustee shall be null and void; provided, that any tax title acquired previous to the

acquisition of title by the said Trustee may be made effectual and enjoyed until such time as the said Trustee acquires title based upon a mortgage or other conveyance previous in time to the due date of the taxes upon which such tax title is based, whereupon all rights, interests, powers, privileges and immunities theretofore owned and enjoyed under such tax title shall be wholly suspended forthwith, and the said Trustee may enter into possession of such tracts of land and shall have the entire control, use and enjoyment thereof.

§ 2. Upon sale of such tracts of land by the said Trustee, and upon payment to him of not less than twenty per centum of the sale price of the particular tract or tracts sold, the provisions of Section 1 hereof shall become inoperative with respect to such lands sold, and the general statutory remedies to enforce and effectuate tax liens and titles shall be applicable.

§ 3. The said Trustee, or the Bank of North Dakota, as agent for him, when the income received or in prospect from any particular tract of land acquired warrants, shall pay to counties owning and holding tax liens, certificates or titles suspended under the provisions of Section 1 hereof, but otherwise legally sufficient, monies equal in amount to the original amounts of the general taxes upon which such liens, certificates or titles are based, and the treasurers of the respective counties of this State shall accept such monies in full payment of the amounts due on or invested in or on account of such tax liens, certificates or titles, which shall thereafter be null and void, and the evidences of which shall thereupon be cancelled from the tax records of the State and of its subdivisions, by the appropriate fiscal officers.

§ 4. The provisions of Chapter 290 of the North Dakota Session Laws of 1931, and the provisions of all other acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 15, 1939.

CHAPTER 240

H. B. No. 185—(Committee on Taxes and Tax Laws)

ELIMINATION OF TAX SALE CERTIFICATES

An act relating to the issuance of tax sale certificates; the payment of subsequent taxes; the issuance of subsequent tax sale certificates; amending and reenacting Section 2192 as amended by Chapter 298, Session Laws of 1931 of the Supplement to the Compiled Laws of 1913; and to make the records of the county auditor evidence of the rights of the county; and dispensing with the necessity of issuing tax sale certificates and subsequent tax sale certificates to the counties; repealing all acts and parts of acts in conflict herewith; saving clause and declaring an emergency.

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

§ 1. Section 2192 of the Supplement of the Compiled Laws of 1913 as amended by Chapter 298 of the Session Laws of 1931 is hereby amended and reenacted to read as follows:

§ 2192, CERTIFICATE OF SALE. ASSIGNMENTS FILED. SUBSEQUENT PAYMENTS. SUBSEQUENT TAX SALE CERTIFICATES.] (a) The purchasers of any tract of real property sold by the county auditor for taxes shall be entitled to a certificate describing the land so purchased, stating the sum paid and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the county auditor in his official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The owner of such tax sale certificate shall be entitled to a tax deed three (3) years from the date of tax sale upon the giving of the statutory notice of expiration of period of redemption.

The county auditor shall execute to the purchaser a certificate of sale which certificate shall be substantially in the following form:

COUNTY CERTIFICATE OF SALE FOR TAXES

I, _____ auditor for the County of _____ in the State of North Dakota, do hereby certify that the following described real estate in said county and State, to-wit: (describing the same), was on the _____ day of _____ A. D. 19____, sold by me in the manner provided by law for the delinquent taxes of the year _____ thereon, amounting to _____ dollars, including interest and penalty thereon, and the costs allowed by law to _____ for the sum of _____ dollars, he being the bidder who agreed to accept the lowest rate of interest thereon from the date of sale on the amount of such taxes, penalties and costs as paid by him, and that said rate of interest which said purchaser so agreed to accept was _____ per cent per annum.

And I further certify that unless redemption is made of said real estate in the manner provided by law the said _____

or assignee will be entitled to a deed therefor on and after the _____ day of _____ A. D. _____ on the surrender of this certificate.

In Witness Whereof, I have hereunto set my hand and seal this _____ day of _____ A. D. 19____.

(SEAL)

Auditor

(b) Such certificate shall be assignable, and the assignee shall acquire all of the rights of the original purchaser of the real property described therein. He may present the assigned certificate to the county auditor for entry and such auditor shall enter on the record of such sale the fact that the certificate has been assigned, entering the name and address of the assignee and the date when such assignment was presented for such entry.

(c) When the county shall be the purchaser of any tract of real property sold by the county auditor for taxes it shall not be necessary to issue a certificate of sale, but the records in the office of the county auditor, showing that such sale was made, shall stand in lieu of such tax sale certificate and the county shall be entitled to all of the rights granted to it by law as a purchaser of such property at tax sale as fully as if a certificate of sale had been issued.

(d) The owner of a tax sale certificate may pay the taxes upon the property described in such tax sale certificate for any subsequent year at any time after the second installment of taxes becomes delinquent. Upon payment of any such taxes with accrued interest and penalty thereon into the county treasury, the county auditor shall issue to the person entitled thereto a certificate which shall be known as a "subsequent tax sale certificate." Such subsequent tax sale certificate shall describe the premises upon which taxes were paid as subsequent; the number of the original tax sale certificate, that the person to whom the subsequent tax sale certificate is issued has the right to pay taxes as subsequent, either by virtue of being the holder and owner of an unredeemed tax sale certificate or an unredeemed subsequent tax sale certificate. The subsequent tax sale certificate shall also recite that by virtue of the payment of such subsequent taxes the person paying the same will be entitled to a tax deed of said property at the expiration of three (3) years from the date of tax sale at which said property would have been sold for taxes, in case said taxes had not been paid as subsequent, unless the same is redeemed by the payment of the amount set forth in such subsequent tax sale certificate together with interest thereon at the rate of one-half ($\frac{1}{2}$) of one (1) per cent per month from the date of such certificate.

A subsequent tax sale certificate shall have the effect of conveying all the rights, interest, privilege and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular auditor's tax sale. The owner of the subsequent tax sale certificate shall be entitled to a deed three (3) years from the date of tax sale at which the real estate described in such certificate would

have been sold for taxes in case said taxes had not been paid as subsequent upon giving of the statutory notice of expiration of period of redemption. The procedure prescribed by Section 2223 of the Supplement to the Compiled Laws of 1913 shall be followed, and in case redemption is not made, tax deed shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate issued pursuant to a regularly conducted tax sale.

At all tax sales made as provided herein, except in case of purchase by the county, the county treasurer shall make out a tax receipt in duplicate and shall write thereon the words "Sold for Taxes." The same record of subsequent tax sale certificates shall be kept by the county auditor as is kept for tax sale certificates.

The owner of the subsequent tax sale certificate may pay the taxes for any subsequent year at any time after they become delinquent and upon such payment the county auditor shall execute to him a subsequent tax sale certificate in form similar to the form set forth with only such change in the wording as is appropriate to state the fact that such payment was made as the owner of a subsequent tax sale certificate and not the owner of a tax sale certificate. Such subsequent tax sale certificate may be substantially in the following form:

SUBSEQUENT TAX SALE CERTIFICATE

-----County, North Dakota.

I, -----county auditor of-----County in the State of North Dakota do hereby certify that at the annual tax sale of real estate held on the-----day of December, 19---the following described real estate was sold for the taxes of the year-----to -----of----- for the aggregate sum of----- (\$-----) dollars, and there was issued to such purchaser tax sale certificate No.-----; and that thereafter, the owner of said tax sale certificate paid subsequent taxes upon said real estate for the year -----which payment was made on-----and it is hereby certified that there is due him on account of subsequent taxes for said year, the sum of----- (\$-----) dollars, together with interest at six per cent (6%) per annum from -----, and that unless redemption be made from this subsequent tax sale certificate within three (3) years from December-----, 19---, he will be entitled after due notice given, to a tax deed conveying to him the said real estate.

Given under my hand and the seal of the county auditor of -----County, North Dakota, this-----day of-----19---.

County Auditor of-----County.

§ 2. SUBSEQUENT TAX SALE CERTIFICATES NEED NOT BE ISSUED TO THE COUNTY.] As to all real property upon which the county is holding the original certificate of tax sale or any subsequent tax sale certificate or is entitled to the rights of such holders no further or additional subsequent tax sale certificates need be issued to the said county, but as of the date of the annual tax sale the county auditor shall note upon his records the amount of the subsequent taxes unpaid upon any real property upon which the county is holding such certificate of sale or subsequent tax sale certificate. The entry of such notation upon the records in the office of the county auditor shall have the affect to convey to the county all the rights, interest, privileges and title which would be conveyed by an original certificate of tax sale issued pursuant to the regular annual auditor's tax sale. The county shall be entitled to a tax deed three years from the date of tax sale at which the said real estate would have been sold for such taxes in case said taxes had not been paid as subsequent, upon giving the statutory notice of expiration of period of redemption. In case redemption is not made tax deeds shall be issued in the same manner and with the same force and effect as though issued under an original tax sale certificate pursuant to a regularly conducted tax sale.

§ 3. CERTIFICATES DEEMED TO HAVE BEEN ISSUED.] In all cases where the county has heretofore purchased any tract of real property sold by the county auditor for taxes or where the county became entitled to a subsequent tax sale certificate on real property upon which the county was holding the original certificate of tax sale or a subsequent tax sale certificate, it shall be conclusively presumed that a tax sale certificate or subsequent tax sale certificate, as the case may be, was duly issued at the time when the same should have been issued pursuant to statutes. In the event any such tax sale certificates may not be among the records of the county auditor, the records of his office showing such tax sale purchase or the right of the county to subsequent tax sale certificates shall for all purposes stand in lieu of such actual certificates and the county shall have all the rights provided by law as the holder of a tax sale certificate or subsequent tax sale certificate from and as of the date when such certificate should have been issued.

§ 4. SUBSEQUENT ISSUANCE OF CERTIFICATES AUTHORIZED.] In all cases where the county has heretofore purchased or may hereafter purchase any real property sold by the county auditor for taxes and in all cases where subsequent tax sale certificates should have been issued to the county and in all cases hereafter where the county is entitled to the rights of a subsequent tax sale certificate holder, the county auditor may at any time issue to the county, appropriate tax sale certificates or subsequent tax sale certificates and the records in the office of such county auditor shall be sufficient evidence of the facts to warrant the issuance of such certificates.

Such certificates may be issued by the auditor conducting such tax sale or by a successor. Such certificate, when issued, shall relate back to the date of the tax sale to which it has appropriate reference and shall have the same force and effect as if such certificate had been issued on the date of such tax sale, provided, it shall not be necessary to issue tax sale certificates to the county, except in cases where the county is perfecting title and taking a tax deed, and in cases where assignments have been made or may be made hereafter of the right of the county obtained at the sales of delinquent taxes.

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

§ 6. SAVING CLAUSE.] Should any portion of this act be declared unconstitutional, it shall not affect the other part or portions thereof.

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

Approved March 15, 1939.

CHAPTER 241

S. B. No. 26—(Committee on Taxes and Tax Laws.)

USE TAX

An act to impose a tax on the storage, use or consumption in this State of tangible personal property as such terms are defined herein: to provide certain exemptions therefrom; to provide for the collection of such tax and the administration of this act; to fix fines and penalties for the violation of the provisions of this act and declaring an emergency.

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

§ 1. DEFINITIONS.] The meaning ascribed to words and phrases in Chapter 249 of the Session Laws of North Dakota for the year 1937 and any amendment or reenactment thereof shall apply to this act when such words are used herein and in addition the following words, terms and phrases shall have the meaning ascribed to them in this section:

(1) "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsec-

tion shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat or steam for processing or for generating electric current, (c) industrial materials and equipment, which are not readily obtainable in North Dakota, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

(2) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

(3) "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included.

(4) "Tangible personal property" means tangible goods, wares, and merchandise, and gas, electricity, and water when furnished or delivered to consumer or users within this State.

(5) "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this act; provided, however, that when in the opinion of the Tax Commissioner it is necessary for the efficient administration of this act to regard any salesman, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them irrespective of whether they are making sales on their own behalf or on the behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commissioner may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this act.

(6) "Retailer maintaining a place of business in this State" or any like term, shall mean and include any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is authorized to do business within this State.

§ 2. TAX IMPOSED.] An excise tax is hereby imposed on the storage, use or consumption in this State, of tangible personal property purchased at retail, between the effective date of this act and the 30th day of June, 1941, for storage, use or consumption in this

State, at the rate of two per cent (2%) of the purchase price of such property.

§ 3. EXEMPTIONS.] This act is hereby declared to be supplementary to the retail sales tax laws of this State and shall not apply:

(1) To any tangible personal property the sale of which is subject to the retail sales tax imposed by Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 or any amendments thereof or re-enactments thereof.

(2) To motor vehicles upon which there has been paid the tax imposed by Chapter 167 of the Session Laws of the State of North Dakota for the year 1937.

(3) To tangible personal property brought into this State by a nonresident thereof for his own storage, use or consumption while temporarily within this State.

(4) To tangible property used in interstate transportation or interstate commerce.

(5) To tangible personal property used for the performance of a contract on public works executed prior to the effective date of this act.

(6) To tangible personal property upon which the State now imposes and collects a special tax, whether in the form of license tax, stamp tax or otherwise.

(7) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance, or commodity which tangible personal property becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished, and the container labeled or the furnished shipping case thereof.

(8) To industrial materials and supplies which are directly used or consumed in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

(9) To any person whose total purchases shall be less than \$50.00 during any quarter year for which a report is required.

§ 4. EVIDENCE OF USE.] For the purpose of the proper administration of this act and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this State shall be prima facie evidence that such tangible personal property was sold for use in this State.

§ 5. PAYMENT OF TAX.] The tax herein imposed shall be paid in the following manner:

(1) The tax provided herein upon tangible personal property, which is sold by a retailer maintaining a place of business in this State, or by such other retailer as the Tax Commissioner of the

State of North Dakota shall authorize pursuant to Subsection (2) of Section 6 shall be collected by such retailer and remitted to the Tax Commissioner of the State of North Dakota, pursuant to the provisions of Section 6 hereof.

(2) The tax herein imposed not paid pursuant to Subsection (1) hereof shall be paid to the Tax Commissioner of the State of North Dakota directly by any person storing, using or consuming such property within this State, pursuant to the provisions of Section 6 hereof.

§ 6. COLLECTION TAX.]

(1) Every retailer maintaining a place of business in this State and making sales of tangible personal property for use in this State, not exempted under the provisions of Section 3 hereof, shall before making any such sales obtain the permit provided for in Section 11 of Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 or any amendment or re-enactment thereof, and shall at the time of making such sales, whether within or without the State, collect the tax imposed by this act from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commissioner of the State of North Dakota, if the Tax Commissioner of the State of North Dakota, shall, by regulation, require such receipt. Each such retailer shall list with the Tax Commissioner of the State of North Dakota the name and address of all his agents operating in this State, and the location of any and all his distribution or sales houses or offices or other places of business in this State.

(2) The Tax Commissioner of the State of North Dakota, may, in his discretion, upon application authorize the collection of the tax herein imposed by any retailer not maintaining a place of business within the State, who, to the satisfaction of the Tax Commissioner of the State of North Dakota furnishes adequate security to insure collections and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulations and agreements as the Tax Commissioner of the State of North Dakota shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible property sold to his knowledge for use within this State, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. Such authority and permit may be cancelled when, at any time, the Tax Commissioner of the State of North Dakota considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this State.

(3) The tax herein required to be collected by any retailer pursuant to subsections 1 and 2 hereof, and any tax collected by any retailer pursuant to said subsections, shall constitute a debt owed by the retailer to this State.

(4) Each retailer required or authorized, pursuant to this section, to collect the tax herein imposed, shall pay the tax in quarterly installments on or before the 20th day of the month next succeeding each quarterly period, the first of such period being the period commencing with April 1, 1939 and ending on the 30th day of June, 1939. Every retailer, at the time of making the return required hereunder, shall compute and pay to the Tax Commissioner the tax due for the preceding period.

(5) The retailer shall, on or before the 20th day of the month following the close of the first quarterly period as defined in the preceding section, and on or before the 20th day of the month following each subsequent quarterly period of three months, make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied; provided, however, that the Tax Commissioner may, upon receipt by any retailer and a proper showing of the necessity therefor, grant unto such retailer an extension of time not to exceed thirty (30) days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment shall be extended for the same period. The Tax Commissioner if he deems it necessary or advisable in order to insure the payment of the tax imposed by this act may require returns and payment of the tax to be made for other than quarterly periods, the provisions of this act to the contrary notwithstanding. The returns shall be signed by the taxpayer or his duly authorized agent and must be verified by oath.

(6) Any person who uses any property upon which the tax herein imposed has not been paid, either to the retailer or direct to the Tax Commissioner as herein provided, shall be liable therefor, and shall on or before twentieth day of the month next succeeding each quarterly period pay the tax herein imposed upon all such property used by him during the preceding quarterly period in such manner and accompanied by such returns as the Tax Commissioner shall prescribe. All of the provisions of Section 6 with reference to such returns and payments shall be applicable to the returns and payment herein required.

(7) The Tax Commissioner may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this act, require any person subject to such tax to file with him a bond, issued by a surety company authorized to transact business in this State and approved by the Insurance Commissioner as to solvency and responsibility, in such amount as the Tax Commissioner may fix, to secure the payment of any tax and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the Tax Commis-

sioner, in such amount as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the Tax Commissioner and may be sold by him at public or private sale, without notice to depositor thereof, if it becomes necessary so to do in order to recover any tax and/or penalties due. Upon such sale, the surplus, if any above the amounts due under this division shall be returned to the person who deposited the securities.

(8) The Tax Commissioner shall have the power to adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax.

§ 7. UNLAWFUL ADVERTISING.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this Section within this State shall be guilty of misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each offense or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

§ 8. RECORDS REQUIRED.] Every retailer required or authorized to collect taxes imposed by this act and every person using in this State tangible personal property purchased on or after the effective date of this act shall keep such records, receipts, invoices, and other pertinent papers as the Tax Commissioner shall require, in such form as the Tax Commissioner shall require. The Tax Commissioner or any of his duly authorized agents is hereby authorized to examine the books, papers, records and equipment of any person either selling tangible personal property or liable for the tax imposed by this act, and to investigate the character of the business of any such persons in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount due under the provisions of this act. Any such books, papers, and records shall be made available within this State for such examination upon reasonable notice when the Tax Commissioner shall deem it advisable and shall so order.

§ 9. REVOCATION OF PERMIT AND AUTHORITY TO DO BUSINESS.] When any retailer maintaining a place of business in this State, or authorized to collect the tax herein imposed, fails to comply with any of the provisions of this act, or any orders, or regulations of the Tax Commissioner prescribed and adopted under this act, the Tax Commissioner may, upon notice and hearing as here-

inafter provided, by order revoke the permit, if any issued to such retailer, or if such retailer is a corporation authorized to do business in this State, may certify to the Secretary of State a copy of an order finding that such retailer has failed to comply with certain specified provisions, orders, rules or regulations. The Secretary of State shall, upon receipt of such certified copy, revoke the permit authorizing said corporation to do business in this State, and shall issue a new permit only when such corporation shall have obtained from the Tax Commissioner an order finding that such corporation has complied with its obligations under this act. No order authorized in this section shall be made until the retailer is given an opportunity to be heard to show cause why such order should not be made and he shall be given ten days notice of the time, place, and purpose of such hearing. The Tax Commissioner shall have the power in his discretion to issue a new permit after such revocation.

§ 10. ARTICLES TAXED IN OTHER STATES.] If any article or tangible personal property has already been subjected to a tax by any other State in respect to its sale or use in an amount less than the tax imposed by this act, the provisions of this act shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other State is two per cent (2%) or more, then no tax shall be due on such articles.

§ 11. RETAIL SALES ACT APPLICABLE.] All of the provisions of Section 5, Subsections 4 and 5 of Section 10, and Sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of Chapter 249 of the Session Laws of the State of North Dakota for the year 1937 and any amendment or re-enactment thereof shall apply to this act, all of which sections are by this reference incorporated herein, and the Tax Commissioner of the State of North Dakota is hereby charged with the enforcement of this act and shall administer this act and the taxes imposed by this act in the same manner and subject to all the provisions of and all of the procedure, powers, duties, authorities and restrictions contained in the retail sales tax laws in effect in the State of North Dakota so far as the same may be thereunder applicable hereto.

§ 13. CONSTITUTIONALITY.] If any section, subsection, clause, sentence, or phrase of this act is for any reason held to be unconstitutional and invalid, such decision shall not effect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence or phrase hereof, irrespective of whether any one or more of the sections, subsections, clauses, sentences, or phrases, be declared unconstitutional.

§ 14. UNLAWFUL SALE OR SOLICITING.] It shall be unlawful for any agent, canvasser, or employee of any retailer, not authorized by permit from the Tax Commissioner of the State of North Dakota to collect the tax as herein provided, to sell, solicit orders for or deliver any tangible personal property in this State. Any such agent canvasser or employee violating the provisions of this act shall be guilty of a misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each such offense, or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

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

Approved March 14, 1939.

CHAPTER 242

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

WHOLESALE LIQUOR TRANSACTION TAX

An act to provide revenue by means of a transaction tax upon sales of certain alcoholic beverages by licensed wholesale liquor dealers; authorizing the State Treasurer to prescribe rules and regulations for the collection thereof; prescribing the method of payment of the tax to, and collection by, the State Treasurer, and providing penalty.

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

§ 1. A tax is hereby imposed upon all sales by licensed wholesale liquor dealers to licensed retail liquor dealers within the State of North Dakota, of alcohol and alcoholic beverages, excluding malt beverages, containing more than four per-cent (4%) of alcohol by weight, according to the following schedule:

(a) On all sales of alcoholic beverages, excluding malt beverages, containing more than 4% of alcohol by weight but not more than 24% of alcohol by weight, a tax equal to 7% of the sale price.

(b) On all sales of alcoholic beverages containing not more than 50% but not less than 24% alcohol by weight, a tax equal to 8% of the sale price.

(c) On all sales of alcohol and alcohol substitutes, regardless of proof, a tax equal to 25% of the sale price.

The authority is hereby vested in the State Treasurer of the State of North Dakota to determine what constitutes alcohol substitutes.

§ 2. All licensed wholesale liquor dealers are required to add the amount of the tax imposed in the preceding section to the sale price of merchandise sold to licensed retail liquor dealers, and the sale price, and the tax imposed, shall constitute the selling price of such merchandise. The tax known as excise tax as provided in Section 7 of Chapter 259 of the Session Laws of 1937, known as the Initiated Liquor Control Act, shall not be included as any part of the sale price of merchandise as provided in this section.

§ 3. Fifteen days after the expiration of the first calendar month after the effective date of this act all licensed wholesale liquor dealers are required to file with the State Treasurer a list showing the respective prices to retailers of all alcohol and alcoholic beverages coming within the terms of this act, which list shall be sworn to by any duly authorized officer of the respective wholesaler, and which lists may be amended from time to time by wholesalers by the filing of sworn additions thereto, such amendments to be effective under this act five days after such filing.

§ 4. Fifteen days after the expiration of the first calendar month after the effective date of this act, and fifteen days after the expiration of each calendar month thereafter, all licensed wholesale liquor dealers are required to transmit to the State Treasurer copies of all invoices of liquor sold during the preceding thirty day period, which invoices shall show the name and address of the purchaser, the date of sale, the sale price of the merchandise sold, the kind of merchandise, the number and size of containers, and the tax computed on the transaction and, the wholesaler is required to remit with such invoices the amount of the tax thus charged during the period covered by the transmitted invoices.

§ 5. The tax herein imposed shall be computed on the sale price of the merchandise sold as shown by the list and amendments thereto filed under the provision of Section 3, unless the price shown on the invoices required to be filed under Section 4 shall be greater than that appearing in the list, and then the tax shall be computed on the price appearing on the invoice.

§ 6. Taxes paid in accordance with the provisions of this act on accounts found to be worthless and actually charged off for income tax purposes, may be credited upon subsequent payments of the tax herein provided; provided that if such accounts are thereafter collected by the wholesaler, a tax shall be paid upon the amount so collected.

§ 7. All funds collected by and paid to the State Treasurer under the terms of this act shall be promptly credited to the general funds of the State of North Dakota.

§ 8. The State Treasurer shall prepare such forms and make all regulations to effect the economical and effective payment of

the foregoing tax as are not inconsistent with the terms of this act.

§ 9. Violation of this act shall constitute a misdemeanor, punishable in the manner and form as by the laws of the State of North Dakota provided.

Approved March 15, 1939.

TREES

CHAPTER 243

S. B. No. 22—(Thatcher)

DISTRIBUTION OF SEEDS AND SEEDLINGS BY STATE FORESTER

An act to amend and re-enact Chapter 220 of the Session Laws of 1929 relating to the distribution of seeds and seedlings by the State Forester, and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 220 of the Session Laws of 1929, be amended and re-enacted to read as follows:

DISTRIBUTION: Seeds and seedlings from such nursery shall be distributed to citizens and landowners of this State upon payment of cost of production or collection as in the case of seeds and the cost of transportation from the nursery, except in the case of seedlings distributed for the specific purpose of live snow fence or highway beautification plantings; which may be distributed free of charge. As a condition precedent to such distribution the citizen or landowner making application therefor must agree to plant the seeds and seedlings distributed under the directions of the State Forester and in conformity with his instructions.

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

Approved February 4, 1939.

CHAPTER 244

H. B. No. 53—(Fuglestad and Odegard)

TREE BOUNTY

An act amending and re-enacting Section 2 of Chapter 252 of the Session Laws of 1937, providing for the allowance of a portion of the cost of planting and growing forest trees as a bounty therefor, and prescribing the duties of the assessors in connection therewith; repealing all acts in conflict therewith; and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 252 of the Session Laws of 1937 be amended and re-enacted to read as follows: Every person planting such forest tree or trees suitable for hedge in rows as boundary lines along the public highways or on any other portion of his premises, which rows shall contain not less than two living trees to each rod and who shall in other respects comply with the provisions of this article shall annually receive a bounty at the rate of two dollars for every eighty rods of each row such trees so planted shall be not less than 150 feet nor more than 200 feet from said highway; provided, however, that no bounty shall be paid or deduction allowed under the provisions of this article for a longer period than five years upon any one tract or row of trees; provided, further, that whoever is entitled to receive a bounty under existing law shall continue to receive such bounty notwithstanding the provisions of this act.

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

Approved February 2, 1939.

CHAPTER 245

S. B. No. 112—(Young and Flatt)

TREE BOUNTY—AMENDMENT

An act to amend and re-enact Section 1 of Chapter 252 of the Session Laws of North Dakota for the year 1937, relating to bounty for tree planting.

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

§ 1. AMENDMENT.] Section 1 of Chapter 252 of the Session Laws of North Dakota for the year 1937 is hereby amended and re-enacted to read as follows:

§ 1. BOUNTY FOR TREE PLANTING.] Any person who shall hereafter plant, cultivate and keep in growing, thrifty condition one acre and not more than ten acres of prairie land with any kind of forest trees, and shall plant, or have planted said trees, shall be entitled to four dollars (\$4.00) for each acre so planted and cultivated and two dollars (\$2.00) bounty per acre for each succeeding year up to four, in which such trees are kept cultivated and growing, to be paid out of the general fund of the county wherein such trees are so planted, but such bounty shall not be so paid unless such grove be maintained upon a tract of not less than eighty acres and shall have at least four hundred living trees in each acre so maintained and kept in growing condition, and in no case shall any bounty be paid in excess of the amount of real estate taxes levied for such year upon the quarter section of land of which such parcel of land planted to trees is a part. Provided, further, that in the event there are any unpaid taxes levied and unpaid against the quarter section of land of which such parcel of land planted to trees is a part at the time application is made for said bounty, such bounty, if allowed, shall be credited upon the amount of such taxes so unpaid, and only the amount in excess of such taxes shall be paid to the applicant.

Approved February 28, 1939.

TUBERCULOSIS

CHAPTER 246

S. B. No. 86—(Guthrie)

TREATMENT OF PATIENTS—TUBERCULOSIS SANATORIUM

An act to amend and re-enact Section 2588 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 251 of the Session Laws of 1929, relating to the treatment of patients at the North Dakota Tuberculosis Sanatorium and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2588 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 251 of the Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 2588. COST OF MAINTENANCE OF PATIENTS, HOW PAID.] All persons admitted as patients to the sanatorium shall pay to said institution the cost of their maintenance. The charges for any patient or patients may, however, be paid by any person or persons or so-

ciety. The determination of each sum shall be made by the superintendent with the approval of the board of administration. Any person who is unable to pay the charges for his or her support may be admitted to the sanatorium if it has been determined by the examining physician that such person is suffering from tuberculosis of any kind or nature, provided, however, that before such person shall be admitted to the sanatorium, he or she shall have a statement from the judge of the county court of the county within which he or she resides, setting forth the fact that he or she is unable to pay the regular charges. Said judge, upon the presentation of the report of the duly authorized examining physician that such person is afflicted with tuberculosis of any kind or nature, shall make an investigation and shall require such person to give full and correct answers to a property statement in the same manner as prescribed for admission of patients to the Hospital for the Insane by Section 2560 of the Compiled Laws of North Dakota for the year 1913, and if he finds that such applicant or his legal representatives are actually unable to pay such charges, he shall approve in writing the application of such person. Said judge shall immediately forward to the superintendent of the sanatorium a certificate in writing, giving the correct postoffice address of the parent, guardian or next of kin for such patient and stating that said patient is unable to pay such charges and he or she is a resident of the county in which such application has been approved, or has no residence in any county of this State, together with a copy of said property statement. The county from which such patient has been so certified, or the State at large in cases where no county residence has been determined shall be charged with the maintenance of such patient at the rate of ten dollars (\$10.00) per week during the time that he or she remains in such institution as an inmate. Such charge shall be collected in the manner provided in Section 2568, to 2579, inclusive, of the Compiled Laws of North Dakota for 1913; provided, however, the admission of every patient shall be subject to the final approval of the superintendent and the Board of Administration.

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

Approved March 13, 1939.

VETERANS

CHAPTER 247

S. B. No. 181—(Senator Trout)

COMMITMENT OF VETERANS

An act to amend and re-enact Section 15, Chapter 309, Laws of North Dakota, 1931, providing for commitment of veterans. Repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. AMENDMENT.] Section 15, Chapter 309, Laws of North Dakota, 1931, is hereby amended and re-enacted to read as follows:

§ 15. Whenever it appears that a veteran of any war, military occupation or expedition is eligible for treatment in a United States Veterans Administration Hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the chairman of the Commissioners of Insanity is hereby authorized to communicate with the official in charge of such hospital with reference to available facilities and eligibility, and upon receipt of a certificate from the official in charge of such hospital the commissioners may then direct such veteran's commitment to such United States Veterans Administration Hospital. In any case where such procedure is not feasible and as an alternative to such procedure, the Commissioners of Insanity may direct such veteran's commitment to the State Hospital for the Insane in this State until facilities are available at such United States Veterans Administration Hospital. Thereafter such veteran upon admission to such United States Veterans Administration Hospital shall be subject to the rules and regulations of such hospital and the officials of such hospital shall be vested with the same powers now exercised by superintendents of State hospitals for mental diseases within this State with reference to the retention of custody of the veteran so committed, and upon admission of such veteran to such United States Veterans Administration Hospital by transfer from the State Hospital for the Insane, under such commitment, the superintendent of the State Hospital for the Insane shall be relieved of all further and future responsibility therein. Notice of such pending proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This act is hereby declared an emergency

measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

CHAPTER 248

H. B. No. 300—(Fitch)

VETERANS GUARDIANSHIP AMENDMENT

An act to amend and re-enact Section 14, Chapter 309 of the Laws of North Dakota, 1931, providing for the furnishing without charge of copies of public records; repealing all acts in conflict and declaring an emergency.

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

§ 1. AMENDMENT.] Section 14, Chapter 309 of the Laws of North Dakota, 1931, is hereby amended and re-enacted to read as follows:

§ 14. Whenever a copy of any public record is required by the administration to be used in determining the eligibility of any person to participate in benefits made available by such administration, or to be used by such administration in its supervision of estates covered by this act, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of such administration with a certified copy of such record.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 7, 1939.

CHAPTER 249**H. B. No. 356—(Severson)**

PREFERMENT FOR OFFICIAL APPOINTMENT

An act to amend and re-enact Section 3186 of the Compiled Laws of North Dakota for 1913, relating to the preferment for official appointment, and providing for repeal of any acts in conflict herewith.

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

§ 1. AMENDMENT.] Section 3186 of the Compiled Laws of the State of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 3186. PREFERRED FOR APPOINTMENT.] In each public department and upon all public works of the State and of the cities and villages therein, honorably discharged veterans from the armed forces of the United States who served in any war, military occupation or expedition engaged in by the United States, shall be preferred for appointment, and age, loss of limb or other physical impairment which does not in fact incapacitate, shall not be deemed to disqualify them, if they possess the requisite qualifications and business capacity necessary to discharge the duties of the position involved.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1939.

CHAPTER 250**S. B. No. 184—(Blaisdell)**

**AUTHORIZING ADJUTANT GENERAL TO PREPARE AND
PRESERVE RECORD OF DECEASED SOLDIERS,
SAILORS AND MARINES.**

An act authorizing the Adjutant General to expend the sum of \$8,000.00 from the balance remaining in the "Returned Soldiers Fund" for the purpose of registering and compiling records of the graves of deceased soldiers, sailors, or marines buried in this State and for caring for and preserving of soldier records, and declaring an emergency.

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

§ 1. It shall be the duty of the Adjutant General of the State of North Dakota, and he is hereby authorized, to expend such sum as may be necessary, not to exceed the sum of \$8,000.00 out of the

balance remaining in the "Returned Soldiers Fund," created and existing under the provisions of Section 3187 C1 of the 1925 Supplement to the Compiled Laws of 1913, for the purpose of carrying out the provisions of Chapter 253 of the Laws of 1937 with reference to the recording of burial places of deceased war veterans, and for the purpose of providing proper storage and fireproof receptacles, and for the preservation and safekeeping of soldier records, of the citizens of the State of North Dakota who have served the United States as soldiers, sailors, or marines, in time of war.

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

Approved March 14, 1939.

WORKMEN'S COMPENSATION

CHAPTER 251

S. B. No. 150—(Committee on Insurance)

WORKMEN'S COMPENSATION ACT, AMENDMENT

An act amending and re-enacting the Workmen's Compensation Act by amending and re-enacting Sub-section A and G of Section 3, Chapter 162, Session Laws of 1919 as amended by Chapter 260, Session Laws of 1929 and Chapter 286, Session Laws of 1935; Paragraph F of Section 4 of Chapter 162, Session Laws of 1919, as amended by Chapter 285, Session Laws of 1927 and Chapter 314, Session Laws of 1931; Paragraph I of Section 4 of Chapter 162, Session Laws of 1919, as amended by Chapter 314, Session Laws of 1931 and Chapter 286, Session Laws of 1935; the first paragraph of Section 5 of Chapter 162, Session Laws of 1919 as amended by Chapter 143, Session Laws of 1921 and which appears as Section 396a5 of the 1925 Supplement; the ninth and final paragraph of Section 7 of Chapter 162, Session Laws of 1919 as amended by Chapter 312, Session Laws of 1931; the fourth and fifth paragraphs of Section 8, Chapter 162, Session Laws of 1919 as amended by Chapter 315, Session Laws of 1931; and Section 23 of Chapter 162, Session Laws of 1919 which also appears as Section 396a23 of the 1925 Supplement.

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

§ 1. That Sub-section A and G of Section 3 of Chapter 162, Session Laws of 1919 as amended by Chapter 260, Session Laws of 1929 and Chapter 286, Session Laws of 1935, is hereby amended and re-enacted to read as follows:

A. Immediately after an injury sustained by an employee and

during the resulting period of disability, the North Dakota Workmen's Compensation Fund, shall furnish to such employee such medical, surgical and hospital service and supplies as the nature of the injury may require, and may, if such injury causes permanent partial disability, in addition to the specific benefits provided, furnish such artificial limbs, glasses, braces or appliances which in the discretion of the bureau may be necessary to re-habilitate such injured employee.

G. If death results from an injury within six years, the North Dakota Workmen's Compensation Fund shall pay to the following persons, for the periods specified, a weekly compensation equal to the following percentages of the deceased employee's weekly wages; provided, however, that no compensation shall be paid where death takes place more than one year after the cessation of disability resulting from the injury, or, if there has been no disability preceding death, if death takes place more than one year after the injury, and provided, further, that the total amount payable shall not exceed the sum of \$15,000.00 in addition to the amounts paid for compensation and medical and hospital expense during temporary disability, for all claims based upon injuries or disability received upon or after March 7th, 1929.

(a) To the widow, if there is no child, thirty-five per cent. Such compensation shall be paid until her death or marriage. In case of marriage, there shall be paid to her a lump sum equal to 156 weeks' compensation, provided, however, that if prior to such marriage such widow has received a partial lump sum settlement which covers all or any portion of the said 156 weeks following her marriage, the amount of such partial lump sum settlement which covers all or any part of the said 156 weeks following her marriage shall be deducted from such marriage settlement, and the widow shall only receive the remainder, if any, over and above such deduction, and provided, further, that any judgment annulling such marriage shall not reinstate the right of such widow to compensation if the action for annulment is instituted more than six months after such marriage.

(b) To the widower, if there is no child, thirty-five per cent if wholly dependent for support upon the deceased employee at the time of her death. Such compensation shall be paid until his death or marriage.

(c) To the widow or widower if there is a child, or children, the compensation payable under clause (a) or (b), and in addition thereto ten per cent for each child, not exceeding, however, a total of sixty-six and two-thirds per cent for the widow or widower and the children. The compensation payable on account of any child shall cease when such child dies, marries or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support.

(d) To the children, if there is no widow or widower, twenty-five per cent for one child and ten per cent addition for each additional child, not exceeding, however, a total of sixty-six and two-thirds per cent, the compensation hereunder not to be for the specific children but to be divided share and share alike. Compensation for each child shall be paid until such child dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support becomes capable of self-support. Compensation for a child under legal age shall be paid to its guardian.

(e) To the parent, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent; if both are wholly dependent twenty per cent to each; if one or both are partially dependent, a proportionate amount in the discretion of the bureau. The foregoing percentages shall be paid only if there is no widow, widower, or child. If there is a widower, widow, or child, there shall be paid only so much of the foregoing percentages as, when added to the total of the percentages payable to the widow, widower and children, shall not exceed the total of sixty-six and two-thirds per cent; provided, that any compensation so payable to the parents, if there is a widow, widower or child, shall not be included in the limitation of \$15,000.00 referred to in Paragraph G.

(f) To the brothers, sisters, grandparents, and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his death, twenty per cent of such dependent; if more than one are wholly dependent, thirty per cent, divided among such dependents, share and share alike; if none of them are wholly dependent, but one or more are partly dependent, ten per cent divided among such dependents, share and share alike. The foregoing percentages shall be paid only if there is no widow, child, or dependent parent there shall be paid only so much of the foregoing percentages as, when added to the total percentages payable to the widow, widower, children and dependent parents, shall not exceed a total of sixty-six and two-thirds per cent; provided, that any compensation payable to any dependents under this paragraph, if there is a widow, widower, child or dependent parent, shall not be included in the limitation of \$15,000 referred to in Paragraph G.

(g) The compensation of each beneficiary under clause (e) may continue until such dependent parent dies, marries or ceases to be dependent, and the compensation of each beneficiary under clause (f) shall be paid for a period of eight years from the time of the death of the employee, unless before that time, he, if a grandparent, dies, marries or ceases to be dependent, or if a brother, sister or grandchild, dies, marries, or reaches the age of eighteen, or, if over eighteen, and incapable of self-support becomes capable of self-support. The compensation of a brother, sister or grandchild under legal age shall be paid to his or her guardian.

(h) Upon the cessation of compensation under this section

to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable, shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death; provided, however, that nothing herein contained shall be construed to increase the compensation of the children of a widow or widower upon his or her remarriage.

(i) In case there are two or more classes of persons entitled to compensation under this section, and the apportionment of such compensation, hereinbefore provided would result in injustice, the bureau may, in its discretion, modify the apportionment to meet the requirements of the case.

(j) If any person entitled to compensation under this section whose compensation by the terms of this section ceases upon his marriage, accepts any payments or compensation after his marriage, he or she shall be guilty of a misdemeanor.

(k) In computing compensation in case of death, the weekly wages of the deceased shall be considered to have been not more than thirty dollars, (\$30.00) nor less than eighteen dollars, (\$18.00) but the total weekly compensation shall not exceed the weekly wages of the deceased.

(l) In case of death or of permanent total, or of permanent partial disability, and if the bureau determines that it is for the best interest of the beneficiary, the liability for compensation to such beneficiary may be discharged by the payment of a lump sum equal to the present value of all future payments of compensation computed at four per cent discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality; but in case of compensation to the widow or widower of the deceased employee, such lump sum shall not exceed 416 weeks' compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded. The bureau may also grant a partial lump sum settlement based upon the same computations as the complete lump sum which partial settlement shall be a complete discharge of whatever portion or percentage of the annuities is covered thereby.

(m) If death results from the injury within six years the North Dakota Workmen's Compensation Fund shall pay to the personal representative of the deceased employee, burial expenses not to exceed two hundred dollars (\$200.00).

(n) The provisions of this section shall be retroactive and the Workmen's Compensation Bureau upon application, or upon its own motion may adjust compensation previously awarded, or if compen-

sation has been refused may award compensation in accordance with the terms hereof.

(o) Provided, however, that if an injured employee dies and there is due to his estate any sums for medical or hospital attention or other expense payable by the bureau or for compensation where such compensation does not exceed eighty dollars (\$80.00), the bureau may pay to the widow of such employee, if living, or in the event of her death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the decedent employee the balance remaining due as hereinbefore limited without probate proceedings.

§ 2. Paragraph F of Section 4 of Chapter 162 Session Laws of 1919 as amended by Chapter 285, Session Laws of 1927 and Chapter 314 Session Laws 1931 is hereby amended and re-enacted to read as follows:

Paragraph F. "The bureau may make rules not inconsistent with this act for carrying out the provisions of this act. Process and procedure under the act shall be as summary and simple as reasonably may be; and to that end the bureau shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, but may make investigation in such manner and at such places as, in the judgment of the bureau, shall be best calculated to ascertain the substantial rights of all the parties and to carry out, justly and fairly, the spirit of the act. The bureau, any member thereof, or any employee of the bureau, to which in case of emergency the bureau shall delegate such power, shall have the power to examine witnesses and records, with or without subpoena; to administer oaths to witnesses; to require the attendance of witnesses without fee whenever the testimony is taken at the home, office or place of work of such witnesses; and generally to do anything requisite or necessary to facilitate or promote the efficient administration of this act."

§ 3. Paragraph I of Section 4 of Chapter 162, Session Laws of 1919, as amended by Chapter 314, Session Laws of 1931 and Chapter 286, Session Laws of 1935, is hereby amended and re-enacted to read as follows:

Paragraph I. The bureau is hereby vested with full power and jurisdiction over, and shall have the supervision of, every employment and place of employment subject to this act, and shall, whenever necessary adequately to enforce and administer this act, issue and enforce all necessary and proper rules and safety regulations, and may designate some suitable person to inspect the premises of any employer to determine if such regulations or rules are being followed or complied with.

§ 4. That the first paragraph of Section 5 of Chapter 162, Session Laws of 1919 as amended by Chapter 143, Session Laws of

1921 and which appears as Section 396a5 of the 1925 Supplement, be amended and re-enacted to read as follows :

Every employer shall furnish the bureau upon request the information required by it to carry out the purposes of this act. It is further provided that if the Workmen's Compensation Bureau finds that any person, firm, private corporation or any public service corporation, either within or without the State of North Dakota, is an employer within the meaning of this act, it shall determine the date when he or it becomes such, which finding and determination for all purposes of this act shall be prima facie but not conclusive evidence thereof, unless it can be otherwise shown by the employer affected. The bureau shall forthwith give notice of said action to the employer, who shall immediately thereafter furnish the bureau with a payroll covering the period included in said finding, not exceeding twelve (12) months last past, together with an estimated payroll for twelve (12) months next succeeding from the date of such finding, and comply with all provisions of the Workmen's Compensation Act, and all amendments thereto, which information shall be furnished on blanks to be prepared by the bureau; and it shall be the duty of the bureau to furnish such blanks to employers free of charges upon request therefor. Every employer receiving from the bureau any blank, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and to give all the information therein sought, or if unable to do so, he shall give to the bureau in writing good and sufficient reasons for such failure. The bureau may require that the information herein required to be furnished be verified under oath, and returned to the bureau within the period fixed by it or by law. The bureau or any member thereof, or any person employed by the bureau for that purpose, shall have the right to examine under oath any employer, officer, agent or employee thereof for the purpose of ascertaining any information, which such employer is required by this act to furnish to the bureau. Any employer knowing himself to be subject to the operation of the Workmen's Compensation Act who wilfully fails to report himself to the bureau as such shall be liable to a penalty to be fixed by the bureau in not exceeding the sum of \$100.00. Any employer who shall fail or refuse to furnish to the bureau the annual statement herein required or who shall fail or refuse to furnish such other information as may be required by the bureau under authority of this section, shall be liable to a penalty to be fixed by order of the bureau but not to exceed \$500.00. Such penalties to be collected in civil action brought against said employer in the name of the State; all such penalties, when collected, shall be paid into the North Dakota Workmen's Compensation Fund and become a part thereof.

§ 5. The ninth and final paragraph of Section 7 of Chapter

162, Session Laws 1919 as amended by Chapter 312, Session Laws of 1931, is hereby amended and re-enacted to read as follows:

In case of aggravation of any injury or disease existing prior to a compensable injury, compensation, medical, hospital or funeral expense, or death benefits, shall be allowed by the bureau and paid from the Workmen's Compensation Fund only for such proportion of the disability, death benefits or expense, arising from the aggravation of such prior disease or injury as may reasonably be attributable to such compensable injury.

§ 6. The fourth and fifth paragraphs of Section 8 of Chapter 162, Session Laws 1919, as amended by Chapter 315, Session Laws of 1931, is hereby amended and re-enacted to read as follows:

Whether the premium is paid in full or in installments the first payment shall be in default one month from the date of the pay-in-order, and subsequent installments shall be in default, respectively; in case of semi-annual payments, six months from the date of the pay-in-order; and in case of quarterly payments three months, six months, and nine months from the date of the pay-in-order. Provided, however, that the bureau by its proper order and by an endorsement and notification to that effect upon the settlement sheet statement and pay-in-order sent to the employer may require payment of a premium within any time less than one month which is in the bureau's judgment reasonable and necessary to secure payment of the premium, of each employer whose employment within the State of North Dakota is likely to continue less than one month, and in such cases default shall begin at the end of the time allowed by the bureau for payment of premium.

Whenever any employer defaults in the payment of any premium, or any installment thereof, or in the filing of any bond herein, required, penalties shall attach as follows: Three dollars (\$3.00) for the first fifteen (15) days of default; five dollars (\$5.00) for the next fifteen (15) days of default; and one (1%) per cent of the premium for each thirty days of default thereafter, but not less than two dollars (\$2.00). Provided, however, that when the premium is paid within twelve months of the date of the pay-in-order originally billing such premiums, the penalty for such first year shall not exceed the amount of the premium to which such penalties attach.

§ 7. That Section 23 of Chapter 162, Session Laws of 1919, which also appears as Section 396a23 of the 1925 Supplement, is hereby amended and re-enacted to read as follows:

Whoever makes, in any affidavit required or in any claim for compensation, or in any employer's report required by the bureau in connection with any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than two thousand dollars (\$2,000.00) or by im-

prisonment for not more than one year, or by both such fine and imprisonment.

Approved March 16, 1939.

CHAPTER 252

S. B. No. 246—(Senators Fowler - Beaton)

EXEMPTING CERTAIN EMPLOYEES FROM WORKMEN COMPENSATION ACT REQUIREMENTS

An act exempting employees who are residents of and who are insured under the Workmen's Compensation Act or similar statute of another State from the application of the North Dakota Workmen's Compensation Act where such other State recognizes extraterritorial coverage furnished to North Dakota employers for their employees while working in such other State.

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

§ 1. Employees who are residents of another State and who are employed by employers of another State and are insured under the Workmen's Compensation Act or similar acts of such other State, shall be exempted from the provisions of the North Dakota Workmen's Compensation Act while temporarily within this State doing work for such non-resident employer and such employer shall likewise be exempted if such non-resident employer has furnished Workmen's Compensation insurance coverage to such employee in such other State, covering his employment in North Dakota, and if extraterritorial coverage furnished by the North Dakota Workmen's Compensation Bureau and granted to employers resident in North Dakota covering employment of his employees while working in such other State is recognized by such other State, and such employer and employee is exempted from the application of the Workmen's Compensation Act or similar act of such other State.

§ 2. A certificate from the executive secretary or other duly authorized officer of the Workmen's Compensation Bureau or similar bureau of another State certifying that the employer of such other State is insured thereunder and has provided extraterritorial coverage insuring his employees while working within the State of North Dakota shall be prima facie evidence that such employer carries such compensation insurance.

Approved March 13, 1939.

WATER CONSERVATION

CHAPTER 253

H. B. No. 311—(Irrigation and Drainage.)

IRRIGATION ACT OF 1939

An act relating to the organization of irrigation districts, the powers and functions of such districts, the establishment and construction of irrigation works therein and methods and procedure for financing the cost of purchasing or constructing such irrigation works; amending Section 8247a1 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 1 of Chapter 142 of the Session Laws of 1933; Section 8247a2 of the Supplement to the Compiled Laws of 1913; Section 8247a3 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 2 of Chapter 142 of the Session Laws of 1933; Sections 8247a4, 8247a5, 8247a6, 8247a7, 8247a8, and 8247a9 of the Supplement to the Compiled Laws of 1913; Section 8247a10 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 3 of Chapter 142 of the Session Laws of 1933 and amending Sections 8247a11, 8247a12, 8247a13, 8247a14, 8247a15, 8247a16, 8247a17, 8247a18, 8247a19, 8247a20, 8247a21, 8247a23, 8247a24, 8247a26, 8247a47, 8247a51, 8247a52, 8247a53, 8247a56, 8247a57, 8247a59, 8247a60, 8247a61, 8247a63, 8247a64, 8247a65, and 8247a66 of the Supplement to the Compiled Laws of 1913; validating organization and acts of certain irrigation districts; repealing all acts and parts of acts in conflict with the provisions of this act, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 8247a1 of the Supplement of the Compiled Laws of North Dakota for 1913 as amended by Section 1 of Chapter 142 of the Session Laws of 1933 is hereby amended and re-enacted so as to read as follows:

§ 8247a1. Whenever a majority of the electors within an area containing 80 acres or more of land susceptible of irrigation desire to provide for the irrigation of such land, they may propose the organization of an irrigation district under the provisions of this act, and when so organized, the district shall have the powers conferred, or that may be conferred, by law upon irrigation districts; provided that no district, shall, when thus organized, contain less than seven electors as the term elector is herein defined, and provided further that where irrigation works, ditches or canals have been constructed before the passage of this act of sufficient capacity to water the land thereunder, for which land the water taken in such canals or ditches is appropriated, such canals or ditches and the water rights and franchises under which same are maintained and operated, and the land watered by such canals or ditches, shall be exempt from operation of this act unless such irrigation district

is created to purchase such irrigation works, canals, ditches, water rights and franchises. The term "elector" as used in this act shall include any entryman or person owning not less than ten acres of land within the proposed district who resides in North Dakota and shall also include any person residing in North Dakota who holds a leasehold estate within such district of not less than ten years duration from and after the filing with the State Engineer of the petition requesting the organization of such irrigation district; provided, however, that in irrigation districts embracing or containing less than five hundred acres the word "elector" shall include any person owning any land therein.

§ 2. AMENDMENT.] That Section 8247a2 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a2. A petition shall be filed with the State Engineer signed by a majority of the electors of the proposed district, who shall be entrymen upon or shall own, or hold leasehold estates, in a majority of the whole number of acres owned or held by the electors of the proposed district, requesting that the territory described in said petition be organized under the provisions of this act. Such petition shall set forth the name and address of each petitioner, the nature of his interest in the land, whether as entryman, owner or lessee, the mortgage indebtedness, if any, against the land, the names and addresses of mortgagees, and a description of the land. The petition shall also set forth and particularly describe the boundaries of said district. The petitioners must accompany the petition with a map of the proposed district. Such map shall show the location of the proposed canals or works by means of which it is intended to irrigate the lands of the proposed district, but canals that merely pass through said lands, and which do not irrigate any of the same, need not be shown. If the water supply be from natural streams, the flow of such stream or streams shall be stated in cubic feet per second.

If the water supply for the district is to be gathered by a storage reservoir, or reservoirs, the map shall show the location thereof and shall state their capacity in acre feet.

Such map shall be drawn to a scale of not less than two inches to the mile. Typical cross sections of the proposed canal or canals, and all canals existing within the boundaries of the proposed district and shown on the map, and of all proposed dams and embankments, shall be given in sufficient detail to show the contemplated method of construction, and the capacity of the typical canals required for the irrigation of the lands within the proposed district shall be stated. Such cross sections shall be drawn to a scale required by the State Engineer, and such map and cross sections shall be certified to by an irrigation engineer. The petition must be accompanied by a good and sufficient bond, to be approved by the State

Engineer, in double the amount of the probable cost of organizing such district, including the cost of the first election therein, conditioned that the sureties will pay all costs in case said organization shall not be approved by the electors.

Within ten days after the filing of such petition, and the approval of such bond, the State Engineer shall file a certified copy of such petition with the board of county commissioner[s] of each county wherein the proposed irrigation district is situated.

The State Engineer shall examine the petition, maps, papers and data pertaining to the proposed irrigation district and shall fix a time and place for hearing such petition. A notice stating that such petition will be heard, and stating the time and place of hearing, must be filed with the county auditor of each county wherein such district is located. Such notice shall be published once each week for two weeks prior to the date of such hearing in the official newspaper of the county wherein the proposed irrigation district is located, and if such district is located in more than one county, then such notices shall be published in the official newspaper of each such county. Prior to such hearing the State Engineer shall prepare, or shall cause to be prepared, a report showing the probable cost of the proposed irrigation works and the practicability and feasibility of the plan of irrigation suggested or proposed by petitioners for the irrigation of the lands within such district. A copy of such report shall be filed with the county auditor of each county wherein the proposed irrigation district is situated and such report shall be open to public inspection. The State Engineer shall also submit such report to the electors of the proposed district at the meeting set for hearing the petition for the organization thereof.

At the time set for the hearing, the State Engineer may, with the consent of petitioners, amend the plan of irrigation proposed in said petition and may, with the written consent of the entrymen, owners or lessees of the additional land affected, enlarge the boundaries of the proposed irrigation district. The State Engineer may adjourn such hearing from time to time and on the final hearing may make such changes in the proposed boundaries as he shall find to be proper and shall establish and define the boundaries; provided however, that the boundaries of the irrigation district proposed in the petition shall not be changed until each entryman, lessee, and owner of land affected thereby has in writing consented to the inclusion of his land in such district.

§ 3. AMENDMENT.] That Section 8247a3 of the Compiled Laws of North Dakota for 1913 as amended by Section 3 of Chapter 142 of the Session Laws of 1933 is hereby amended and reenacted so as to read as follows:

§ 8247a3. (1) When the State Engineer shall have found and determined that the establishment of such irrigation district is advisable, and that the plan proposed for irrigating the lands there-

in is practicable and economically sound, he shall make an order establishing such irrigation district, subject to the approval of the electors of the district at an election called by the State Engineer for that purpose as hereinafter provided. The State Engineer shall divide the district, if it embraces five hundred acres of land, or more, into three sub-divisions which shall be as nearly equal in size as may be practicable, and which shall be numbered, and one director shall be elected by and from each division. Such order shall set forth: (a) the time and place of holding such election, (b) the boundaries of the district, (c) the name and address of each elector who has petitioned for, or consented in writing to the organization of such irrigation district and a description of the lands owned or leased by each such elector, and (d) the plan or method proposed for the irrigation of such lands. A copy of such order shall be filed with the county auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

(2) If, however, the State Engineer shall determine that the plan of irrigation proposed is not practicable or that such plan is not economically sound, he shall make an order denying the petition for the organization of such irrigation district and shall state his reasons for his action. A copy of such order shall also be filed with the county auditor of each county in which the proposed irrigation district is situated.

(3) Upon making his order establishing such irrigation district the State Engineer shall give notice of an election to be held in such district for the purpose of determining whether or not the electors of the district approve the establishment and organization thereof as an irrigation district. Such notice shall describe the boundaries as established by the State Engineer and shall designate a name for such district, and said notice shall be published once each week for two weeks prior to such election in a newspaper in the county in which the district is situated, and if situated in more than in one county such notice shall be published in a newspaper published within each of such counties. Such notice shall be substantially in the following form:

NOTICE OF ELECTION

Notice is hereby given that on the-----day of-----, 19---- a special election will be held within the territory hereinafter described for the purpose of submitting to the electors of said territory the question as to whether or not the order of the State Engineer establishing an irrigation district known as----- Irrigation District shall be approved, such district comprising and including the following described lands, to-wit:

(Here describe lands embraced in the district.) The ballot will be in the following form:

For Irrigation District.

YES-----☐

NO-----☐

Notice is further given that a board consisting of three directors will be elected who will serve as hereinafter provided if the creation of the district is approved. Polls will be open from 9:00 A.M. to 7:00 P.M.

Dated this-----day of-----, 19---

Signed-----

State Engineer.

(4) The board of directors of an irrigation district shall consist of three directors. One director elected at the first election shall serve for one year, one shall serve for two years and one director shall serve for three years. Each director shall serve until his successor has been duly elected and qualified. The term of office of the directors elected at such first election shall be determined by lot as hereinafter provided. Directors elected at subsequent elections shall serve for a term of three years. The State Engineer shall also establish and designate the polling place or the place where such first election shall be conducted. Such polling or voting place may thereafter be changed by the board of directors of the district. Directors elected in any irrigation district created prior to the passage, approval and taking effect of this act shall serve as directors of the district until the general election of the district held in 1940. At such general election, five directors shall be elected and the term of office of each director shall be determined by lot.

(5) Prior to the holding of such election, the State Engineer shall appoint from the electors of the district one clerk and two judges who shall constitute a board of election for such district. If the members appointed do not attend at the opening of the polls on the day of election, the electors present at that hour may elect the election board or fill the place of an absent member thereof.

(6) Such election shall be conducted in accordance with the general election laws of the State. After the polls are closed, the election board shall proceed to canvass the votes cast thereat, and the clerk of the election board shall certify to the State Engineer the result of such election. The clerk of the board shall then securely wrap the ballots cast at such election and shall express or mail same by registered mail to the State Engineer who shall also canvass the ballots and verify the result. The State Engineer shall file and retain in his office the ballots cast at such election.

(7) If upon a canvass of the votes cast and after such canvass has been verified by the State Engineer it appears that a majority of all votes cast are "Irrigation District-----YES", the State Engineer shall by an order declare such territory duly organized as an irrigation district under the name and style therefor designated and shall declare the persons receiving the highest number of votes duly elected as directors. The State Engineer shall cause

a copy of such order, duly certified, to be immediately filed for record in the office of the register of deeds of each county in which any portion of the irrigation district is situated and shall also file a copy of such order with the county auditor of each county in which any portion of the district is situated, and from and after the date of such filing, the organization of such district shall be complete. The State Engineer shall immediately make out and mail, by registered mail, to each person elected to the office of director a certificate of election signed by him. The directors shall thereupon enter upon the duties of their office.

(8) The State Engineer shall also file in the office of the Secretary of State a copy, duly certified by him, of such order, declaring such territory to be duly organized as an irrigation district, and the Secretary of State shall make and issue to the State Engineer a certificate under the Seal of the State, of the due organization of such district and shall record such certificate and the said order of the State Engineer. Such certificate of the Secretary of State or a copy thereof, authenticated by him, shall be prima facie evidence of the organization and existence of such irrigation district.

§ 4. An appeal may be taken to the district court from all orders and decisions of the State Engineer by any person claiming to be aggrieved thereby at any time within 15 days after the order or decision appealed from has been filed with the county auditor of the county in which the appeal is taken. Such appeal is taken by serving the notice of appeal on the State Engineer and by filing the notice of appeal, proof of service thereof, and the undertaking herein required, with the clerk of the district court of the county in which the appeal is taken. To effect an appeal, an undertaking must be executed by the appellant and sufficient surety conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against him in district court. Such undertaking shall be made to the State Engineer and may be enforced by him as obligee. The appeal shall be taken to the district court of the county in which the land claimed to be adversely affected by the order or decision appealed from is situated and if such land is situated in more than one county such appeal may be taken to the district court of any county in which such land, or any part thereof, is situated.

All appeals thus taken shall be docketed as other causes pending in the district court are docketed and the same shall be heard and determined *denovo*. The district court may enter a final judgment or may enter such order as the court shall deem just and proper.

§ 5. AMENDMENT.] That Section 8247a4 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 8247a4. The directors elected as hereinbefore provided shall hold their office until their successors have been elected and quali-

fied. One director shall serve for one year, one director shall serve two years and the other director for three years. At their first meeting after the first election the term of office of the directors shall be determined by lot. At subsequent elections directors shall be elected to serve for three years. In case the office of any director shall for any reason become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose place he has been appointed to fill.

The regular election of irrigation districts shall be held on the first Tuesday in February of each year.

After receiving their certificates of election the directors shall take and subscribe to an oath of office of substantially the same tenor as the oath of office prescribed for county officials and each member of said board of directors shall execute an official bond in the sum of \$1,000.00. Such oath of office and bond shall be filed in the office of the State Engineer.

The directors shall meet at the time and place designated by the State Engineer and shall organize by selecting one of their members as chairman of the board. A temporary secretary shall be designated until a permanent secretary of the board has been appointed. After organization of the board a majority of the directors shall constitute a quorum for the transaction of such business as may come before the board. The board shall appoint a secretary, a treasurer and an assessor of the district and such other officers or employees as the board shall deem necessary for the efficient conduct of the district's business and shall fix their compensation. Officers and employees appointed by the board shall hold office during the pleasure of the board. The office of secretary and treasurer may be held by the same person.

The assessor shall execute an official bond in the sum of \$500.00, the district treasurer, an official bond in the sum of not less than double the amount of money that may come into his hands, the amount to be determined by the board of directors, but such bond shall not be less than \$1,000.00. Other employees and appointive officers shall execute bonds in such sums as the board may prescribe. The official bonds of the assessor, treasurer and other officers and employees shall be approved by the board. Such bonds shall be filed in the office of the State Engineer. In case any district organized hereunder is appointed fiscal or other agent of the United States or is authorized by the United States to make collections of money for and on behalf of the United States in connection with any Federal reclamation or irrigation project, such treasurer and each director shall execute an additional official bond in such sum as the Secretary of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization; and such additional

bonds may be sued upon by the United States or by any person damaged by failure of such officer or district to fully, promptly faithfully perform their duties. All official bonds herein provided shall be in the form prescribed by law for official bonds of county officers except the obligee named in such bond shall be the irrigation district. The directors elected subsequent to the organization of the district shall assume the duties of their office the first Tuesday in April after their election and shall hold office until their successors are elected and qualified.

Every elective or appointive officer or employee of whom a bond is required under this act shall be deemed to be bonded in the State Bonding Fund upon notice of such election or appointment being given by the Secretary of the district to the State Commissioner of Insurance. Upon notification by the Commissioner of Insurance of the amount of premium of such bond or bonds, the secretary of the district shall forthwith remit the same.

§ 6. AMENDMENT.] That Section 8247a5 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a5. SUBSEQUENT ELECTIONS—DATE OF REGULAR ELECTION.] Fifteen days before any election is held, under the provisions of this act, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in the district a notice of the election specifying when the polls will be open and when the polls will close and the polling place. Such notice shall be substantially in the following form:

"Notice is hereby given that on the-----day of-----, 19--, and election will be held at----- (Here designate the polling place) for the purpose of electing-----members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be open at ten o'clock A.M. and will close at five o'clock P.M. of that day. Prior to the time of such election, the board shall appoint from the electors of the district, one clerk and two judges, who shall constitute a board of election. If the board shall fail or neglect to appoint a board of election, or if the members appointed do not attend at the opening of the polls on the day of election, the electors of the district present at that hour may appoint the election board or fill the place of an absent member thereof. The board of directors shall, in its order or resolution appointing the board of election, designate the hour and place where the election must be held.

Any person desiring to be a candidate at such election shall file his or her name with the secretary of the board not less than ten days before such election. At least five days before such election the secretary shall prepare and have typewritten, mimeographed or

printed an official ballot containing all names thus filed. Such ballot shall be headed "Official Ballot" and shall contain all names thus filed. Such ballot shall also show the name of the district and shall state the number of persons to be voted for. Such ballot shall also have blank spaces below for writing in other names; provided nothing herein shall prevent any person desiring to be a candidate at such election, and who has failed to file as herein provided, from furnishing stickers to be attached to the ballot by the elector. Such stickers shall not be over one-half inch in width and have printed thereon one name only.

§ 7. AMENDMENT.] That Section 8247a6 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 8247a6. Before opening the polls each member of the election board shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and to the best of my ability." Such oath or affirmation may be administered by any director of the district or any officer authorized to administer oaths. The board of directors shall designate one of the judges as chairman of the election board and he shall have the authority to administer and certify all oaths or affirmations taken by other members of the election board and shall administer and certify all oaths or affirmations required during the progress of the election. If, however, the board of directors fail to appoint a board of election or if the members appointed fail to attend at the opening of the polls on the morning of the election, any elector of the precinct may administer and certify such oath. The polls must be opened at ten o'clock in the morning of the election and shall be kept open until five o'clock P. M. of the same day.

Immediately after the polls are closed the board shall publicly open and proceed to canvass the ballots cast and shall declare the result of their canvass. The chairman shall then securely wrap all lists, tally sheets, oaths and affirmations and other documents relating to the progress of the election and shall deliver the same to the secretary of the board of directors of the district.

Members of the election board shall each be allowed and paid the sum of three dollars for their services as such.

§ 8. AMENDMENT.] That Section 8247a7 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 8247a7. RETURN AND CANVASS OF VOTES.] The board of directors of the district shall meet at its usual place of meeting on the first Tuesday in March after each election and canvass returns. If at the time of meeting the returns have been received, the board shall then and there proceed to canvass the returns, but if all the

returns have not been received the canvass shall be postponed from day to day until all the returns have been received. The canvass shall be made in public and by opening the returns and ascertaining the vote for each person voted for and declaring the result thereof and also ascertaining the vote for and against each and every question or proposition voted upon, and declaring the result thereof.

§ 9. AMENDMENT.] That Section 8247a8 of the Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a8. DECLARATION OF RESULTS; CERTIFICATE OF ELECTION.] The secretary of the board of directors shall, as soon as the result of the election is declared, enter upon the records of the board a statement of such results, which statement must show:

First: The whole number of votes cast in the district.

Second: The names of the persons voted for.

Third: Each question voted upon.

Fourth: The number of votes cast for each person and the number of votes cast for and against each question voted upon at the election.

A copy of such statement shall be recorded in a permanent record of the board to be kept for that purpose and such statement shall be signed by the secretary of the board and authenticated by the seal of the district; and a copy of such statement thus signed and authenticated shall be filed with the county auditor of each county wherein the irrigation district is situated and a like copy shall be mailed to the State Engineer.

The board of directors shall declare elected the person having the highest number of votes cast for such office and shall declare the result of the election as to each question voted upon at the election. The secretary shall immediately make out and deliver to such person elected a certificate of election, signed by him and authenticated with the seal of the district.

§ 10. AMENDMENT.] That Section 8247a9 of the Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a9. POWERS AND DUTIES OF BOARD OF DIRECTORS.] The board of directors shall have the power and it shall be its duty:

1. To manage and conduct the business affairs of the district.
2. To make and execute all necessary contracts.
3. To employ such officers, agents and employees as may be necessary to efficiently conduct the business of the district and to fix their compensation.
4. To adopt a seal for the district. Such seal shall be kept in the custody of the secretary.

5. To establish by-laws, rules and regulations for the distribution to, and information of, electors of the district and water users, and to fix charges or rentals to be paid by water users. Such by-laws, and rules and regulations shall be printed, typewritten or mimeographed in convenient form.

6. The board, its agents and employees shall have the right to enter upon any land within the district to make surveys and locate the lines of any canal or canals and the necessary branches for such canal or canals and to maintain and keep in good repair the irrigation works within the district.

7. To acquire by purchase, condemnation or otherwise, right-of-way for ditches and canals and sites for dams and reservoirs and for pumping plants and all lands, water rights, easements and any and all property necessary for the construction, use, maintenance, repair and improvement of dams, reservoirs and canals, and electric power lines for the conveyance of electric power to operate pumping plants, and all necessary appurtenances thereto.

8. The board shall also have the right, subject to the limitations contained in this act, to acquire by purchase, condemnation or otherwise, any existing irrigation works, ditches, canals, reservoirs and dams for the use of the district.

9. To submit, whenever the board shall deem it advisable, to the electors of the district at any regular or special election of any question, proposition or proposal relative to the affairs of the district.

10. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States or of any department or agency thereof, or authorization by the United States or of any department or agency thereof to make collections of money for and on behalf of the United States in connection with any Federal reclamation or irrigation project and the said board shall have full power to do any and all things required by the rules and regulations established by any such department or agency of the Federal Government in regards thereto.

11. Subject to the limitations hereinafter provided, to determine a plan or method for raising funds to finance the cost of constructing irrigation works within the district or to provide funds for the purchase of such irrigation works. Such plan may provide for the issuance of bonds, or the issuance of district improvement warrants or may provide for the payment of such construction costs, or purchase price, by creating a fund obtained from water rentals or charges to water users, or for a combination of such methods for raising funds. The term "works" as used in this act shall include canals, ditches, pumping plants, right-of-ways, easements, reservoirs, dams and the necessary sites for pumping plants, reservoirs and dams and all means and property required for a complete operating system of irrigation works.

12. To exercise all rights, powers and authority, express or implied, that may be necessary to do and perform and carry out all of the express purposes of this act and of all purposes reasonably implied as incidental thereto.

13. To enter into contracts and/or leases with the State Water Conservation Commission of North Dakota or with the United States of America, its instrumentalities, departments or agencies, for the purpose of financing the construction of any irrigation works authorized by law, and may in such contracts and/or leases authorize the said commission or the United States, its instrumentalities, departments or agencies, as the case may be, to supervise and approve the construction, maintenance, and operation of such irrigation works, or any part or portion thereof, until such times as any money expended, advanced or loaned by the commission or by the United States, its instrumentalities, departments or agencies, and agreed to be repaid thereto by said board, shall have been fully repaid. And the board is hereby authorized and empowered to accept co-operation from the said commission or from the United States, its instrumentalities, departments and agencies, in the construction, maintenance and operation, and in financing the construction of any work authorized by the board; and the board shall have full power to do any and all things necessary in order to avail itself of such aid; assistance and cooperation under existing or future State laws or Federal legislation now or hereafter enacted by Congress.

When the board shall deem it necessary to protect the interests of the district, or of the electors thereof, or to protect the interest of bond holders or other creditors of the district, it may, if funds are available for that purpose purchase at tax sale land within the district sold unpaid and delinquent taxes or may purchase an assignment of tax sale certificates from the county and may acquire, own and sell lands thus acquired.

§ 11. AMENDMENT.] That 8247a10 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Section 3 Chapter 142 of the Session Laws of 1933, is hereby amended and re-enacted so as to read as follows:

§ 8247a10. The board of directors shall hold regular meetings at their office or usual place of meeting on the first Tuesday of each month, commencing at two o'clock in the afternoon of said day, and the board may also hold such special meetings as may be required for the transaction of business. All special meetings shall be called by the secretary upon the order of the chairman of the board. Such order of the chairman must be entered of record and such notice shall be delivered or mailed to each member of the board at least five days prior to the holding of such special meeting. A majority of the members shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a concurrence of at least a majority of the board. All rec-

ords of the board must be open to the inspection of any elector during business hours. The board shall cause to be published in one newspaper of general circulation in the district of a brief statement of the proceedings of each regular or special meeting if same can be done at an expense not exceeding one-third of the legal rate for advertising notices.

§ 12. CONTRACTS.] All contracts entered into for any work provided for in this act shall be entered into in the name of the district, and shall be executed on the part of the district by the chairman of the board of directors and countersigned or attested by the secretary, and the corporate seal of the district affixed, and when signed by the contractor shall be filed in the office of the secretary of the district. Contracts for materials or for construction of any nature shall require the work to be done thereunder or the materials furnished in accordance with, and pursuant to plans and specifications therefor on file with the secretary. There shall be reserved in each such contract for construction the right of the board of directors, in case of the improper construction of such work, to suspend work thereon at any time, and to relet the contract therefor, or order a reconstruction of said work on any part thereof improperly done. Each such contract shall state the time on or before which such work must be completed and shall state how such contract will be paid.

§ 13. AMENDMENT.] That Section 8247a11 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 8247a11. The legal title to all property acquired by an irrigation district shall vest in such district in its corporate name.

§ . AMENDMENT.] That Section 8247a12 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted so as to read as follows:

§ 8247a12. Every such irrigation district shall be a body corporate and shall possess all the powers and duties usual to corporations organized for public purposes and as heretofore and as herein conferred upon it by law, or which may hereafter be conferred upon it; and in its corporate name it may sue and be sued and may institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper, in order to fully carry out the provisions of this act and of Chapter 38 (Sections 8247a1-8247a75) of the Supplement to the Compiled Laws of 1913 as amended, modified and re-enacted by this and subsequent acts, or to enforce, maintain, protect, or preserve any and all rights, privileges and immunities created by said chapter and by this act or acquired in pursuance thereof. And such irrigation district may contract and be contracted with and may hold, lease, own and possess such real and personal property as shall come into its pos-

session by contract, conveyance, purchase, gift or otherwise. And such district shall have the power to exercise the right of eminent domain for the purpose of acquiring right-of-way for ditches, flumes, canals, sites for dams and reservoirs and for any other purpose necessary to establish and construct a complete system of irrigation works. In all courts, actions, suits or proceedings, the board may sue, appear and defend, in person or by attorneys, in the name of such irrigation district.

§ 15. AMENDMENT.] That Section 8247a13 of the Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a13. As soon as practicable after the organization of an irrigation district, the board of directors shall by resolution entered on its records, formulate a general plan of its proposed operation in which it shall state what constructed works or other property is proposed to be purchased and the purchase price thereof and/or what construction work it is proposed to do, and the estimated cost of such construction, and shall state whether funds to pay such purchase price or cost of construction shall be raised by issuing bonds or district improvement warrants or by creating a fund through the collection of water rentals or charges from water users, or by creating a fund by levying assessments against the lands benefited, or whether it is contemplated to raise funds by the use of all or a combination of such methods of raising funds.

For the purpose of ascertaining the cost of any such construction work, the board shall cause such surveys, examinations, and plans to be made as shall demonstrate the practicability of such plan and furnish the proper basis for an estimate of the cost of carrying out the same. All such surveys, examinations, maps, plans and estimates, shall be made under the direction of a competent irrigation engineer and certified by him. The board shall then submit a copy of the same to the State Engineer who shall prepare a report thereon and shall file the same with the board. Such report shall contain such matters as in the judgment of the State Engineer may be desirable. Upon receiving such report, the board of directors shall proceed to determine the amount of money required to be raised.

§ 16. BONDS.] (A). Proceedings for the issuance of bonds under the authority of this act shall be instituted by the adoption of an initial resolution therefor by the board of directors of the district. Such initial resolution shall state: (1) the maximum amount of bonds proposed to be issued; (2) the maximum interest rate they shall bear; (3) whether they will be of serial or single maturity; (4) and if a single maturity the year thereof; or if serial maturities the years of such maturities, but not the amount for each of such years; (5) the purpose for which they are proposed to be issued; the total amount of bonded indebtedness, if any, of the district; and

any other statement of fact deemed advisable by the board of directors.

(B). Such initial resolution may be adopted by a majority of the board at any regular meeting thereof or at any special meeting of which notice has been given as provided in this act.

(C). Bonds issued by any irrigation district under the provisions of this act shall mature in not less than ten years after date of such bonds and not more than forty years after the date thereof. If the maturities are serial, the first installment of principal shall fall due not more than three years and the last installment not more than forty years from the date of the bonds. No installment of principal shall be less than one-third of the amount of the largest installment, except that the amount of such installments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest on the bonds remaining unpaid.

§ 17. BOND ELECTION — NOTICE OF ELECTION — BALLOT.] Upon and after the adoption of an initial resolution the board shall, by resolution, provide for submitting to the electors of the district the question whether such initial resolution shall be approved. The date of such election shall not be less than twenty days after the adoption of such initial resolution by the board. The board shall, in such resolution, designate the date of such election, the polling hours and polling place thereof. Such election shall be conducted and the returns thereof made and canvassed in the same manner as for election of members of the board of directors of the district.

The secretary of the district shall give notice of such election by posting notice thereof in at least three conspicuous places within the district and by publishing such notice at least once in a newspaper published in the country where the office of the board of directors is kept. If a newspaper is not published therein, the posting of such notice shall be deemed to be sufficient notice of such election. The date of such posting and publication (if any) shall be at least fifteen days before the date of such election, exclusive of the date of such posting and publication. Such notice shall specify the date, polling hours and polling place of such election and shall contain a complete copy of such initial resolution, and the question to be submitted thereat shall be whether said resolution shall be approved.

The ballot for such election shall be written or printed and shall state the question in substantially the following form:

Shall the _____ Irrigation District issue its bonds in the amount of not to exceed \$ _____ (Here insert the amount) for the purpose of _____ (Here insert the purpose)?

YES _____ ☐
NO _____ ☐

Spoiled or blank ballots cast at such election shall not be counted either for or against the proposed issue.

§ 18. AMENDMENT.] That Section 8247a14 of the Supplement to the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a14. (1). If a majority of the ballots cast at such election are in favor of the proposal to issue bonds as stated in such initial resolution the board of directors shall proceed to sell, issue and deliver such bonds as provided herein.

(2). Every bond shall be a negotiable instrument payable to "bearer" or to the "bearer or registered owner," with interest coupons attached, payable annually or semi-annually at the rate specified in the accepted bid for the purchase of said bonds, which rate shall not exceed the rate specified in the initial resolution; provided however, such rate of interest shall not exceed five per cent (5%) per annum. Each bond shall specify the time and place of payment of the principal and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one and continue upward, or if so directed by the board, shall begin with any number and continue upward.

(3) The entire issue may be composed of bonds of a single denomination or two or more denominations. Such bonds shall recite that they are payable in lawful money of the United States.

(4) Such bonds shall be executed in the name of and for the district by the chairman and secretary of the board. The interest coupons attached to such bonds may be executed by the lithographed or engraved facsimile signature of such officers. The validity of every bond so executed shall remain unimpaired by the fact that one or more of the subscribing or attesting officers have ceased to be such officer or officers before delivery to the purchaser.

(5). The secretary of the district shall register in a book provided for the purpose an accurate description of every bond issued, specifying its number, date, purpose, amount, rate of interest, when and where payable, and the coupons attached. A verified copy of such record shall be filed in the county auditor's office of each county in which the district is located. When such bonds have been fully registered, the secretary shall sign an endorsement on the back of each bond certifying that such bond is fully registered in his office. No bond shall be valid without such certificate endorsed thereon. All bonds authorized under this act which are not delivered to the purchaser thereof and paid for within three years of their date shall be cancelled. It shall be the duty of the secretary to destroy such bonds by burning them in the presence of at least two electors of the district, and with such witnesses to make and file in the records of his office an affidavit as to the bonds so destroyed and the time and place of such destruction, and to make a record thereof in bond

register. A copy of such affidavit shall be filed with the county auditor of each county in which the district is situated.

(6). No irrigation district shall enter into any contract for the sale of any issue of its bonds without first advertising for bids in the manner herein prescribed. A notice calling for bids shall be published at least once in the official paper of one of the counties in which the district is situated not less than fifteen days nor more than thirty days before the date specified therein for receiving such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale and the date or dates of the maturity thereof. A copy of such notice shall be mailed to the Tax Commissioner at Bismarck not less than ten days before the date specified for the opening of bids. 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 unenforceably any executory contract entered into for the sale thereof.

The notice shall specify that the bids must be sealed and in writing and shall state the time and place when such bids will be received and when such bids will be opened. At the time specified for opening the bids the secretary of the board shall publicly open the bids in the presence of the directors, and after the bids have been opened, shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder. All bids shall be accompanied by a certified check, cashier's check, or bank draft to the amount of not less than two per cent of such bid.

(7). The board of directors shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the district; provided, however, that the board may reject any and all bids. No sale shall be for less than the par value and accrued interest on such bonds. If the board has determined to purchase irrigation works already constructed, the bonds may be issued and delivered at their par value in payment thereof.

(8). Any officer of an irrigation district who accepts from a bidder, or prospective bidder, for bonds a commission or compensation for services of any nature rendered in connection with the issuance, sale or delivery of such bonds shall be guilty of a misdemeanor.

(9). The ownership of all bonds payable to "bearer owner," as authorized in this act, may be registered by the owner or holder thereof. Registration shall be recorded by the secretary of the district in the bond register of the district. After such registration, no transfer thereof shall be valid unless recorded in such register. Such bonds may be discharged from registration by being transferred to "bearer." Registration shall not, however, effect the negotiability of the appurtenant coupons but each coupon shall continue to be transferrable by delivery only and shall remain payable to bearer.

§ 19. DISTRICT IMPROVEMENT WARRANTS.] To finance the

purchase of irrigation works already constructed or to defray the expenses incurred in constructing irrigation works, or any part thereof, the board of directors of the district may, subject to the approval of the electors at a general or special election, by resolution provide for the issuance of district improvement warrants. The word "expenses" as herein used shall be construed to cover every item of cost incurred in connection with such purchase or construction. Such warrants may be used in making payments on such contracts or may be sold for cash at not less than the par value thereof. Assessments levied to raise funds to pay such improvement warrants shall be levied upon the lands of the district benefited by such irrigation works as provided in this act. Such improvement warrants may be issued in anticipation of the levy and collection of taxes over a period of years not exceeding thirty years from date of issuance. After making a contract for the purchase of such irrigation works or for the establishment, construction and completion thereof, or for the construction of any part of such works, the board may by resolution direct the issuance of such warrants in not to exceed the aggregate amount of the contract price of such irrigation works or in not to exceed the aggregate amount of the contract price agreed upon for the construction of such works. Such warrants shall be payable in equal installments over a period of not to exceed thirty years from date of issuance; provided that the maturity of such warrants, or any of them, shall not be less than two years from the date of issuance.

Such warrants shall bear interest at the rate of not to exceed six per cent (6%) per annum but may, in the discretion of the board, bear any rate less than six per cent (6%) per annum, and may have coupons attached representing each year's interest or each half-year's interest. Such warrants shall be signed by the chairman and countersigned by the secretary, shall bear the seal of the district and shall be in denominations of not more than one thousand dollars (\$1,000) each and shall be numbered consecutively with the other warrants issued for the same purpose. Each warrant shall on the face thereof state the purpose for which issued. Such warrants shall be payable in lawful money of the United States.

The secretary of the district shall register in a book provided for that purpose an accurate description of each such warrant issued, specifying its number, date, purpose, amount, rate of interest, to whom issued, when and where payable and the coupons attached. A copy of such record shall be filed in the office of the county auditor in each county in which the irrigation district or any part thereof is situated.

It shall be the duty of the district treasurer to pay such warrants and interest coupons as they mature and are presented for payment.

§ 20. AMENDMENT.] That Section 8247a15 of the Supple-

ment to the Compiled Laws for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a15. (1). Bonds or improvement warrants issued by any irrigation district, and the interest thereon, and contracts, not payable in bonds or improvements warrants, made and entered into by the district for the acquisition of irrigation works already constructed, or for the establishment and construction of irrigation works, or any part thereof, shall be paid from the revenue obtained from assessments upon the real property of the district and from any other revenues available for that purpose obtained from charges to water users and from the sale of water to any person, firm, corporation, municipality or other irrigation district.

(2). In the discretion of the board of directors, bonds and or district improvement warrants may be secured by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the State; and the board may vest in such trustee the right to enforce any covenant made to secure or to pay such bonds or improvement warrants.

(3). All money received from any bond issue or from the sale of district improvement warrants shall be placed in a fund and applied solely to the payment of the cost of the works, and there is hereby created and granted a lien upon such money until so applied, in favor of the owners or holders of such bonds or improvement warrants or in favor of the trustee created in connection with such bonds or improvement warrants.

(4). The board of directors is authorized in its discretion to appoint a fiscal agent located in some city within or without the State. Every such fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the State in which it is located to do a bank or trust company business.

§ 21. AMENDMENT.] That Section 8247a16 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a16. The district assessor shall between the first Monday in March and the first Monday in May of each year, examine each tract or legal subdivision of land in said district including entered and unentered public lands of the United States, subject thereto under any act of Congress, and shall determine the benefits which will accrue to each of such tracts or sub-divisions on account of the construction or acquisition of such irrigation works; and the amount so apportioned or distributed to each of said tracts as finally equalized or confirmed by the district court, as the case may be, shall be and remain the basis for fixing the annual assessments levied against such tracts or sub-divisions in carrying out the purpose of this act. Such assessor shall make or cause to be made, a list of

such apportionment or distribution, which list shall contain a complete description of each sub-division or tract of land of such district with the amount and rate per acre of such apportionment or distribution of cost, and the name of the owners thereof; or he may prepare a map on a convenient scale showing each of said subdivisions or tracts with the rate per acre of such apportionment entered thereon; provided that where all lands on any map or section of a map are assessed at the same rate, a general statement to that effect shall be sufficient. Said list or map shall be made in duplicate and one copy of each shall be filed in the office of the State Engineer and one copy shall remain in the office of the board of directors for public inspection.

Whenever any assessment is made it shall be spread upon the lands in proportion to the benefits received and the whole of the assessment of benefits shall equal the amount of bonds, district improvement warrants or other obligation authorized by this act; provided, however, the assessment of any property in the name of the wrong person shall in no way invalidate the assessment thereof.

The assessor shall also determine and list the amount payable for each tract obligated by contract, if any, to the United States or any department or agency of the United States, or to the State Water Conservation Commission, or to any person, firm or corporation, or to another irrigation district, for the payment of water charges.

§ 22. AMENDMENT.] That Section 8247a17 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a17. On or before the fifteenth day of May in each year the assessor must complete his assessment roll and deliver it to the secretary of the board of directors. The board shall thereupon fix the time and place when the board will meet to equalize such assessments. The secretary shall give notice of such meeting by posting notice thereof in at least three conspicuous places within the district and by publishing such notice in a newspaper (if any is published) published in each county in which the district is situated. The time fixed for such meeting shall not be less than ten nor more than twenty days from such posting and publication, and until such meeting is held the assessment roll shall remain in the office of the secretary for the inspection of all persons interested.

§ 23. AMENDMENT.] That Section 8247a18 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a18. Upon the day specified in the notice required by the preceding section, the board of directors shall meet as a board of equalization for the purpose of equalizing such assessments and shall meet and continue in session from day to day, so long as may

be necessary but not to exceed ten days exclusive of Sundays. The board shall hear and determine such objections to the apportionment of benefits and assessments as may come before it; and the board may make such changes in the apportionment of benefits and assessments as shall appear to be just and equitable. The secretary of the board shall be present during the sessions of the board and shall note changes made in the apportionment of benefits and assessments returned by the assessor, and in the names of persons assessed; and within ten days after the close of the session he shall have the apportionment of benefits and assessments, as finally equalized by the board, extended into columns and added.

§ 24. AMENDMENT.] That Section 8247a19 of the Supplement to the Compiled Laws of 1913 is hereby amended and reenacted to read as follows:

§ 8247a19. The board shall then levy an assessment against the lands of the district sufficient to pay the interest on outstanding bonds and or improvement warrants and sufficient to pay any and all obligations of the district due, or to become due during the ensuing year, including payments due, or to become due, under any contract with the United States, or with any department or agency thereof, or under any contract with the State Water Conservation Commission or with any person, firm or corporation, or with another irrigation district. In determining the total of such levy the board shall take into consideration revenue derived from other sources than that obtained from the assessment and taxation of district lands. The secretary of the board shall compute and enter in separate columns of the assessment record the respective sums in dollars and cents required for each purpose, and each purpose shall be denominated a fund. If the board finds it necessary it may levy an assessment for the expenses of organizing the district and for the operation, maintenance and repair of the irrigation works and for the payment of salaries of officers and employees and for general expenses which assessment shall be called the "general fund." The secretary shall compute and enter the sum assessed against each tract for each such purpose or fund and shall thereupon certify to the county auditor of the county in which each such tract of land is situated the amount of such assessment for each purpose, or fund, levied upon each such tract of land by said board. The county auditor shall enter the amount assessed for each fund in a separate column of the tax list of his county. All tax lists when delivered to the county treasurer shall show all assessments levied for each fund on each tract of land within the district. Such assessments or taxes shall be collected by the county treasurer at the same time and in the same manner as other taxes are collected in the county; provided, however, such county treasurer shall receive in payment to the general fund, herein mentioned, for the year in which the assessment is levied, warrants drawn

against such general fund as the equivalent of lawful money of the United States if such warrants do not exceed the amount of the general fund assessment which the person tendering the same owes. Such county treasurer shall also receive in payment of any assessment for any bond fund, or any improvement warrant fund, past due interest coupons on such bonds or warrants, as the equivalent of so much money of the United States if such interest coupons do not exceed the amount which the person tendering the same owes such fund. All such assessments collected or received by the county treasurer shall be paid to the treasurer of such irrigation district upon an order signed by the chairman and secretary of the district, and all warrants and interest coupons received by the county treasurer in payment of assessments, as herein provided, may be turned over, as so much money, to the district treasurer on such orders.

In case the board of directors shall refuse, fail or neglect to cause an assessment or levy to be made for the principal and interest of outstanding bonds, or improvement warrants and for all payments due, or to become due, in the ensuing [ensuing] year to the United States, or to any department or agency thereof, or to the State Water Conservation Commission, or to any person, firm or corporation or to another irrigation district, under any contract entered into by the district, or for expenses incurred in organizing the district, then the assessment of property made for the preceding year shall be adopted and shall be the basis of assessment for the district and the board of county commissioners of each county comprising the district shall, by resolution, make such levy and assessment in the same manner and with like effect as if the same has been made by the board of directors of the district, and the expense incident thereto shall also be levied and assessed against the district. All such taxes or assessments collected by and paid to the county treasurer in his official capacity and he shall be responsible for the safe keeping, disbursement and payment thereof, as herein provided.

§ 25. AMENDMENT.] That Section 8247a20 of the Supplement to the Compiled Laws of 1913 is hereby amended and reenacted so as to read as follows:

§ 8247a20. LIMITS OF WARRANTS BY DISTRICTS.] No irrigation district shall, on account of expenses of operation and maintenance and to pay the current expenses of the district, in any year issue warrants in excess of ninety per cent of the levy of assessments for such year; provided, in case of due and outstanding obligations of the district on account of current expenses and expenses of operation and maintenance contracted prior to the year in which the levy is made, the district board shall have power to make an additional levy, not to exceed one dollar per acre upon all irrigable lands within the district, to create a special fund for the payment of such past due obligations; and provided further, that

whenever the claims or obligations against any fund for any year are fully paid, the board shall have the power to transfer any unused balance to any fund for any preceding or succeeding year.

§ 26. AMENDMENT.] That Section 8247a21a of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a21a. ABATEMENT OF ASSESSMENTS.] The board of county commissioners shall have the power with the approval of the Tax Commissioner to abate any assessments made by irrigation districts provided the application therefor 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 or any department or agency thereof or to the State Water Conservation Commission, the application shall not be granted unless it also bears the approval of an authorized representative or agent of the United States or of such department or agency, or of the State Water Conservation Commission. And in case bonds or improvement warrants are deposited with a trustee under a trust agreement or trust indenture, the consent of such trustee shall be obtained before abating any assessment for such bonds or improvement warrants. 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.

§ 27. AMENDMENT.] That Section 8247a23 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a23. CUSTODIAN OF FUNDS — PAYMENT OF BONDS; INVESTMENT OF BOND FUND.] The county treasurer shall act as the custodian of sinking funds, or funds created for the payment of bonds or improvement warrants; provided that in case an irrigation district is located in more than one county the board of directors of the district shall, by recorded resolution, designate the county treasurer who shall act as the custodian of such funds, and upon the adoption of such resolution it shall be the duty of the county treasurer so designated to act as such custodian. A copy of such resolution and a copy of each and every contract, trust agreement or trust indenture relating to the issuance and payment of bonds, or improvement warrants, shall be filed with such county treasurer. It shall be the duty of the district treasurer to remit to such county treasurer all moneys received by him in payment of assessments levied for such sinking funds or for the payment of such bonds and or improvement warrants.

The district treasurer shall also remit to the county treasurer moneys raised from water rentals or water charges when directed to do so by the board, and he shall designate the fund or funds to

which such moneys belong; provided that all moneys, from whatever source derived, obligated under the terms of any contract or agreement made and entered into by the district, to meet payments as they become due thereunder, shall be paid and remitted to such county treasurer and shall be credited by him to the proper fund.

Upon the presentation to such county treasurer of bonds or improvement warrants, or the coupons of either, then due and payable, it shall be his duty to pay the same from any moneys in the fund created for the payment thereof. Whenever the fund created for the payment of any series of bonds or improvement warrants shall amount to ten thousand dollars (\$10,000.00) the board shall direct the county treasurer to pay such an amount of such bonds, or improvement warrants, not due, at the lowest value at which they may be offered for redemption; provided, however, that no bond or improvement warrant shall be redeemed at a rate above par. Notice of such proposed redemption shall be advertised at least once in the official newspaper of the county in which the custodian of sinking funds is county treasurer, and in any other newspaper which the board of directors may designate. Such notice shall state that sealed proposals will be received for the redemption of such bonds or improvement warrants at the time and place therein stated. Such proposals shall be opened by the board in open meeting and the lowest bid must be accepted. In case the bids are equal, the lowest numbered bonds or improvement warrants, as the case may be, shall have the preference. If no bonds, or improvement warrants, are presented for redemption the county treasurer, with the approval and consent of the board of directors, shall invest such money in bonds of the United States or in bonds or warrants of the State of North Dakota.

§ 28. AMENDMENT.] That Section 8247a24 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a24. CONSTRUCTION OF WORKS; NOTICE; BOND OF CONTRACTOR.] After adopting a plan of said canal or canals, storage reservoirs and works, the board of directors shall give notice, by publication thereof at least once not less than fifteen days before bids are received, as herein provided, in such newspaper or newspapers as they deem advisable, calling for bids for the construction of the work or any portion thereof; if less than the whole work is advertised, then the portion so advertised, must be particularly described in such notice. The notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening the proposals, which at the time and place specified shall be opened in public and as soon as convenient thereafter the board shall let such work either in part or as a whole to the

lowest responsible bidder, or they may reject any or all bids and re-advertise for proposals, or may proceed to construct the work under their own superintendence with the labor of the residents of the district. Contracts for the purchase of materials shall be awarded to the lowest responsible bidder. The person, or persons, to whom a contract may be awarded shall enter into a bond with good and sufficient sureties, to be approved by the board, payable to such district for its use, to an amount equal to twenty-five per cent of the contract price for the faithful performance of the contract; provided, however, in case twenty-five per cent of the contract price shall exceed the sum of fifty thousand dollars, then such bond shall be in the sum of fifty thousand dollars. The work shall be done under the direction and to the satisfaction of the engineer and be approved by the board. Provided, that the provisions of this section shall not apply in case of any contract between the district and the United States or with any department, bureau or agency thereof or with the State Water Conservation Commission.

§ 29. AMENDMENT.] That Section 8247a26 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a26. IRRIGATION PROPERTY—OPERATION—PAYMENT.] The cost and expense of purchasing and acquiring property and of purchasing or constructing the irrigation works and improvements mentioned in this act shall be paid out of funds raised for such purpose or purposes. In case bonds, or the proceeds from the sale of any series of bonds, are insufficient for the purpose or purposes for which they were issued, additional bonds may be issued after submission of the question at a general or special election to the electors of the district; and additional improvement warrants may be issued to supplement such warrants already authorized and issued; provided that bonds and improvement warrants must be paid in the order of their priority.

Any irrigation district may, subject to the approval of the electors at a general or special election, enter into an agreement or contract with the United States or with any department, bureau or agency thereof, or with the State Water Conservation Commission, or with any person, firm or corporation, for the establishment, construction and completion of the necessary irrigation works and may in such contract or agreement provide for the payment of the cost of establishing and constructing such works by the levy and collection of assessments against the lands benefited and or by annual payments from funds raised by the collection of tolls and water charges from persons furnished water for the irrigation of their lands. And for the purpose of defraying the expenses of organizing the district and the maintenance, operation, management, repair and improvement of such irrigation works, including salaries of officers and employees, the board may either collect water rentals

or may levy assessments therefor or may collect such charges and also levy assessments. For the purpose of obtaining financial aid from the United States or from any department, bureau or agency thereof or from the State Water Conservation Commission, the board of directors may agree to conform to the laws of the United States and to the regulations of any department, bureau or agency thereof, or may agree to conform to the regulations of the State Water Conservation Commission and to the supervision of such Federal agency, bureau or department or to the supervision of the State Water Conservation Commission, as the case may be.

If after the levy of the annual assessment for the current year the board finds that because of some unusual or unforeseen cause that funds raised through the collection of such assessment, and from other sources, will not be sufficient for the proper maintenance and operation of the district, and the irrigation works therein, the board shall have the power to borrow additional funds needed to an amount not to exceed fifty cents per acre for the lands within the district and to pledge the credit of the district for payment of the same; or the board may issue and register warrants in anticipation of future collections, and the board shall include in the levy for the ensuing year the amount required to pay such loan or to retire such warrants.

§ 30. AMENDMENT.] That Section 8247a47 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a47. RE-DIVISION OF DISTRICT; DIRECTORS.] In case of the inclusion of any land within any district by proceedings under this act the board of directors shall, if such district contains, or will contain after the inclusion of such land, five hundred acres or more, at least thirty days prior to the next succeeding general election, make an order re-dividing such district into three divisions as nearly equal in size as may be practicable, which shall be numbered, and one director shall thereafter be elected by and from each division.

§ 31. AMENDMENT.] That Section 8247a51 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a51. WHEN BOARD EXCLUDES LAND FROM DISTRICT.] The board of directors, if they do not deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, should be excluded from the district, shall order that the petition be denied; but if they deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if having shown cause withdraws the same, and also if there are no outstanding bonds or improvement warrants of the district and no contract between the district and the United States, or with any department or agency

thereof, or with the State Water Conservation Commission or with any person, firm or corporation, the board may then order that the lands mentioned in the petition or some defined portion thereof be excluded from the district.

§ 32. AMENDMENT.] That Section 8247a52 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8247a52. If there be outstanding bonds or improvement warrants of the district, or if the district shall have entered into a contract with the United States, or with any department or agency thereof, or with the State Water Conservation Commission or with any person, firm or corporation, the board may then adopt a resolution to the effect that the board deem it to be for the best interest of the district that the lands mentioned in the petition, or some portion of such lands, should be excluded from the district. The resolution shall describe such lands so that the boundaries thereof can be readily traced. The holders of such outstanding bonds, or improvement warrants, may give their consent in writing to the effect that they severally consent that the board may make an order by which the lands mentioned in the resolution may be excluded from the district, and in case a contract has been made with the United States, or any department or agency thereof, or with the State Water Conservation Commission or with any person, firm or corporation, the authorized representative thereof may assent to such change. The assent may be acknowledged by the several holders of such bonds or improvement warrant in the same manner and form as is required in case of conveyance of lands, and the acknowledgement shall have the same force and effect as evidence as an acknowledgement of such conveyance. The assent of an authorized representative of the United States, or of any department or agency thereof, or of the State Water Conservation Commission need not be acknowledged but the authority of such representative to act must be shown. The assent must be filed with the board and must be recorded in the minutes of the board; and such minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the assent; but if such assent is not given, the board shall deny and dismiss the petition.

§ 33. AMENDMENT.] That Section 8247a53 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a53. OBJECTIONS TO PROPOSED EXCLUSION; VOTE; NOTICE.] If the holders of bonds or improvement warrants, or contracts, assent to the exclusion of such lands, then the board may order an election to be held in the district to determine whether such lands shall be excluded. The notice of such election shall describe the boundaries of all lands which it is proposed to exclude, and shall be published once each week for two weeks prior to such

election in a newspaper published in each county comprising the district and such notice shall be posted at least fifteen days prior to such election in at least three conspicuous places within the district. The ballots for such election shall be in substantially the following form:

“For Exclusion”-----☐

“Against Exclusion”-----☐

Such election shall be conducted in the same manner as general elections of the district are conducted.

§ 34. AMENDMENT.] That Section 8247a56 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a56. EFFECT OF CHANGE ON OFFICE OR DIRECTOR; VACANCY.] If the lands excluded from any district shall embrace the greater portion of any division of such district, then the office of director for such division shall become and be vacant at the expiration of ten days from the final order of the board excluding the lands, and such vacancy shall be filled by appointment by the other directors of the district. A director thus appointed shall hold office for the balance of the term in which the vacancy occurs.

§ 35. AMENDMENT.] That Section 8247a57 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8247a57. RE-DIVISION OF DISTRICT.] At least thirty days before the next general election of such district the board of directors thereof shall, if such district embraces or contains five hundred acres of land, or more, make an order dividing said district into three divisions as nearly equal in size as practicable, which shall be numbered, and one director shall be elected by and from each division.

§ 36. AMENDMENT.] That Section 8247a59 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a59. The board of directors of any irrigation district organized under the provisions of this act, shall, before issuing any bonds or improvement warrants of such irrigation district, and in their discretion before making any contract or levying any assessment or taking any special action, commence a special proceeding, in and by which the proceedings of such board and of said district, the making of any contract or levying any assessment or taking any special action shall be judiciously examined, approved and confirmed or disapproved and disaffirmed.

§ 37. AMENDMENT.] That Section 8247a60 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a60. The board of directors of the irrigation district shall file, or cause to be filed, in the district court of any county in which lands of the district are situated as petition praying that the proceedings had for the issuance of bonds or improvement warrants or, if the board shall deem it advisable, the proceedings had preliminary to the making of any contract, or for levying assessments or taking any special action, be examined, approved and confirmed by the court. The petition shall state the facts concerning the proceedings had for the issuance of bonds, improvement warrants, the making of any contract, levying any assessment, or concerning any special action of the board, as the case may be, and shall state generally that the irrigation district was duly organized, and that the directors were duly elected and qualified, but the petition need not state, unless the board of directors so requires, the proceedings resulting in the organization of the district or the election of the directors.

§ 38. AMENDMENT.] That Section 8247a61 of the Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 8247a61. SAME; HEARING; JUDGMENT.] The court shall fix the time for the hearing of the petition, and shall order the clerk of court to give and publish a notice of the filing of the petition, stating the time and place when the court will hear the petition and that any person interested in the organization of the district, or in the proceedings for the issuance of bonds or improvement warrants, or in the assessments levied, or in the special action taken by the board, as the case may be, may on or before the day fixed for hearing of the petition, demur to or answer the petition. The petition may be referred to and described in the notice as the petition of----- (name of petitioner) praying that the proceedings set forth therein be examined, approved and confirmed by the court. Such notice shall be given by publishing the same in the official paper of the county in which the petition is filed, once each week for two consecutive weeks. Such hearing shall be held, in the discretion of the court, not less than fifteen days nor more than sixty days after the last publication of such notice. It shall be the duty of the secretary of the board of directors of the district to post, or cause to be posted, in three conspicuous places within the district at least fifteen days before such hearing, copies of such notice.

§ 39. AMENDMENT.] That Section 8247a63 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a63. JURISDICTION OF THE COURT, COSTS, ETC.] At the time and place set for such hearing the court shall find and determine whether the notice of the filing of such petition has been duly posted and published. When the court has determined that it has

jurisdiction to hear the petition, it shall proceed with the hearing and shall conduct the same in the same manner as a trial of an equity action without a jury. The court shall have the power and the jurisdiction to examine into and determine the legality and validity of proceedings for the organization of the district under the provisions of this act from and including the petition for the organization thereof, and all matters affecting the legality or validity of proceedings for the issuance of bonds, or improvement warrants or the making of contracts by the board of directors, and the levying of assessments. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties to such hearing. The court shall permit the petition to be amended so as to conform to the evidence and facts presented at such hearing.

Upon the conclusion of such hearing the court shall determine the legality and validity of the proceedings had for the organization of the district and of the proceedings had for the issuance of bonds, improvement warrants, the making of any contract, as the case may be, and the proceedings had for levying assessments and shall determine the validity and legality of any other matter properly before the court. The court shall prepare its findings of fact and conclusions of law and shall order that the decree of the court be entered in conformity therewith. The costs of the hearing may, in the discretion of the court, be allowed and apportioned between the parties thereto. The secretary of the board of directors of the district shall file with the State Engineer a certified copy of the court's findings of fact, conclusions of law, order and decree.

§ 40. AMENDMENT.] That Section 8247a64 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a64. When any irrigation district shall find it necessary to procure its supply of water for the irrigation of the lands within the district from outside the boundaries of this State, such district may enter into an agreement or contract with any State board, commission or bureau, or with any person, association, company, corporation or irrigation district, having the control and jurisdiction over the water of such other State, for water rights, therein or for supplying the district with water sufficient for its irrigation needs. The making of such contract and the issuance of bonds or improvement warrants and the levying of assessments, or other method agreed upon for the payment of rights, franchises or water charges to obtain the required supply of water shall be deemed valid, and of full force and effect, and shall have the same validity and legality as though the same rights and franchises existed wholly within this State.

§ 41. AMENDMENT.] That Section 8247a65 of the Supple-

ment to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a65. MAY CONTRACT FOR WATER SUPPLY.] The board of directors of any irrigation district in this State may enter into a contract or contracts for a supply of water for the irrigation of lands within the district with the United States or with any department or agency thereof, or with the State Water Conservation Commission, or with any person, association, firm or corporation, or with another irrigation district, and under such contract may agree to pay for the water, furnished or delivered to the district, from collections obtained from tolls or charges to water users and/or from assessments levied against the lands irrigated. The source of supply of such water may be either within or without the boundaries of the State of North Dakota, and such water supply may be the entire supply for said district or to supplement an appropriation of water already made by said district.

§ 42. APPEALS.] An appeal may be taken to the district court from all orders, act and decisions of the board of directors of an irrigation district by any person claiming to be aggrieved thereby at any time within twenty(20) days after the order, act or decision appealed from has been made by the board. Such appeal shall be taken by serving notice of appeal on the chairman of the board of directors or upon the secretary of the board and by filing the notice of appeal, proof of service thereof, and the undertaking herein required with the clerk of the district court of the county in which the appeal is taken. To effect an appeal, an undertaking must be executed by the appellant and sufficient surety conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against him in district court. Such undertaking shall be made to the irrigation district and may be enforced by the district as obligee. The appeal shall be taken to the district court of the county in which the land claimed to be adversely affected by the act, order or decision appealed from is situated and if such land is situated in more than one county, such appeal may be taken to the district court of any county in which such land, or any part thereof, is situated. All appeals thus taken shall be docketed as other causes pending in the district court are docketed and the same shall be heard and determined denovo. The district court may enter such order as the court shall deem just and proper.

§ 43. AMENDMENT.] That Section 8247a66 of the Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 8247a66. If a contract, made and entered into by any irrigation district pursuant to Section 43 of this act, provides for the payment of the entire purchase price of an annual or yearly supply of water, the board of directors shall, if other revenues are not available for the payment of such purchase price, adopt a resolution

that assessments be made against the lands within the district sufficient to produce such sum and such sum shall be apportioned, assessed and levied at the time specified in this act for the apportionment and levy of assessments.

§ 44. VALIDATING ORGANIZATION AND ACTS OF IRRIGATION DISTRICTS.] Nothing contained in this act shall be construed as impairing, invalidating or in any manner affecting the validity of acts or proceedings of irrigation districts organized pursuant to the provisions of Chapter 38 of the Code of Civil Procedure of the Supplement to the Compiled Laws of 1913 and prior to the taking effect of this act. The organization of any irrigation district prior to the passage, approval and taking effect of this act in substantial compliance with the provisions of this act, is hereby declared to be a valid and legal district; and all acts and proceedings of such district, and the board of directors thereof, done and performed in substantial compliance with the provisions of this act are hereby validated and are hereby declared legal and valid.

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

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

Approved March 16, 1939.

CHAPTER 254

H. B. No. 56—(Symington and Dalzell)

IRRIGATION

An act to amend and re-enact Sections 4262 and 4263 of the Compiled Laws of 1913 as relating to irrigation and conservation of water, authorizing submission to the voters of organized townships the question of irrigation and conservation of water by building dams, dugouts, creating ponds or reservoirs on creeks or coulees, and other improvements in connection therewith, and authorizing a levy therefore; declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4262 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows: Whenever ten free holders of any organized township petition the township board fifteen days previous to any annual township meeting to submit the question of irrigation or the question of conservation of water by building dams or dugouts to create ponds or reservoirs on any of the creeks or coulees in the town-

ship, it shall be the duty of the board to submit the question to the voters at the next annual township meeting and the township clerk shall cause three notices to be posted specifying the place and nature of such proposed improvement.

§ 2. AMENDMENT.] That Section 4263 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows: Whenever two-thirds of the legal voters of any organized township in this State, at their annual meeting, agree that it is advisable and for the public good that certain specified creeks or coulees should be improved to increase the water supply for the purpose of irrigation or for the conservation of the water supply, it shall be lawful for such voters to levy a tax upon all taxable real property in said township to be expended in the building of dams to create ponds, reservoirs, and dugouts, by and under the direction of board of supervisors of township; provided such improvement shall be wholly in said township; and no lands shall be flooded without the consent of the owner or without just compensation therefor, which compensation shall be determined as provided in the chapter on eminent domain in the code of civil procedure.

§ 3. EMERGENCY.] Whereas it is necessary in many sections of the State because of the drought and to conserve the water supply, an emergency is declared to exist and this act shall take effect from and after its passage and approval.

Approved January 30, 1939.

CHAPTER 255

H. B. No. 293—(Committee on Irrigation and Drainage)

PUBLIC WATERS

An act to amend and re-enact Section 8235 of the Compiled Laws of 1913, relating to waters subject to beneficial appropriation and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 8235 of the Compiled Laws of 1913 is hereby amended and re-enacted so as to read as follows:

§ 8235. WATERS OF STATE, PUBLIC WATERS.] All waters within the limits of the State from all sources of water supply belong to the public and are subject to appropriation for beneficial use.

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

Approved March 7, 1939.

CHAPTER 256

H. B. No. 274—(Committee on Irrigation and Drainage)

STATE WATER CONSERVATION ACT OF 1939

An act to provide for the creation, the powers, the duties, the authority and the jurisdiction of the State Water Conservation Commission; prescribing its powers and duties to investigate, plan, regulate, control, and supervise for all purposes of flood control, water conservation, water irrigation, water rights, and pollution of water, all public or private navigable or non-navigable surface and sub-surface, waters, streams, lakes, ponds, water-courses, surface waters, run-off waters, and water sheds, located in or within the jurisdiction of the State of North Dakota and to exercise powers of contracting, of sale and of purchase, and of leasing and sub-leasing with respect thereof; providing for the construction, operation, maintenance and financing of a system of works for the conservation, development, storage, distribution and utilization of water, and for the acquisition and disposition of property necessary therefor; authorizing the issuance and sale of water conservation revenue bonds of the State, payable from the revenues of such works and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, property, and facilities to be acquired out of the proceeds of such bonds; authorizing the commission to obligate or pledge moneys available in its operating or construction fund to insure the payment of twenty per cent of the par value of revenue bonds; providing for the lien upon bond proceeds, for exempting property of commission from taxation; providing for trust indentures; providing for the creation of certain funds in connection with the act; providing for necessary help and expenses; providing for contracts with the United States; with political sub-divisions of the State, with associations, groups, and persons, providing for powers and duties concerning inter-state compacts and commissions; providing for the purchase and condemnation, and otherwise to acquire lands and water rights and for the sale and lease thereof; making an appropriation; providing for the creation of a revenue bond payment fund; providing duties of State agencies acting intra-state, concerning water conservation, flood control and pollution of waters and providing duties of State agencies concerning inter-state compacts with respect to water conservation, flood control and pollution of waters; providing for the collection and payment of moneys into said fund and disbursements therefrom; for methods of paying principal and interest thereon by State Treasurer; providing for levy of tax, if necessary, to pay principal and interest of revenue bonds, and reimbursement of such levy, and to provide that the State Water Conservation Commission may mortgage property; and designating said Water Conservation Commission as a public corporation and agency of the State; and to grant additional powers to the commission concerning irrigation, the sale and lease of water, and water rights; to borrow moneys; providing for authority of Bank of North Dakota to act as fiscal agent, to purchase and sell revenue bonds and to make loans; validating proceedings and acts of the State Water Conservation Commission done and performed under the provisions of Chapter 255 of the Session Laws of 1937; repealing inconsistent acts and declaring an emergency.

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

§ 1. WATER CONSERVATION, FLOOD CONTROL AND ABATEMENT OF STREAM POLLUTION DECLARED A PUBLIC PURPOSE.] It is hereby declared that the general welfare and the protection of the lives, health, property and the rights of all people of this State require that the conservation and control of waters in this State, public or private, navigable or un-navigable, surface or sub-surface, the control of floods, the regulation and prevention of water pollution involve and necessitate the exercise of the sovereign powers of this State and are affected with and concern a public purpose.

It is hereby further declared that any and all exercise of sovereign powers of this State in investigating, constructing, maintaining, regulating, supervising, controlling any system of works involving the aforesaid subject matter embraces and concerns and is hereby declared to be a single object, and that the State Water Conservation Commission in the exercise of all powers conferred upon it herein, and in the performance of all its official duties, shall be considered and construed to be performing a governmental function pursuant to a single object and for the benefit, welfare and prosperity of all the people of this State.

§ 2. DEFINITIONS.] As used in this act, the following words and terms shall have the following meanings:

(a) The word "commission" shall mean the State Water Conservation Commission hereinafter created.

(b) The word "works" shall be deemed to include all property rights, easements, and franchises relating thereto and deemed necessary or convenient for their operation, and all water rights acquired or exercised by the commission in connection with such works, and shall embrace all means of conserving and distributing water, including without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, lateral ditches, pumping units, mains, pipe lines and waterworks systems, and shall include all such works for the conservation, development, storage, distribution and utilization of water including, without limiting the generality of the foregoing, works for the purpose of irrigation, watering stock, supplying of water for public, domestic, industrial, recreational, fire protection and other uses and works, for the purpose of draining lands injured or in danger of injury as a result of such water utilization.

(c) The term "cost of works," shall embrace the cost of construction, the cost of all lands, property, rights, water rights, easements and franchises acquired, which are deemed necessary for such construction, the cost of all water rights acquired or exercised by the commission in connection with such works, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding three (3) years after the completion of construction, cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other

expenses necessary or incident to determining the feasibility or practicability of any project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction of the works and the placing of the same in operation.

(d) The word "owner" shall include all individuals, associations, corporations, districts, municipalities and other political subdivisions of the State having any title or interest in any properties, rights, water rights, easements or franchises to be acquired.

(e) The word "project" shall mean any one of the works hereinabove defined or any combination of such works which are physically connected or jointly managed and operated as a single unit.

(f) In case any water rights shall be acquired or exercised by the commission in connection with two or more works and/or projects, the commission by resolution shall apportion or allocate to each of such works and/or projects such part of such water rights as it may determine, and upon the adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and/or projects to the extent that such water rights have been so apportioned or allocated thereto respectively.

§ 3. CREATION OF STATE WATER CONSERVATION COMMISSION.] There is hereby created a commission to be known as the "State Water Conservation Commission." The commission shall consist of the Governor and four other members to be appointed by the Governor. Each appointive member shall be a qualified elector of the State and shall be subject to removal by judicial procedure. In case of vacancy the vacancy shall be filled by appointment by the Governor. The Governor shall appoint one member for a term of six years; one member for a term of four years and two members for a term of two years, ending July 1, 1945, 1943 and 1941 respectively. Thereafter each new member shall be appointed and serve for a period of six years. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the Secretary of State his oath prescribed by the Constitution for the fulfillment of his duties as commissioner. The Governor shall be the chairman of the commission, which shall designate a vice chairman and a secretary who may, but does not necessarily need be a member of the commission.

§ 4. MEETINGS OF THE COMMISSION.] The Governor, as chairman, shall preside at all meetings of the commission and in case of his absence or disability, the vice chairman shall preside. The commission shall maintain its principal office in the City of Bismarck and may maintain such branch offices in the State as it may determine. All meetings of the commission shall be held at its principal office except that the commission may hold special meetings

at such times, places, and upon such notice as it may by resolution provide.

Notice of any meeting of the commission may be given by telegram to members of the commission at least 48 hours before the meeting, or by written notice sent to each member of the commission at least three days before the meeting, but no notice shall be necessary for any member who has personally signed Admission of Notice and Consent to holding the meeting. The majority of the members shall constitute a quorum, and the affirmative or negative vote of three members shall be necessary to bind the commission, except for adjournments. The chairman, or in his absence or disability, the vice chairman of the commission may issue a call for any meeting at any time.

§ 5. COMMISSION A BODY CORPORATE AND AGENCY OF STATE.] There is hereby created a commission to be known as the "State Water Conservation Commission" which shall act as a public corporation with all of the powers and authority possessed by such corporation in the performance of their duties. The commission may sue and be sued, plead and be impleaded, and contract and be contracted within its corporate name. The commission in the exercise of all its powers and in the performance of all of its duties shall be deemed to be an agency of the State. The commission shall have and adopt a seal bearing its name, which seal shall be affixed to such records and other instruments as it may direct, and all courts shall take judicial notice thereof. It shall have power and is authorized to adopt and enact all rules, regulations, resolutions and by-laws deemed suitable and necessary in the conduct of its business and the performance of its duties. It shall keep accurate minutes and record all of its acts which at all reasonable times shall be open for public inspection and which it may cause to be published as it may deem desirable.

§ 6. COMPENSATION AND EXPENSES OF COMMISSION.] Each appointed member of the commission shall receive, as compensation for his services the sum of seven dollars (\$7.00) per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with actual travelling and maintenance expenses while away from his home in the performance of the duties of his office.

§ 7. EMPLOYMENT OF NECESSARY HELP.] The commission is authorized and empowered to hire and employ a [all] necessary aid, help, and assistance, including members of all of the professions, for the efficient performance of their powers and duties, and shall fix their compensation and allowances for their actual expenses, and in so doing the commission shall be guided by the compensation and allowance for expenses permitted and made by the Federal

Government for the performance of similar service by Federal employees and agencies. All claims for compensation and expenses made by the commissioners, their agents, and employees, must be itemized as required by laws of this State and must be presented to the State Auditor and allowed by the State Auditing Board, for payment.

§ 8. POWERS AND DUTIES OF THE COMMISSION.] The commission shall have and there is hereby vested in it full and complete power, authority and general jurisdiction:

(1) To investigate, plan, regulate, undertake, construct, establish, maintain, control and supervise all works, dams and projects, public and private, which in the judgment of the commission may be necessary or advisable:

(a) To control the low-water flow of the streams in the State.

(b) To impound water for the improvement of municipal and rural water supplies.

(c) To control and regulate flood flow in the streams of the State to minimize the damage of such flood waters.

(d) To conserve and develop the waters within the natural water-shed area of the State.

(e) To improve the channels of the stream for more efficient transportation of the available water in the streams.

(f) To provide sufficient water flow for the abatement of stream pollution.

(g) To develop, by restoration and stabilization, the water areas of the State for recreation and wild life conservation.

(h) To promote the maintenance of existing drainage channels in good agricultural lands and to construct any needed channels.

(i) To provide more satisfactory sub-surface water supplies for the smaller towns of the State.

(j) To finance the construction, establishment and maintenance of works, dams and irrigation projects, public and private, which in the judgment of the commission may be necessary and advisable.

(k) To provide for the storage, development, diversion, delivery and distribution of water for the irrigation of agricultural land.

(l) To provide for the drainage of lands injured by or susceptible of injury from the utilization of irrigation water.

(m) To provide water for stock.

(n) To provide water for mining and manufacturing purposes.

(2) To define, declare and establish rules and regulations:

(a) For the sale of waters and water rights to individuals,

associations, corporations, and political sub-divisions of the State, and for the delivery of water to users.

(b) For the full and complete supervision, regulation and control of the water supplies within the State.

(c) For the complete supervision and control of acts tending to pollute water courses, for the protection of the health and safety of the people of the State; provided, that nothing herein contained, or contained in this act, shall be construed to limit or deprive the State Department of Health of its jurisdiction to prevent the pollution of the water of streams, water courses, underground waters or to prevent the pollution of waters wherever found. The commission shall not declare waters to be polluted without a finding to that effect by the State Department of Public Health; and provided further that this act shall not be construed as repealing or limiting any of the public health laws of the State or regulations of the State Department of Health adopted pursuant thereto and in conformity therewith.

(3) To exercise full power and control of the construction, operation and maintenance of works and collection of rates, charges and revenues realized therefrom.

(4) To sell, lease and otherwise distribute all waters which may be developed, impounded and diverted by the commission under the provisions of this act for the purpose of irrigation, development of power, watering of livestock and for any other private or public use.

(5) To exercise all rights, power and authority, express and implied, that may be necessary and to do, perform and carry out all of the expressed purposes of this act and of all purposes reasonably implied incidental thereto or lawfully connected therewith.

In planning and constructing irrigation projects it shall be the policy of the commission to give preference to the individual farmer or groups of farmers or irrigation districts who intend to farm the land themselves. It shall be the duty of the commission to keep full and complete accounts and records of all matters and things relating to works and projects undertaken, established and maintained by the commission; to prepare annual balance sheets, income and profit and loss statements, showing the financial condition of each project, and to file copies thereof with the Secretary of State for public inspection at all reasonable times by any interested parties or citizens of the State.

Upon application by any landowner, or holder of any easement, or holder of any lease of five or more years duration, or of any group or association of such landowners, easement holders, or leaseholders, the commission shall make such preliminary engineering, soil survey and other investigations as may be necessary to determine the feasibility of any proposed project, provided that such applicant submits, with his application, such fees as the commission shall establish for projects of different classes.

Following such preliminary survey and upon further application by the applicant or applicants aforesaid, the commission shall enter into a contract with such applicant or applicants for a complete engineering, soil survey and other investigations of said project, the soil survey to meet such standards as are now or may hereafter be prescribed by the Bureau of Chemistry and Soils of the Federal Government and/or the North Dakota Agricultural College, and the engineering survey to be of sufficient detail and quality to enable the applicant to comply with the requirements now made, or which may hereafter be made, for obtaining a permit to appropriate water, and which will enable any competent contractor to estimate costs and quantities of material needed within reasonable limits and to install such project without further engineering service.

The contract for such engineering service between the applicant and the commission shall require the commission to pay not more than 75 per cent of the cost of such detailed engineering survey and the drawing of the necessary plans and specifications, with not less than 25 per cent to be paid by the applicant.

In any irrigation project undertaken by the commission serving a single individual, or a group of individuals owning irrigable lands, the works of the commission may include preparation of the land for irrigation.

§ 9. No dam exceeding ten (10) feet in maximum height, or capable of impounding more than thirty (30) acre-feet of water, shall be constructed in the State, either in a watercourse or elsewhere, without the prior written approval of the commission. Before granting such approval the commission shall require the person or organization proposing to construct such dam to file plans and specifications satisfactory to its chief engineer. The commission may inspect such work during construction and require any changes necessary to insure its safety and the safety of life and property.

No sewage disposal plant or works for the water supply of any municipality shall be constructed without the prior approval of the commission, which shall be granted only upon the approval of the State Health Department; provided, however, that nothing in this act shall be construed as repealing or affecting any of the laws of this State relating to the functions of the State Health Department.

The provisions of this section shall not apply to any works constructed by or under the supervision of the United States or any of its officers or employees.

§ 10. ACQUISITION OF NECESSARY PROPERTY AND POWER OF CONDEMNATION.] The commission shall have full power and authority:

(1) To acquire by purchase or exchange, upon such terms and conditions as it may deem necessary and proper, and/or by

condemnation in accordance with and subject to the provisions of all existing laws applicable to the condemnation of property for public use, any lands, rights, water rights of whatever character, easements, franchise and other property deemed necessary or proper for the construction, operation and maintenance of works. And in condemnation proceedings the commission may and is hereby authorized to follow, and to conform to, the procedure prescribed by Chapter 128 of the Session Laws of 1933 for the purchase and condemnation of right-of-way by the State Highway Commission. Provided, that nothing herein shall be construed to require the commission, in condemning any riparian water right, to condemn also the riparian land to which such right may be incident. The title to all property purchased, acquired or condemned shall be taken in the name of the commission and held in trust for, and for the use and benefit of the people of the State.

(a) To institute, maintain and prosecute to final determination in any of the courts of this or any other State, or in any of the Federal courts, any and all actions, suits and special proceedings that may be necessary:

(a) To enable it to acquire, own and develop lands for irrigation and water conservation purposes and to sell such lands upon such terms and conditions as the commission may prescribe, and to own and hold title to lands for dam sites, reservoir sites, water rights, easements, right-of-ways for diversion and distributing canals, lateral ditches and other means for the distribution of waters in this State, and for any other necessary purpose.

(b) To adjudicate all water rights upon any stream, water course, or source of water supply from which is derived the waters for such reservoir, diversion and distributing canals, lateral ditches and other means of distribution.

(c) To join any and all owners of vested water rights acquired by any person, association or corporation, so that adjudication may be had of all surplus water upon all of the water courses and sources, water supplies or any projects constructed under the supervision and control of the commission.

(d) To join all persons interested, as parties in all actions or condemnation proceedings affecting the title of or holding liens upon the property sought to be acquired as disclosed by the public records and the court in such actions or special proceedings shall implead all parties necessary for a full and final determination of all issues, upon their merits, for the partition and distribution of damages awarded, if any, among such persons in such interests as their rights are made to appear or determined. In the event of controversy between such parties the court may direct the amount of damages awarded to be paid in or deposited with the clerk of court to abide the result of further appropriate proceedings either in law or in equity. The taking possession of property sought to be condemned shall not be delayed by reason of any dispute between rival

claimants or the failure to join any of them as parties to such actions or condemnation proceedings.

§ 11. CO-OPERATION AND CO-ORDINATION WITH ALL EXISTING AGENCIES.] The State Water Conservation Commission is hereby authorized and empowered to investigate, plan co-operate and make all contracts or compacts necessary or requisite;

(1) With the United States and any department, agency, or officer thereof; (2) With the States of Minnesota, South Dakota and Montana, or any one of them, and with any department, agency or officer of any said State; (3) With the Dominion of Canada or any of its provinces and; (4) With any other agency or department or officer of either of them, who may be concerned, or authorized, empowered and covering or involving water conservation, flood control, water pollution, irrigation, soil reclamation, or concerned with any of the powers or duties by this act imposed upon the commission for any of the purposes expressed herein.

This power herewith so granted shall extend to all waters, whether considered as intra-state or inter-state. The Water Commission is specially authorized and empowered to co-operate with the United States or any of its agencies concerned with investigation, planning, conserving, utilizing, developing, and handling water in any form for purposes of water conservation, flood control, prevention of water pollution or soil reclamation, or with any other resources of the State, and concerned with the administration of the public works program of the State or any part thereof; and it is further authorized to act and to fully contract with the United States, or with any department, agency or officer thereof with full power of purchase, sale, or lease for carrying out, developing, or administering any Federal project within the State of North Dakota, or partly within the State, and also to accept and to use any funds provided by the United States or any agency thereof for any such purposes.

§ 12. DUTIES OF STATE AGENCIES ACTING THROUGH INTER-STATE COMPACTS OR AGREEMENTS.] Every State officer, department, board, and commission heretofore or hereafter authorized by any law of this State to act upon or be concerned with any inter-state commission or involving any inter-state compact or upon any foreign commission involving any foreign compact, or with any Federal agency or department of the United States, the subject matter of which in any way concerns or involves water conservation, flood control, irrigation, water pollution or contamination, or the exercise of the powers and duties herein granted to the commission, shall first submit to the commission its plans, purposes, and contemplated action and receive the approval of the commission therefor before making any agreement, contract, purchase or sale, or lease, for any of said purposes. The commission is authorized and empowered to give its aid and assistance to any State agency so act-

ing with respect to any inter-state compact including the Tri-state Waters Commission.

§ 13. DUTIES OF STATE AGENCIES CONCERNED WITH INTRA-STATE USE OR DISPOSITION OF WATERS.] It shall be the duty of every State officer, department, board, and commission heretofore or hereafter authorized by any law of this State, to take any action, perform any duties, or make any contract which concerns the use or disposition of waters, or water rights, within the State to first submit to the commission any plans, purposes and contemplated action with respect to the use or disposition of such waters, and thereupon first receive the consent and approval of the commission before making any agreement, contract, purchase, sale, or lease to carry into execution any works or projects authorized under this act.

§ 14. DUTIES OF PRIVATE PERSONS, AGENCIES AND ORGANIZATIONS.] It shall be the duty of any and all persons, including corporations, voluntary organizations, and associations, when concerned with any agreement, contract, sale, or purchase, or the construction of any works or project which involves the use and disposition of any water, or water rights under the jurisdiction of the commission, to present to the commission all proposals with respect to the use or disposition of any such waters before making any agreement, contract, purchase, sale, or lease in respect thereof.

§ 15. SPECIAL POWERS OF COMMISSION COVERING PLANS AND APPROPRIATIONS OF WATER AND IRRIGATION.] The Water Conservation Commission is herewith empowered and authorized to make plans, investigations, and surveys concerning the use of any and all waters, either within or without this State, for purposes of establishing, maintaining, operating, controlling, and regulating systems of irrigation works and projects in connection therewith within the State. The commission shall have all necessary powers of purchasing and selling, leasing and assigning, rights and interests in the use or in the appropriation of waters concerned with such systems of irrigation projects or works in connection therewith and shall possess full authority and jurisdiction to exercise and assert actual possession over the corpus of all of such waters, and to secure control and regulation of the diversion thereof subject to rules and regulations and methods prescribed by the commission. This power and authority shall include full right to contract and agree with any person, associations, or agency concerning water rights possessed by them through which the commission may be given full authority and jurisdiction over such water and water rights. In connection therewith the commission may co-ordinate, subordinate, supplement and act jointly or subordinately with the United States and any Federal agencies or department thereof covering or concerning any Federal project affecting water use, works or projects in connection therewith.

§ 16. It is hereby declared that the commission shall have full control over all public waters of the State now unappropriated, whether above or under the ground, to the extent necessary to fulfill the purposes of this act.

In acquiring the rights and administering the terms of this act herein prescribed and established, the commission shall not be limited to the terms of the statutes of the State of North Dakota relating to water rights heretofore enacted; but, in addition thereto, may initiate a right to the waters of this State by executing a declaration in writing of the intention to store, divert, or control the unappropriated waters of a particular body, stream, or source, designating and describing in general terms such waters claimed, means of appropriation and location of use, and cause said notice to be filed in the office of the State Engineer, which right shall vest in such commission on the date of the filing of such declaration. The commission shall also file in the office of the State Engineer copies of its plans and specifications involved in completing all appropriations of water; provided, however, that the State Engineer may, subject to the approval of the commission, grant water rights to any person, association, firm or corporation, or to any municipality in the manner provided by law.

The priority of right shall date and continue from the time of such filing or recording, provided, the means of actual appropriation shall be commenced by actual work of construction with[in] two (2) years from the date of original recording. Change in means or place of diversion or control shall not affect the right of priority, if others are not thereby injured.

It shall be the duty of the commission, if it shall modify its plans in connection with any proposed project, concerning which the commission shall have filed a declaration of intention to appropriate waters, to file in the office of the State Engineer a declaration releasing all or part of the waters affected by such declaration.

Upon completing the construction of works and application to beneficial use of the waters described in such declaration, the commission shall file in the office of the State Engineer a declaration of completion of the appropriation, reciting the matters contained in the original declaration of intention to appropriate.

A certified copy of the record of such declaration of intention to appropriate, or of release of all or part of said waters, or of completion of appropriation, shall be received as competent evidence in all courts and deemed to be prima facie proof of all matters therein recited.

§ 17. The right of the commission to the waters within the State of North Dakota so acquired as hereinbefore provided for the purposes defined in this act shall attach at an from their source and while flowing in the streams, traveling to the means of control as well as when actually confined by such means. The authority and

jurisdiction of the commission shall continue over said waters after they are released for purposes of use and shall continue to such places of use, and the commission through and by officers and agents under its authority may continue to exercise and assert actual possession over the corpus of such waters and prevent the diversion thereof without permission first obtained. The commission may reclaim and possess all waters furnished or supplied by it seeping or overflowing from the previous place of use.

§ 18. Wherever natural streams are employed as a means of diversion of water from the place of confinement to the place of use, the commission shall adopt proper methods and means of determining the natural flow of such streams and when the amount of such natural flow is insufficient to satisfy or fill the needs of appropriators prior in right.

All appropriators of the natural flow of said streams shall maintain headgates and measuring devices at their respective points of diversion for the purpose of enabling the commission or its authorized agents to determine the amount of water being diverted at any time, and authority is hereby conferred upon the commission to adopt and exercise any method or act to prevent the diversion of any waters owned by it without permission first obtained.

Any person owning a water right on said stream may agree with the commission that it shall have control of the diversion of waters due under such right, and, in such event, the commission through its officers and agents may exercise the same authority over the waters due said appropriator and cause them to be delivered to him in the same manner as waters appropriated by the commission.

§ 19. For that purpose of obtaining financial aid from the United States of America, the commission may adjust the plans and operation of any project, created under this act, to conform to the laws and regulations of the Federal Government and the supervision of any board, bureau or commission constituted under such authority, and may exercise such powers whenever conferred.

§ 20. The authority of the commission conferred by the provisions of this act shall extend and be applied to any and all rights to the natural flow of the waters of this State which it may acquire by condemnation, purchase, exchange, appropriation or agreement.

For the purpose of regulating the diversion of such waters, the commission may enter upon the means and place of use of all appropriators for making surveys of respective rights and seasonal needs.

The commission shall take into consideration the decrees of the courts of this State having jurisdiction, which purport to adjudicate the waters of any such stream or its tributaries, and a fair, reasonable, equitable reconciliation shall be made between the claim-

ants asserting rights under different decrees and between decreed rights and asserted rights of appropriation not adjudicated by any court.

The commission, at its discretion, may hold hearings relating to the rights of respective claimants after first giving such notice as it deems appropriate, and make findings of the date and quantity of appropriation and use of all claimants, which the commission shall recognize and observe in diverting the waters which it owns. The commission may police and distribute to the owner of any such recognized appropriation the waters due him upon request of such owner and under terms agreed upon.

The commission, when engaged in controlling and diverting the natural flow of any stream under the authority granted by this act, shall be deemed to be exercising a police power of the State of North Dakota, and water commissioners appointed by any court shall not have any authority or jurisdiction to deprive the commission of any of the waters owned or administered under agreement with respective owners, provided the owner of any prior or vested right contending that the commission is not recognizing and respecting such right may resort to a court of law or equity for the purpose of determining whether or not the rights of said claimant have been invaded and the commission shall observe the terms of such final decree.

On the commissioner's impounding or acquiring the right of appropriation of the waters of any stream, it may divert or authorize the diversion at any point on said streams, or any portion thereof, when the same may be done without injury to any prior appropriator or riparian owner whose rights shall not have been acquired by the commission as provided in this act.

Nothing herein contained shall repeal, amend, or modify any existing acts or statutes pertaining to the appropriation or use of water except as herein otherwise provided, and nothing herein contained shall be deemed to interfere with any vested rights to the use of water.

§ 21. WATER CONSERVATION REVENUE BONDS.] 1. The commission is hereby authorized to provide, by resolution, at one time or from time to time, for the issuance of Water Conservation Revenue Bonds not exceeding a total of three million dollars for the purpose of paying the cost as hereinabove defined of any one or more such public works, the principal and interest of which bonds shall be payable from the special fund herein provided for such payment. Such bonds shall mature at such time, or times, either serially or at one time, in not more than thirty (30) years from their date, or dates, as may be fixed by such resolution, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, at 105 per cent of the par value, on any interest paying date, upon thirty days notice, which shall be published once in a newspaper of general circulation in Burleigh County. The

board shall determine the rate of interest such bonds shall bear, not exceeding five per centum (5%) per annum, the time, or times, of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination, or denominations, of the bonds and the place, or places, of payment of principal and interest thereto, which may be at any bank or trust company within or without the State. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. All such bonds shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State. Such bonds shall be secured by the revenues of such works and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, property and facilities to be acquired out of the proceeds of such bonds and as hereinafter provided.

2. Provisions may be made for the registration of any of the bonds in the name of the owner as to principal alone or as to both principal and interest. The bonds authorized under the provisions of this act may be issued and sold from time to time, and in such amounts as may be determined by the commission and the commission may sell the bonds in such manner and for such price as it may determine to be for the best interests of the State, but no such sale shall be made for less than par value of each bond. The proceeds of such bonds shall be used solely for the payment of the cost of the works and shall be checked out in such manner and under such restrictions, if any, as the commission may provide. Prior to the preparation of definitive bonds, the commission may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued without any other proceedings or the happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by this act or by the Constitution of the State.

3. Each resolution providing for the issuance of bonds shall set forth the project or projects for which the bonds are to be issued, and the bonds authorized by each such resolution shall constitute a separate series. The bonds of each series shall be identified by a series of letter or letters, and may be sold and delivered at one time or from time to time.

4. Whenever the commission shall find it necessary to insure or guarantee the payment of a part of the principal of any series of Water Conservation Commission Revenue Bonds, in order to sell or market such bonds, it is hereby authorized, and the commission may, in its discretion, enter into an agreement to pledge, hypothecate

cate, obligate, place under trust indenture or agree to deposit in a trust fund, moneys appropriated to the commission for operating or construction costs; provided that the payment of any series of such revenue bonds shall not be thus guaranteed or insured in excess of twenty per cent of the par value of such bonds, and provided further that for the biennial period ending June 30, 1941, the commission shall not thus pledge, hypothecate or place under trust indenture, or agree to pledge, hypothecate or to place under trust indenture, an aggregate amount in excess of fifty thousand dollars and provided further that any agreement to thus pledge, hypothecate, or place under trust indenture any amount in excess of fifty thousand dollars shall be, and is hereby declared null and void, provided, however, that the appropriation or use of said fifty thousand dollars shall not be construed to be the pledging of the credit of the State of North Dakota nor the guaranteeing of any bonds issued hereunder.

§ 22. LIEN UPON BONDS PROCEEDS.] All moneys received from any bonds issued pursuant to this act shall be placed in the Construction Fund and applied solely to the payment of the cost of the works and there shall be and hereby is created and granted a lien upon such moneys until so applied, in favor of the holders of the bonds or the trustee hereinafter provided for in respect of such bonds.

§ 23. TRUST INDENTURE, RESOLUTION AND COVENANTS OF COMMISSION.] In the discretion of the commission any series of such bonds may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State. Each trust indenture or an executed counterpart thereof shall be filed in the office of the Secretary of State of North Dakota. The filing of a trust indenture or an executed counterpart thereof in the office of the register of deeds of the county in which the property covered by said trust indenture is located shall constitute constructive notice of the contents thereof to all persons from the time of such filing and no recording of such trust indenture or the contents thereof shall be necessary.

Either the resolution providing for the issuance of bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the State and the commission in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the works, the custody, safeguarding and application of all moneys, and may provide that the works shall be acquired, constructed, or partly acquired and partly constructed and paid for under the supervision and approval of consulting engineers employed or designated by the commission and satisfactory to the original purchasers of the bonds issued there-

for, their successors, assigns, or nominees, who may be given the right to require that security given by contractors and by any depository of the proceeds of the bonds or receipts and revenues of the works, or other moneys pertaining thereto, shall be satisfactory to such purchasers, successors, assigns, or nominees. Such resolution or indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual rights of action of bondholders as is customary in trust indentures, deeds of trust and mortgages securing bonds and/or debentures of corporations. No enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the works affected by such indenture.

In connection with the issuance of any such bonds for the purpose of paying in whole, or as supplemented by a grant as aforesaid from the United States of America or any instrumentality or agency thereof, the cost of any works or project, or in order to secure the payment of such bonds, the commission shall have power:

(a) To pledge all or any part of the income, profit and revenue of such works or project, and all moneys received from the sale or disposal of water, use of water, water storage, or other service, and from the operation, lease, sale or other disposition of all or any part of such works or project, and to covenant to pay such income, profit and revenue into the Revenue Bond Payment Fund.

(b) To covenant against pledging all or any part of the income, profit and revenue of such works or project and all moneys received from the sale or disposal of water, use of water, water storage, or other service, and from the operation, lease, sale or other disposition of all or any part of such works or project.

(c) To covenant against mortgaging all or any part of such works or project, or against permitting or suffering any lien thereon.

(d) To covenant to fix and establish such prices, rates and charges for water and other services made available in connection with such works or project so as to provide at all times funds which will be sufficient, (1) to pay all costs of operation and maintenance of such works or project together with necessary repairs thereto, and (2) to meet and pay the principal and interest of all such bonds as they severally become due and payable, and (3) to create such reserves for the principal and interest of all such bonds and for the meeting of contingencies in the operation and maintenance of such works or project as the commission shall determine; and to make such further covenants as to such prices, rates and charges as the commission shall determine.

(e) To create special funds, in addition to those required by this act, for the meeting of contingencies in the operation and maintenance of such works or project and to determine the manner in

which, and the depository or depositories in which, such funds shall be deposited and the manner in which the same shall be secured, and it shall be lawful for any bank or trust company incorporated under the laws of the State to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the commission on all deposits exceeding the sum of five thousand dollars.

(f) To provide for the replacement of lost, destroyed, or mutilated bonds.

(g) To covenant against extending the time for the payment of the principal or interest on any of such bonds, directly or indirectly by any means or in any manner.

(h) To prescribe and covenant as to the events of default and terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.

(j) To vest in a trustee or trustees the right to enforce any covenant made to secure or to pay such bonds, or to foreclose any trust indenture in relation thereto, to provide for the powers and duties of such trustee, or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant or exercise the right of foreclosure.

(k) To make covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or, in the absolute discretion of the commission to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated or expressly authorized herein.

(l) It being the intention hereof to give the commission power to do all things in the issuance of such bonds, and in providing for their security that may not be inconsistent with the Constitution of North Dakota.

§ 24. MORTGAGE OF COMMISSION.] In the discretion of the commission any trust indenture executed by it as security for a series of such bonds may contain provisions for conveying in trust or mortgaging the works, the project, or any part of such works or project (including all water rights, which are a part thereof), constructed with the proceeds of such bonds or with such proceeds as supplemented by the proceeds of a grant to aid in financing such construction from the United States of America or any instrumentality or agency thereof, and may be in such form, and with such

rights, remedies and provisions as is customary in trust indentures, deeds of trust, and mortgages securing bonds and/or debentures of corporations. Any purchaser at any sale of any works or project pursuant to a judgment or decree in an action to foreclose a trust indenture conveying in trust or mortgaging any works or projects shall obtain title to such works or project free from any trust or other obligation of the commission, the State of North Dakota, or the public thereof, as to its operation, maintenance, use or disposition except the obligation to use all water impounded in such works or project for sale, rental distribution, or other beneficial use.

§ 25. FUNDS.] The commission shall create three funds to be known as "Administration Fund," the "Construction Fund" and as the "Revenue Bond Payment Fund." The moneys in each such fund shall be deposited in such depository or depositories and secured in such manner as may be determined by the commission. It shall be lawful for any bank or trust company incorporated under the laws of this State to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the commission on all deposits exceeding the sum of five thousand dollars.

The commission shall establish a complete system of accounting to show—the total expenditure of and investment in each project and the total revenue derived therefrom and to prepare periodic reports giving the financial statement of each project and the status of all projects together.

§ 26. CONSTRUCTION FUNDS.] The proceeds of the bonds of each series issued under the provisions of this act shall be placed to the credit of the Construction Fund, which fund shall at all times be kept segregated and set apart from all other funds. There shall be also credited to the Construction Fund all accrued interest upon the bonds and the interest received upon the deposits of moneys in such fund and moneys received by way of grant from the United States or from any other source for the construction of the works. The moneys in the Construction Fund shall be paid out or disbursed in such manner as may be determined by the commission, subject to the provisions of this act, to pay the costs of the works as hereinabove defined. Any surplus which may remain in the Construction Fund, after providing for the payment of the cost of the works, shall be added to and become a part of the Revenue Bond Payment Fund hereinafter provided for.

§ 27. REVENUE BOND PAYMENT FUND.] To identify and distinguish the fund provided and available for the payment of the bonds issued pursuant to this act and there is hereby created and established, as a part of the moneys of this State received and kept by the State Treasurer, a fund to be designated the Revenue Bond Payment Fund. All moneys received by the State Treasurer whether from payments made by the commission or from legislative appro-

priation or from the proceeds of taxes or otherwise, which shall be by law or by other authoritative designation made applicable to the payment of said bonds or interest thereon shall be kept by the State Treasurer in such fund distinct from all other moneys and shall be disbursed by him only for the particular purpose or purposes for which such moneys shall be delivered to him and no other appropriation shall ever be made of the moneys in such fund until such bonds shall be fully paid.

§ 28. APPROPRIATION TO PAY PRINCIPAL AND INTEREST OF REVENUE BONDS.] There is hereby appropriated all moneys paid to the State Treasurer by the commission for conversion into the Revenue Bond Payment Fund and all moneys constituting the Revenue Bond Payment Fund or so much thereof as may be necessary from time to time to pay the interest and the principal payment on such revenue bonds; and such appropriation is out of moneys not otherwise appropriated and is irrespective of the provisions of the bill concerning the budget and whenever any of such revenue bonds, or any coupons thereon, being due, shall be presented for payment, the State Treasurer shall pay the same out of such fund applicable thereto.

§ 29. The State Treasurer shall pay the interest on said bonds upon presentment to him of the coupons for such interest when due, and shall redeem such bonds upon their maturity by paying the principal thereof, all such payments to be made out of the Revenue Bond Payment Fund without Auditor's warrant. All moneys in such fund, or so much thereof as may be necessary is hereby appropriated for the payment of the interest and the principal of such bonds, and this appropriation shall not be repealed, and no provisions made in this act for the payment of said bonds and interest shall be discontinued until the debt evidenced by said bonds, both principal and interest, shall have been paid.

§ 30. All the property of the commission shall be exempt from taxation.

§ 31. All general administrative expenses of the commission, the compensation and expenses of its employees, and the cost of investigations, planning, surveying, as authorized by this act, shall be paid from the Administrative Fund and also the cost of all preliminary work on any project and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the Administrative Fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission, its employees and of the cost investigation as shall be properly chargeable, in the opinion of the commission to such projects, shall be reimbursed to the Administration Fund upon the receipt of the proceeds of revenue bonds issued and sold pursuant to this act. No liability or obligation shall be in-

curred under the provisions of this act beyond the extent to which money shall have been provided under its authority.

The commission shall have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value, to be held, used, and applied for the purposes in this act provided.

§ 32. VALIDATION OF ACTS OF STATE WATER CONSERVATION COMMISSION.] All acts and proceedings of the Water Conservation Commission done and performed by said commission under and pursuant to the provisions of Chapter 255 of the Session Laws of 1937 be and the same are hereby declared valid.

§ 33. ACT LIBERALLY CONSTRUED.] This act, being necessary for the welfare of the State and its citizens, shall be liberally construed to effect the purposes hereof.

§ 34. PROVISIONS OF THIS ACT SEVERABLE.] The sections and provisions of this act are severable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any section or provisions or part thereof is for any reason held to be unconstitutional, void or inoperative, it is the intention that the remaining sections and provisions and parts thereof shall remain in full force and effect.

§ 35. REPEAL.] All acts, or parts of acts in conflict herewith, are hereby repealed.

§ 36. EMERGENCY.] Because of the inability of thousands of citizens throughout the State to find employment and to support themselves and their families in the present depression, and because of serious crop failures, and health hazards, resulting from unprecedented drought conditions, it is necessary to proceed immediately with the construction of the works authorized by this act in order to create employment, assist the growing crops and prevent irreparable injury to the people of the State. An emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1939.

INITIATED MEASURES

CHAPTER 257

OLD AGE ASSISTANCE ACT AMENDMENT

An act amending and re-enacting Section 3 of Chapter 211 of the Session Laws of North Dakota for 1937, and providing that the amount of assistance which any person shall receive shall be sufficient when added to all other income of recipient to provide such person with a reasonable subsistence compatible with decency and health but shall not be less than a minimum of forty dollars per month except that it shall not be less than a minimum of thirty dollars per month for each recipient where there is more than one recipient in a family and each county shall reimburse the State agency for fifteen per cent of the amount expended for such assistance in such county in excess of the amount provided by the Federal government and repealing all acts and parts of acts in conflict herewith.

Be It Enacted by the People of the State of North Dakota:

Section 3 of Chapter 211 of the Session Laws of North Dakota for 1937, is hereby amended and re-enacted to read as follows:

§ 3. THE AMOUNT OF ASSISTANCE.] The amount of assistance which any person shall receive shall be determined with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance with such rules, regulations and directions as the State agency may find it necessary to prescribe. The amount of assistance shall be sufficient when added to all other income of the recipient to provide such person with a reasonable subsistence compatible with decency and health but shall not be less than a minimum of forty dollars per month except that it shall not be less than a minimum of thirty dollars per month for each recipient where there is more than one recipient in a family, and each county shall reimburse the State agency for fifteen per cent of the amount expended for such assistance in such county in excess of the amount provided by the Federal Government. Provided, that if at any time the amount received or to be received by this State from the United States for old age assistance shall be more than fifteen dollars per month for each person entitled to the full monthly compensation of forty dollars per month under this act, then the State agency shall have authority to increase such minimum amount of old age assistance in an amount corresponding to the increase, that such increase in the amount received from the Federal Government will permit and repealing all acts or parts of acts in conflict herewith.

Approved Nov. 8, 1938.

154,367 to 78,427.

CHAPTER 258
ABOLITION OF THE NORTH DAKOTA REGULATORY DEPARTMENT AND THE TRANSFER OF ITS FUNCTIONS AND DUTIES.

An act to repeal Chapter 199, Session Laws of 1933, as amended by Chapter 223 of the Session Laws of 1935, establishing and creating the North Dakota Regulatory Department; providing for the creation of the State Laboratories Department and the transfer to it of the management and enforcement of the Pure Food and Beverage Laws, Beverage Inspection Act, Food and Drugs Act, Egg Law, Registration and Labeling of Concentrated Commercial Feeding Stuffs Law, Insecticide and Fungicide Law, Fertilizer Law, Adulteration of Paints Law, Varnish Law, North Dakota Petroleum Products Inspection Act, and Hotel Inspection Law; providing for the transfer of the management and enforcement of the Weights and Measures Acts to the State Laboratories Department; providing for the transfer of the enforcement of the Cigarette, Cigarette Paper and Snuff Law to the State Tax Commissioner; providing for the transfer of the enforcement of the Licensing Law to the Attorney General; providing for the transfer of the management and enforcement of the North Dakota Beer Act to the State Tax Commissioner; and repealing all laws in conflict therewith.

Be It Enacted by the People of the State of North Dakota:

§ 1. STATE LABORATORIES DEPARTMENT. CREATION.] There is hereby created and established a State laboratories department, to be known as the "State Laboratories Department," under whose charge and management the enforcement of the following regulatory laws of this State is placed, to-wit:

Article 40A of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 2889a1 to 2889a17, inclusive), known as the "Pure Food and Beverages Law."

Chapter 85A of the Penal Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 10169a1 to 10169a12, inclusive), known as the "Beverage Inspection Act."

Article 40B of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 2889b1 to 2889b28, inclusive), as amended by Chapter 132, Session Laws of 1937, known as the "Food and Drugs Act."

Article 36C of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 2863C1 to 2863C9, inclusive), known as the "Egg Law."

Chapter 141 of the 1927 Session Laws as amended by Chapter 11 of the Session Laws of 1937, known as the "Registration and Labeling of Concentrated Commercial Feeding Stuffs Law."

Chapter 97 of the Penal Code of the Compiled Laws of North Dakota, 1913, (Sections 10210 to 10224 inclusive), known as the "Insecticide and Fungicide Law."

Article 41 of Chapter 38 of the Political Code of the Compiled Laws of North Dakota, 1913, (Sections 2890 to 2897 inclusive), known as the "Fertilizer Law."

Article 45 of Chapter 38 of the Political Code of the Compiled Laws of North Dakota, 1913, (Sections 2923 to 2925 inclusive), known as the "Adulteration of Paints Law."

Article 45A of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 2925a1 to 2925a6 inclusive), known as the "Varnish Law."

Article 69 of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Sections 3080a1 to 3080a16), as amended by Chapter 147, Session Laws of 1935, known as the "North Dakota Petroleum Products Inspection Act."

Article 57 of Chapter 38 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota, 1913, (Section 2984), as amended by Chapter 144 of the 1929 Session Laws, known as the "Hotel Inspection Law."

And wherever in the laws of this State, or in any of the laws hereinbefore generally or specifically mentioned, the officers therein designated as Food Commissioner, State Food Commissioner, director of the North Dakota Government Agricultural Experiment Station, director of the Regulatory Division of the North Dakota Agricultural College, director of the Experiment Station, Food Commissioner and State Chemist, Inspector of Hotels, Inspector of Oils, Chief Sanitary Inspector, or any of them, shall be granted any power or charged with the performance of any duty in connection with the enforcement of any of the laws hereinbefore specified or any acts amendatory thereto, said power so vested in said officers or boards shall be vested in the State Laboratories Department, the director, assistant director, and assistants, who shall perform all of the duties required by said laws to be performed by any of said officers.

§ 2. STATE LABORATORIES COMMISSION.] The management, control, and supervision of the said State Laboratories Department shall be placed in a commission, to be known and designated as the "State Laboratories Commission" composed of the following State officers: The Governor of the State, who shall be chairman of said commission; the State Treasurer and the Attorney General. The said State Laboratories Commission shall have full control, management, and supervision of all the acts of the State Laboratories Department. A majority of said commission shall constitute a quorum for the transaction of business. The State Laboratories Commission shall meet within ten days after this law becomes effective and shall organize and take full charge and management of the State Laboratories Department. They shall adopt such rules and regulations as may be necessary and proper for the full and complete enforce-

ment of the laws of the State under their jurisdiction. They shall meet as often as necessary and at least once a month in the office of the State Laboratories Department.

§ 3. DIRECTOR OF STATE LABORATORIES DEPARTMENT. SALARY.] The State Laboratories Commission shall appoint a director of the State Laboratories Department, who shall serve at the will of the commission.

The director shall act as secretary of the commission and shall keep such minutes and books as shall be determined by the commission. The director shall, subject to the supervision of the commission, have general charge of the State Laboratories Department. Before assuming the duties of his office, the said director of the State Laboratories Department shall be required to furnish a bond for the faithful performance of his duties and the proper accounting of all moneys collected in his office, in the sum of twenty-five thousand dollars (\$25,000.00); the premium to be paid as an expense of said department. He shall take the oath of office and file the same in the manner now required from other State officers. The annual salary of said director shall not exceed three thousand dollars (\$3,000.00), payable monthly as hereinafter provided.

§ 4. APPOINTMENT OF CHEMIST.] The State Laboratories Commission shall also appoint a competent chemist who shall be assistant director of said department and in charge thereof in case of the absence or inability to act of said director, and he shall be designated as "State Food Commissioner and Chemist." He shall serve at the will of the commission and shall furnish a bond for the faithful performance of his duties and the proper accounting of all moneys collected in his office in the sum of ten thousand dollars (\$10,000.00), and qualify in the same manner that the director of said department is hereby required to qualify. The annual salary of said assistant director shall be fixed by the Laboratories Commission. The said assistant director shall have charge and supervision of all laboratory work and the laboratory equipment, and shall have his office in the State Laboratories Department.

§ 5. LOCAL INSPECTORS.] The director of the State Laboratories Department shall designate and appoint the sheriff of each county to be and act as the local inspector for his county. Such sheriff shall, under the direction and supervision of the State Laboratories Department, perform such duties and make such inspections as shall be assigned to him by the State Laboratories Department. He shall be responsible for the enforcement within his county of such of the State Laboratories Department's directions as may be assigned to him by the State Laboratories Department. The sheriff shall collect such fees and charges, charged and collected under authority of this act, and shall account to the State Laboratories Department as often as may be required by the department and at least on or before the first of each month. He shall have the

authority to call upon the State's attorney of his county to assist him in the enforcement of this act.

The sheriff shall also have the power and authority to call upon any other law enforcement officer of his county, cities or villages within his county to assist him in the proper enforcement and administration of the provisions of this act. The sheriff or those assisting him, shall receive no additional compensation for such services and work, but shall be allowed the usual traveling expenses as for other duties of his office, and which expenses shall be paid out of the appropriations made for the State Laboratories Department.

§ 6. FEES. DISPOSITION OF. EXPENSES. HOW PAID.] All revenues derived and fees and charges charged and collected under the authority of this act by the director, assistant director, and employees of the State Laboratories Department, shall be properly accounted for daily by said assistant director and employees to the director of the State Laboratories Department and by him recorded and entered upon his books by counties from which said fees and charges are paid. The director shall monthly forward to the Treasurer of the State of North Dakota, the moneys so collected. The State Treasurer shall upon the receipt thereof place said moneys in the State General Fund.

Vouchers for all salaries and expenses of whatever nature incurred by the director, assistant director, and employees of the State Laboratories Department in carrying out and enforcing the provisions of this act, when approved by the State Laboratories Commission, shall be forwarded monthly to the State Auditing Board for audit and approval, and when audited and approved by said board, shall be certified to the State Auditor, who shall draw warrants upon the State Treasurer for said salaries and expenses, specifying that said warrants are to be paid from the General Fund out of appropriations made for such purpose by the Legislative Assembly. The State Treasurer shall thereupon pay said expenses in accordance with such direction.

§ 7. FEES TO BE COLLECTED. FORM OF LICENSES TO BE ISSUED.] All fees or other charges provided by law to be collected and charged for inspection or other duties performed by the Regulatory Department hereby placed under the management and supervision of the State Laboratories Department, shall from and after the taking effect of this act, be the same as provided under the provisions of Chapter 199, Session Laws of 1933.

All licenses and permits that are now required to be issued under the provisions of any of the laws hereinbefore enumerated, and which shall hereafter be issued by the State Laboratories Department, shall be, insofar as practicable, uniform on a suitable blank provided and prescribed by the State Laboratories Commission, and if two or more licenses or permits are applied for by the

same person or corporation, all licenses or permits issued to such person or corporation shall be contained in one and the same blank, when possible and practicable.

§ 8. DUTIES AS TO WEIGHTS AND MEASURES.] When requested so to do by the Board of Railroad Commissioners of the State of North Dakota, the Director of the Laboratories Department shall direct, when possible and practicable to do so, one or more of the employees of his department to perform such duties as may be required relating to the inspection and licensing of weights and measures, and when engaged in the performance of such duties each employee of the State Laboratories Department shall have the same power of weights and measures and shall charge and collect the same fees for the services he may perform that are provided by Chapter 311 of the 1931 Session Laws or any act amendatory thereto and in force when such services are performed; provided, however, that all fees, licenses and other charges collected by the State Laboratories Department in performing such additional duties for the Board of Railroad Commissioners shall for all purposes remain and be considered as collections made by the State Laboratories Department, to be accounted for and disposed of as in this act hereinbefore provided.

§ 9. OFFICES OF DEPARTMENT. HELP. EQUIPMENT.] The office of the State Laboratories Department shall be maintained in the City of Bismarck, North Dakota. The director of the State Laboratories Department may, with the consent and approval first obtained from the State Laboratories Commission, employ such additional help and purchase such equipment and office supplies as may be necessary for the proper performance of the duties of the said department, and all salaries for said help and other expenses shall be paid out of the appropriation made by the Legislative Assembly for such purpose, in the same manner that the salaries of the director and assistant director, as hereinbefore provided, are to be paid.

§ 10. TRANSFER OF DUTIES UNDER CIGARETTE, CIGARETTE PAPER, AND SNUFF LAW TO TAX COMMISSIONER.]. All the rights, powers, and duties formerly possessed by the Regulatory Department under Chapter 199 of the 1933 Session Laws, in the administration of Chapter 107 of the 1925 Session Laws, as amended by Chapter 106 of the 1927 Session Laws, and by Chapter 105 of the 1931 Session Laws, and by Chapter 253 of the 1927 Session Laws, are hereby transferred to the State Tax Commissioner, who from the effective date of this enactment, shall assume the administration of such laws relative to cigarettes, cigarette paper and snuff.

Wherever the officer therein designated as Attorney General or State Auditor, or either of them, shall be granted any power, or charged with the performance of any duty in connection with the enforcement of any laws hereinbefore specified, or any acts amenda-

tory thereto, said power so vested in said officers, shall be vested in the State Tax Commissioner, and said State Tax Commissioner and his assistants shall perform all the duties required by said laws to be performed by either or any of said officers.

§ 11. TRANSFER OF DUTIES UNDER LICENSING LAW TO ATTORNEY GENERAL.] The powers and duties granted to the Regulatory Department under the provisions of Chapter 199 of the 1933 Session Laws in regard to the administration of Article 20A of Chapter 5 of the Political Code of the 1925 Supplement to the Compiled Laws of 1913, (Sections 548a1 to 548a12 inclusive), as amended by Chapter 226 of the Session Laws of 1929, known as the Licensing Department Law, are hereby transferred to the Attorney General as originally provided in said Licensing Department Law.

The Attorney General and other officials charged with the enforcement and administration of said Licensing Department Law, shall have all the powers and duties as provided by said Licensing Department Law prior to the enactment of Chapter 199 of the Session Laws of 1933.

§ 12. NORTH DAKOTA BEER ACT. TRANSFER OF DUTIES TO TAX COMMISSIONER.] The powers and duties imposed upon the State Regulatory Department under the provisions of that initiated measure adopted at the special election held on September 22, 1933, known as the North Dakota Beer Act, as amended by Chapters 97 and 98 of the 1935 Session Laws, and Chapter 98 of the 1937 Session Laws, are hereby transferred to and imposed upon the State Tax Commissioner.

Wherever in said laws the officer designated as State Beer Commissioner, Governor, State Regulatory Officer, or any of them, shall be granted any power or charged with the performance of any duty in connection with the enforcement or administration of the laws hereinbefore specified in this section, or any acts amendatory thereto, said powers so vested in said officers shall be vested in the State Tax Commissioner, who shall perform all the duties required by said laws to be performed by any of said officers.

§ 13. REPEAL.] That Chapter 199 of the Session Laws of 1933, as amended by Chapter 223 of the Session Laws of 1935, and all other acts or parts of acts in conflict with this enactment, are hereby repealed.

§ 14. SEVERABILITY.] It is hereby declared to be the controlling intent of this act that if any provision of this act, or the application to any persons or circumstances is held invalid, illegal or ineffective in any respect, the remainder of the act and the application of such provision to persons or circumstances other than those to be held invalid, illegal or ineffective, shall not be affected thereby.

§ 15. EFFECTIVE DATE.] This act shall be and become operative on the first day of July, 1939.

On or before said date the North Dakota Regulatory Department shall transmit all its records and files in regard to the administration of the cigarette, cigarette paper, and snuff law, being Chapter 107 of the 1925 Session Laws, as amended by Chapters 106 and 253 of the 1927 Session Laws and by Chapter 105 of the 1931 Session Laws, and all its books and records in regard to the administration of the North Dakota Beer Law, being that initiated measure adopted at the special election held on September 22, 1933, as amended by Chapters 97 and 98 of the 1935 Session Laws and Chapter 98 of the 1937 Session Laws, to the State Tax Commissioner.

That on or before said date, the North Dakota Regulatory Department shall deliver to the Attorney General all its books and records in regard to the administration of the Licensing Department Law, being Article 20A of Chapter 5 of the Political Code of the 1925 Supplement to the 1913 Compiled Laws, as amended by Chapter 266 of the 1929 Session Laws.

That all the balance of the books and records of the North Dakota Regulatory Department shall be delivered to the State Laboratories Department, created under this act, and thereupon the said North Dakota Regulatory Department shall cease to operate.

On or before July 1, 1939 all funds on hand in the State Regulatory Fund shall be transferred to the General Fund of the State by the State Treasurer.

Approved June 28, 1938.

77,683 to 76,672.

AN ACT CREATING A DEPARTMENT OF CIVIL SERVICE FOR THE STATE OF NORTH DAKOTA; PRESCRIBING THE POWERS, DUTIES AND PROCEDURE OF THE CIVIL SERVICE COMMISSION AND THE DIRECTOR OF THE STATE CIVIL SERVICE IN SAID STATE, AND PROVIDING FOR AND REGULATING THE CIVIL SERVICE IN SAID STATE, AND MAKING AN APPROPRIATION FOR THE SUPPORT OF SAID DEPARTMENT.

An act creating a Department of Civil Service for the State of North Dakota; prescribing the powers, duties and procedure of the Civil Service Commission and the director of the State civil service in said department; providing for and regulating the civil service in said State; prescribing penalties for the violation of the provisions of this act; repealing certain acts and parts of acts inconsistent with the provisions of this act; and making appropriation for the support of the said department.

Disapproved June 28, 1938.

116,632 to 39,710.

**AN ACT REGULATING SALE, PURCHASE AND EXCHANGE OF
COUNTY BONDS AND OTHER INDEBTEDNESS.**

An act making it unlawful for any officer or head of any board, bureau or commission of any county to buy, sell, exchange or in any manner acquire or dispose of any stocks, bonds, certificates of indebtedness, mortgages, notes or other evidence of debt in which any public funds of the county have been or may be invested without permission of a commission consisting of the county treasurer, county judge and the county register of deeds and providing penalty for violation.

Disapproved June 28, 1938. 115,785 to 41,301.

**PROVISION FOR A LEGAL RATE OF INTEREST AND PROVIDING
FOR THE RATE OF INTEREST THAT SHALL BE PAID
IN NORTH DAKOTA.**

Provision for a legal rate of interest and providing for the rate of interest that shall be paid in North Dakota.

Disapproved June 28, 1938. 121,205 to 45,808.

**AN ACT PROVIDING FOR A COMMISSION TO APPOINT THE
OFFICIALS IN ALL TOWNS, CITIES AND VILLAGES IN
NORTH DAKOTA AND PROVIDING THAT ALL ACTS OR
PARTS OF ACTS IN CONFLICT HEREWITH ARE HEREBY
REPEALED.**

An act providing for a commission to appoint the officials in all towns, cities and villages in North Dakota and providing that all acts or parts of acts in conflict herewith are hereby repealed.

Disapproved June 28, 1938. 138,940 to 24,222.

**REPEAL OF LIQUOR CONTROL ACT—AN ACT TO ABOLISH THE
INITIATED LIQUOR CONTROL ACT AND REPEAL CHAP-
TER 259 OF THE SESSION LAWS OF 1937.**

An act abolishing the initiated Liquor Control Act and repealing Chapter 259 of the Session Laws of 1937 for the State of North Dakota.

Disapproved November 8, 1938. 160,365 to 98,478.

CONSTITUTIONAL AMENDMENTS

(Approved)

ARTICLE 50

SALE OF SCHOOL AND PUBLIC LANDS

Submitted by Legislature

§ 158. No land shall be sold for less than the appraised value and in no case be sold for less than ten dollars (\$10.00) per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows:

One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than three per cent per annum, payable annually; provided that when payments are made before due they shall be made at an interest paying date. All sales shall be held at the county seat of the county in which the land to be sold is situated, and shall be at public auction and to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the land to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one quarter section, and those subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided that the land contracted to be sold by the State shall be subject to taxation from the date of contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then thereupon the contract of sale for such land shall, if the Board of University and School Lands so determine, become null and void. Any lands under the provision of Section 158 of the Constitution of the State of North Dakota that have heretofore been sold, may be paid for, except as to interest as provided; provided further, that any school or institutional lands that may be required for townsite purposes, school house sites, church sites, cemetery sites, sites for other educational or charitable institutions, public parks, fair grounds, public highways, railroad right of way or for other railroad uses and purposes, reservoirs for the storage of water for irrigation, drain ditches, and lands that may be required for any of the purposes over which the right of eminent domain may be exercised under the Constitution and the laws of the State of North Dakota, may be sold under the provisions of this act, and shall be paid for, principal and interest, in full in

advance at the time of the sale, or at any time thereafter, and patent issued therefor, when principal and interest are paid. Any of the said lands, including lands held in trust for any purpose, may, with the approval of the Board of University and School Lands, be exchanged for lands of the United States, as the Legislature may provide, and the lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject, and the State shall reserve all mineral and water and water power rights in lands so transferred by the State.

Provided, further, that, when land has been sold on contract as hereinbefore provided, and the purchases [purchaser] or his heirs or assigns, has been unable, at least in part by reason of successive crop failures, to pay for the land purchased within twenty years after the date of purchase and such contract is in default and subject to cancellation, the Board of University and School Lands, may, if so requested by such purchaser or his heirs, or assigns, after declaring such contract terminated, resell the land described in such contract to such purchaser, or his heirs or assigns for the amount of the unpaid principal of the original purchase price plus the amount of unpaid accrued interest, but in no case shall the resale price be more than the original sale price, such contract of resale to be upon the same terms as said original contract excepting that the contract of resale may provide that the purchaser may pay the first one-fifth of the resale price in five equal successive annual installments, the first installment to be paid at the time of execution of the resale contract, and that such resale contract shall bear interest at the rate of three per cent per annum payable annually; and provided further, that this Section shall be deemed self-executing insofar as provision is made herein for resale of lands sold to the original purchaser or to his heirs or assigns.

Approved June 28, 1938. 95,700 to 76,051.

ARTICLE 51

AN ACT PROHIBITING MEMBERS OF THE LEGISLATIVE ASSEMBLY FROM RECEIVING OR ACCEPTING STATE EMPLOYMENT.

(Submitted by Initiative Petition:)

§ 1. The Governor or any officer of this State, or any manager or executive head, or other person employed either directly or indirectly in any department, bureau, commission, institution, or industry of this State, or any member of any State board shall not appoint a member of the Legislative Assembly to any civil office or employment of any nature whatsoever, during the term for which said member of the Legislative Assembly shall have been elected.

No member of the Legislative Assembly shall accept any such appointment to civil office or other employment during the term for which he was elected.

Approved June 28, 1938. 106,699 to 64,087.

ARTICLE 52

AN ACT AMENDING SECTION 82 OF THE STATE CONSTITUTION, TO PROVIDE FOR THE ELECTION OF A TAX COMMISSIONER ON A NO-PARTY BALLOT, FOR A FOUR-YEAR TERM.

(Submitted by Initiative Petition:)

§ 82. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a secretary, auditor, treasurer, superintendent of public instruction, commissioner of insurance, three commissioners of railroads, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of two years and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms; provided, however, the tax commissioner shall hold his office for the term of four years and until his successor is elected and duly qualified.

The tax commissioner shall be elected on a no-party ballot and he shall be nominated and elected in the manner now provided for the nomination and election of the superintendent of public instruction.

The first election of the tax commissioner shall not occur until the year 1940.

Approved June 28, 1938. 86,822 to 78,206.

ARTICLE 53

AN ACT TO AMEND SECTION 186 OF THE CONSTITUTION OF THE STATE OF NORTH DAKOTA PROVIDING FOR THE PAYMENT OF PUBLIC MONEY INTO THE STATE TREASURY, AND ITS DISBURSEMENT IN ACCORDANCE WITH LEGISLATIVE APPROPRIATIONS:

(Submitted by Initiative Petition:)

§ 186. (1.) All public moneys, from whatever source derived, shall be paid over monthly by the public official, employee, agent, di-

rector, manager, board, bureau, or institution of the State receiving the same, to the State Treasurer, and deposited by him to the credit of the State, and shall be paid out and disbursed only pursuant to appropriation first made by the Legislature; provided, however, that there is hereby appropriated the necessary funds required in the financial transactions of the Bank of North Dakota, and required for the payment of losses, duly approved, payable from the State Hail Insurance Fund, State Bonding Fund, and State Fire and Tornado Fund, and required for the payment of compensation to injured employees or death claims, duly approved, payable from the Workmen's Compensation Fund, and required for authorized investments made by the Board of University and School Lands, and required for the financial operations of the State Mill and Elevator Association, and required for the payment of interest and principal of bonds and other fixed obligations of the State, and required for payments required by law to be paid to beneficiaries of the Teachers' Insurance and Retirement Fund, and required for refunds made under the provisions of the Retail Sales Tax Act, and the State Income Tax Law, and the State Gasoline Tax Law, and the Estate and Succession Tax Law, and the income of any State institution derived from permanent trust funds, and the funds allocated under the law to the State Highway Department and the various counties for the construction, reconstruction, and maintenance of public roads.

This constitutional amendment shall not be construed to apply to fees and moneys received in connection with the licensing and organization of physicians and surgeons, pharmacists, dentists, osteopaths, optometrists, embalmers, barbers, lawyers, veterinarians, nurses, chiropractors, accountants, architects, hairdressers, chiropodists, and other similarly organized, licensed trades and professions; and this constitutional amendment shall not be construed to amend or repeal existing laws or acts amendatory thereof concerning such fees and moneys.

(2.) No bills, claims, accounts, or demands against the State or any county or other political subdivision shall be audited, allowed, or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit the same, and then only upon warrant drawn upon the Treasurer of such funds by the proper officer or officers.

(3.) This amendment shall become effective on July 1, 1939.

Approved June 28, 1938. 83,140 to 75,818.

ARTICLE 54
CONSTITUTIONAL AMENDMENT ESTABLISHING A STATE
BOARD OF HIGHER EDUCATION.
(Submitted by Initiative Petition:)

§ 1. A board of higher education, to be officially known as the State Board of Higher Education, is hereby created for the control and administration of the following state educational institutions, to-wit:

- (1) The State University and School of Mines, at Grand Forks, with their substations.
- (2) The State Agricultural College and Experiment Station, at Fargo, with their substations.
- (3) The School of Science, at Wahpeton.
- (4) The State Normal Schools and Teachers Colleges, at Valley City, Mayville, Minot and Dickinson.
- (5) The Normal and Industrial School, at Ellendale.
- (6) The School of Forestry, at Bottineau.
- (7) And such other State institutions of higher education as may hereafter be established.

§ 2. (a) The State Board of Higher Education shall consist of seven (7) members, all of whom shall be qualified electors and taxpayers of the State, and who shall have resided in this State for not less than five (5) years immediately preceding their appointment, to be appointed by the Governor, by and with the consent of the Senate, from a list of names selected as hereinafter provided. There shall not be on said board more than one (1) alumnus or former student of any one of the institutions under the jurisdiction of said State Board of Higher Education at any one time. No person employed by any institution under the control of the board shall serve as a member of said board, nor shall any employee of any such institution be eligible for membership on the State Board of Higher Education for a period of two (2) years following the termination of his employment.

On or before the 1st day of February, 1939, the Governor shall nominate from a list of three names for each position, selected by the unanimous action of the President of the North Dakota Educational Association, the Chief Justice of the Supreme Court, and the Superintendent of Public Instruction, and, with the consent of a majority of the members-elect of the Senate, shall appoint from such list as such State Board of Higher Education seven (7) members, whose terms shall commence on the 1st day of July, 1939, one of which terms shall expire on the 30th day of June, 1940, and one on the 30th day of June in each of the years 1941, 1942, 1943, 1944, 1945, and 1946. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for seven (7) years,

and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled.

(b) In the event any nomination made by the Governor is not consented to and confirmed by the Senate as hereinbefore provided, the Governor shall again nominate a candidate for such office, selected from a new list, prepared in the manner hereinbefore provided, which nomination shall be submitted to the Senate for confirmation, and said proceedings shall be continued until such appointments have been confirmed by the Senate, or the session of the legislature shall have adjourned.

(c) When any term expires or a vacancy occurs when the legislature is not in session, the Governor may appoint from a list selected as hereinbefore provided, a member who shall serve until the opening of the next session of the legislature, at which time his appointment shall be certified to the Senate for confirmation, as above provided; and if the appointment be not confirmed by the thirtieth legislative day of such session, his office shall be deemed vacant and the Governor shall nominate from a list selected as hereinbefore provided, another candidate for such office and the same proceedings shall be followed as are above set forth; provided further, that when the legislature shall be in session at any time within six (6) months prior to the date of the expiration of the term of any member, the Governor shall nominate his successor from a list selected as above set forth, within the first thirty (30) days of such session, and upon confirmation by the Senate such successor shall take office at the expiration of the term of the incumbent. No person who has been nominated and whose nomination the Senate has failed to confirm, shall be eligible for an interim appointment.

§ 3. The members of the State Board of Higher Education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the Governor by impeachment proceedings.

§ 4. The appointive members of the State Board of Higher Education shall receive seven dollars (\$7.00) per day and their necessary expenses for travel while attending meetings, or in the performances of such special duties as the board may direct; provided, however, no member shall receive a total compensation, exclusive of expenses, to exceed five hundred dollars (\$500.00) in any calendar year; and no member shall receive total expense money in excess of five hundred dollars (\$500.00) in any calendar year.

§ 5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the State Board of Higher Education.

§ 6. (a) The State Board of Higher Education shall hold its first meeting at the office of the State Board of Administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the City of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the Board of Administration in connection with the several institutions hereinbefore mentioned, and the said Board of Administration shall immediately upon the organization of said State Board of Higher Education, surrender and transfer to said State Board of Higher Education all duties, rights, and powers granted to it under the existing laws of this State concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.

(b) The said State Board of Higher Education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the State Board of Higher Education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said State Board of Higher Education shall have full authority to organize or re-organize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said State educational institutions.

(c) Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the Governor, covering in detail the operations of the educational institutions under its control.

(d) It shall be the duty of the heads of the several State institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said State Board of Higher Education; and said State Board of Higher Education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the State; and thereafter the State Board of Higher Education shall prepare and present to the State Budget Board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the Board of Administration until the State Board of

Higher Education organizes as provided in Section 6 (a).” The appropriations for all of said institutions shall be contained in one legislative measure.

(e) The said State Board of Higher Education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this State; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

§ 7. (a) The State Board of Higher Education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a State Commissioner of Higher Education, whose principal office shall be at the State Capitol, in the City of Bismarck. Said Commissioner of Higher Education shall be responsible to the State Board of Higher Education and shall be removable by said board for cause.

(b) The State Commissioner of Higher Education shall be a graduate of some reputable college or university, and why by training and experience is familiar with the problems peculiar to higher education.

(c) Such Commissioner of Higher Education shall be the chief executive officer of said State Board of Higher Education, and shall perform such duties as shall be prescribed by the board.

§ 8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

Approved June 28, 1938. 93,156 to 71,448.

CONSTITUTIONAL AMENDMENTS (Disapproved)

MANAGERS PLAN OF COUNTY GOVERNMENT (Submitted by the Legislature.)

Concurrent resolution for an amendment to the Constitution of the State of North Dakota providing for a managers plan of county government in certain counties.

Disapproved June 28, 1938. 94,702 to 80,786.

ELECTION, TERMS, COUNTY OFFICERS (Submitted by the Legislature.)

A concurrent resolution providing for the amendment of Article 48 of the Constitution of North Dakota.

Disapproved June 28, 1938. 91,219 to 80,246.

REFERRED MEASURES

DANCES PROHIBITED WHERE LIQUORS ARE SOLD (Referendum of S. B. 59, 1937 Legislative Assembly)

Chapter 124, Session Laws 1937

An act prohibiting dances in or on premises, or premises adjacent to a place where intoxicating liquors are sold as a beverage; defining the duties of States attorneys and peace officers; and declaring an emergency.

Approved June 28, 1938. 109,619 to 77,046.

REGULATION AND LICENSE OF CREAMERIES, CREAM STATIONS AND OTHER DAIRY PRODUCTS FACTORIES (Referendum of H. B. 162, 1937 Legislative Assembly)

Chapter 3, Session Laws 1937

An act to amend and re-enact Section 2844 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 119, Session Laws of 1929, relating to licenses of creameries, cheese factories, process butter factories, ice cream factories and cream stations; providing for the distribution of license moneys; repealing acts in conflict herewith and declaring an emergency.

Disapproved November 8, 1938. 105,718 to 97,019.

RESOLUTIONS

House Concurrent Resolution No. 240—(Representatives Mollet and Rohde and Senator Olson of Mountrail)

AAA PAYMENTS—MOUNTRAIL COUNTY, 1937

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, by reason of the failure of the executive secretary of the AAA Soil Conservation program for the year 1937 to give correct information to the farmers of Mountrail County, and any other county, with reference to the manner of compliance with said program for the year 1937, approximately one hundred seventy-five (175) farmers of said county were deprived of their allotment payments for that year, and,

WHEREAS, these farmers complied with the regulations and performed their duties relative to the above in accordance with instructions received from the said executive secretary and are entitled to a just settlement on their compliance contracts;

NOW, THEREFORE, BE IT RESOLVED by the Legislative Assembly of the State of North Dakota, now assembled in regular session at the Capitol, in the City of Bismarck, North Dakota, hereby request that the Congress of the United States enact such legislation as will secure a settlement of the claims of said farmers as above set forth, and that said matter be given immediate attention to the end that these claims may be paid at the earliest possible date.

Filed March 4, 1939.

House Resolution No. 1—(Mal. Gainor)

O. C. ANDERSON

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, Divine Providence has called the Honorable O. C. Anderson of the 13th legislative district, which district he has served for fourteen years; and

WHEREAS, he was duly elected by his constituents; and

WHEREAS, he was duly certified by the Secretary of State as a member of the 26th Legislative Assembly;

BE IT RESOLVED that he be shown by the records of this House

as excused for the session and his name be omitted in reading the roll call; but that his name be continued upon the payroll as a member of this body; that the Chief Clerk be hereby authorized and directed to sign the Legislative pay roll for and in the name of said deceased member, and that warrants to be issued in payment of per diem of said O. C. Anderson, our said fellow legislator, be made out in the name of his widow, Mrs. O. C. Anderson, and that the same be by the House voucher clerk forwarded to her at Rutland, North Dakota.

Filed February 2, 1939.

House Concurrent Resolution No. 406—(Joint Committee on
Employment)

RECORD OF BILLS

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring:*

WHEREAS, a complete record of action upon and disposal of all bills introduced in the House and Senate during this session, should be made available to House and Senate members as quickly as possible; such record to show what bills have been indefinitely postponed, withdrawn or passed, with notation of Journal date and page of amendments thereto;

THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring: That such compilation be at once prepared in a pamphlet similar in size to the House and Senate Journals; that Marie Garske be employed for the House and Ruth Smith be employed for the Senate; they working together to prepare such compilation immediately. A copy of the same to be mailed as speedily as possible by the House and Senate mailing force to each member of the House and Senate, at the home address thereof. That the said Marie Garske and Ruth Smith be and they are hereby respectively retained on this work for the House and for the Senate for the period of three days after the adjournment of this legislative assembly, at their present pay; such compensation with the printing expense of such pamphlet and of mailing the same to be charged and paid as legislative expense.

Filed March 7, 1939.

House Resolution "O"—(Jensen)

SHIPPING OF BILLS AND JOURNALS

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, all the members of the House have two large volumes of Bills that were introduced in this legislative assembly and two heavy volumes of Journals, besides many official bulletins and legislative correspondence, which will be of value to them as legislators; and

WHEREAS, these books, papers and pamphlets can be shipped to each member of this body more cheaply by express (American Express Company) than by any other method:

THEREFORE, BE IT RESOLVED, That the employees, who have been charged with the duties of wrapping and packing such books, pamphlets and correspondence, ship the same to the respective Representatives by American Express and that such American Express charges be paid in the regular manner as part of the legislative expense of this session.

Filed March 7, 1939.

Senate Resolution "A"—(Select Committee)

JOHN K. BROSTUEN

WHEREAS, the late John K. Brostuen of the Forty-first Legislative District was called to his eternal reward since the last session of the legislature; and

WHEREAS, he represented said legislative district for two years as a member of the House of Representatives, and for five sessions as a member of the Senate, and during all his public service and during his life, as a private citizen, his was a splendid example of integrity, loyalty, conscientious endeavor, and good citizenship; and

WHEREAS, in his passing North Dakota has lost a true friend, a leader in the preservation of sound, liberal government, honestly administered, a man whose desire and interest was the furtherance of all good and worthy causes for the betterment of the State, his local community, and his fellowmen;

THEREFORE, BE IT RESOLVED, By the Senate that we do hereby express our heartfelt appreciation of the loyal service of our dis-

tinguished citizen, the late John K. Brostuen, and that we further express the keen sorrow which we feel because of his passing; and

BE IT FURTHER RESOLVED, That this resolution be printed in the Journal and that an engrossed copy to be forwarded by the Secretary of the Senate to his wife, Mrs. John K. Brostuen of Alexander, North Dakota.

Filed January 10, 1939.

House Concurrent Resolution No. 399—(Lange, Benno & Johnson of Cass)

PAVING CAPITOL GROUNDS

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, there is available to the State of North Dakota, the sum of \$12,555.00 in P. W. A. funds for the paving of the State Capitol grounds at Bismarck, and

WHEREAS, in order to obtain such funds for such purpose, it will be necessary for the State to provide the sum of \$15,345.00 to complete such paving, and

WHEREAS, the Board of Administration has, in its Emergency Fund for State Institutions, funds sufficient to make such expenditure,

NOW THEREFORE, BE IT RESOLVED By the House of Representatives of the State of North Dakota, the Senate concurring, that the Board of Administration be authorized and directed to transfer from its Emergency Fund for State Institutions the sum of \$15,345.00 for the purpose of matching P. W. A. funds in paving the State Capitol grounds at Bismarck, North Dakota.

Filed March 4, 1939.

House Concurrent Resolution No. 397—(Committee on Delayed Bills)

COOPERATIVE COMMUNITY SPIRIT AND ACTIVITY

A Concurrent Resolution recommending that higher educational institutions include in teachers training courses instruction encouraging cooperative community spirit and activity.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the teachers of any community are a strong force in molding the lives and shaping the future destinies of the younger generation, and

WHEREAS, their presence in a locality may be, and usually is, a moving force of great value in the social and civic life of their respective communities, and

WHEREAS, certain of our educational institutions in their courses of study have stressed the importance of teachers taking active part in the life of the communities where they may be placed,

NOW THEREFORE, BE IT RESOLVED By the House of Representatives, the Senate concurring: That the legislature commends to the higher educational institutions of the State instruction tending to encourage prospective teachers in co-operative endeavor in their future fields of work; stressing the importance of their entering into the community life, and becoming an integral part of the localities wherever they may be placed; that they be instructed in methods calculated to best serve these respective communities; and that such instruction supplement the regular courses now presented for the education, training and upbuilding of our coming citizens and teachers, and

BE IT FURTHER RESOLVED: that copies of this resolution be sent to the presidents of all our higher educational institutions, to the Superintendent of Public Instruction and to each member of the State Board of Higher Education.

Filed March 4, 1939.

Senate Concurrent Resolution No. 21—(Olson of McHenry,
Thorson and Kamrath.)

A RESOLUTION REQUESTING CONGRESS TO INCLUDE "COST
OF PRODUCTION" IN THE SOIL CONSERVATION ACT,
TOGETHER WITH ITS INSURANCE FEATURES.

*Be It Resolved by the Senate, the House of Representatives Con-
curring:*

§ 1. From and after July 1, 1939, the price paid for spring wheat, durum and winter wheat shall be such a price as will include "cost of production," or \$1.75 per bushel for No. 1 hard spring wheat, \$1.50 for No. 1 durum and winter wheat, and other grades in proportion of such sufficient unsettled price as the Secretary of Agriculture shall deem higher to the producer than the speculative and world markets at the country elevator on that portion of such crops as are consumed within the United States. Each producer shall be entitled to and receive such cost of production price only on that part of his said crops as shall represent his average share of the "home consumption market" covering his production of the previous normal five year period, or on 54% of his allotted acres, as indicated by the A.A.A. records for the base years 1928 to 1932. And in case of deflation of present money value or war prices said cost of production prices shall advance proportionately.

§ 2. The Secretary of Agriculture shall compile data on various crops herein mentioned, from all sections of the country where such crops are produced, and from such data shall determine the average cost of production on average lands under average conditions throughout the United States. From this compiled data on various crops the Secretary of Agriculture shall further determine the number of bushels to be sold at said cost of production price for each State and county, and in turn shall issue books of "wheat stamps" representing each bushel of said cost of production wheat, each State, and in turn each county, to receive "wheat stamps" in proportion to the allotted cost of production wheat for that area.

The county A.A.A. committee shall determine from the data sent them by the Secretary of Agriculture and from its own county A.A.A. records the number of allotted bushels for each producer. They shall also notify each producer of the amount of cost of production wheat allotted him and at the same time deliver to the producer "wheat stamps" of an amount equal to his allotted bushels.

When the producer sells his grain he shall deliver to the elevator man as many "wheat stamps" as bushels sold. The elevator man in turn shall send the miller or other buyer of this wheat, "wheat stamps" in the same amount as he has received representing this cost of production wheat.

No miller shall be permitted to manufacture flour for home

§ 3. The producer shall sell all his allotted grain at the said cost of production price and from this the country elevator man shall retain 25¢ from every bushel of grain sold, or such sufficient rate as will cover all losses, as the premium for the insurance adjustment plan. These premiums shall be sent to the Secretary of Agriculture and in case of loss of crops by drought, hail, rust, frost, wind, blight, flood, or insects said losses shall be paid from this fund. (Said insurance shall not be payable on unfit seed or seeding, nor on submarginal land crops.) Appraisals on losses shall be made by the county A.A.A. committee, and no losses shall be considered which are less than 50% of the county average production per acre. If losses occur the producer shall return to the county A.A.A. committee "wheat stamps" for his insurance payments per acre according to the following rates:

50% loss—50% of "wheat stamps" . . .	Insurance	\$4.00
65% " —75% " " " " . . .	"	\$6.00
80% or over—100% of "wheat stamps" . . .	"	\$8.00

§ 4. The owner and renter shall each receive their share of the cost of production prices on insurance as agreed to between themselves. In event any producer in any one year shall produce more than his share of the home consumption market as represented by cost of production wheat allotted him, such over-production shall be termed as exportable surplus and may be by the producer sold on the world market, stored, fed, or disposed of in any manner as he sees fit, except that none of such surplus shall be sold on any market in the United States for domestic consumption purposes. If a producer stores all or part of his surplus wheat and fails to produce his quota of allotted home consumption wheat in following years he shall be permitted to sell on the home markets from such surplus enough to fill his quota for that year.

§ 6. Congress shall appropriate two hundred million dollars (\$200,000,000) as a fund to take place of the insurance in such areas

as are now affected by drought or other causes of crop failure at the present time, said advance payment to be taken out of the producer's allotted bushels sold when he again harvests a normal crop. When the government advances the premium for a farmer, as above stipulated, it shall place such farmer in good standing in respect to this wheat insurance with the same privileges and protection as other producers who advanced their own premium.

§ 7. This insurance adjustment plan shall be operated on as economical, self-supporting, and non-profitting a plan as possible when established.

SUGGESTED AMENDMENTS

1—Wheat to be seeded in what is considered seasonable time and in good workmanlike manner.

2—The Government to have the power to raise the allotted wheat quota for each year if domestic needs require it.

3—Any person or persons imitating or counterfeiting for personal profit or gain said stamps made by the Government shall be prosecuted to the fullest extent of the law.

4—It is the intent and purpose of this act to furnish insurance to those entering the plan regardless of whether individuals have contributed to the insurance fund or not, it being expressly understood that the liability of participants shall have been discharged when and if they market wheat and thereby contribute to the insurance fund.

5—To guard against any unforeseen difficulties in marketing the wheat the Government should establish an available revolving fund sufficient to take care of purchases of any peak marketing and storing of wheat by the producer, in the country elevator. Said revolving fund to be maintained from year to year without depletion, this fund to take care of all handling charges plus freight.

6—*Be It Further Provided*, that the Secretary of State is hereby instructed to forward copies of this resolution to chairmen of committees on agriculture in legislative bodies of the States of South Dakota, Montana, Nebraska, Kansas, Oklahoma, Texas, Idaho, Colorado, Wyoming, and Washington; and to our Congressmen and Senators from North Dakota, and to the President of the United States.

Filed January 27, 1939.

Senate Concurrent Resolution No. 20—Stucke, Owings, Thatcher
and Streibel.)

ESTABLISHMENT OF PRICES ON FARM PRODUCTS EQUAL TO
THE COST OF PRODUCTION

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring:*

WHEREAS, the farmers of the United States by producing the food products of the Nation are rendering society a greater service than any other group of citizens, and

WHEREAS, in producing the wealth which sustains life, the producers are forced to work long days and are deprived of the luxuries enjoyed by other professions, and

WHEREAS, the Federal Government has seen fit to allow the importation of millions upon millions of dollars worth of the products of the farm—in fact it would require many millions of acres of American soil to produce this amount of agricultural products, and

WHEREAS, many thousands of farm homes have been lost through mortgage foreclosures, tax deeds and otherwise, and

WHEREAS, the causes of this condition in our farming industry are drouth, importation of farm products, and prices that are far below the cost of production,

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, That this Legislative Assembly of North Dakota respectfully memorialize the Congress of the United States to establish prices on all major products of the farms of this Nation, that will give the owners and tillers of these farms the cost of production, and

BE IT FURTHER RESOLVED, That attested copies of this resolution be sent to both Houses of the Congress of the United States, to each of the members thereof from this State, and to the Secretary of Agriculture, all of Washington, D. C.

Filed January 26, 1939.

Senate Concurrent Resolution No. 106.—(Holl)

REQUESTING FEDERAL INVESTIGATION OF COST OF
PRODUCTION OF VARIOUS ITEMS

A concurrent resolution urging immediate investigation by Congress of manufacturers of farm implements to determine costs of raw materials, manufacture, distribution, ultimate costs to farmer, price spread between farmer and consumer of farm products, determination of farm machinery prohibitions, prohibitions as to flax crops and importation to meet the country's need, and to determine if a trust exists exercising unfair practices to the detriment of the agricultural commonwealth.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the Government of the United States is largely dependent upon agriculture as one of its basic industries, the solvency of which must be assured if we are to continue as a happy and prosperous nation, and

WHEREAS, all attempts by the Government or independent agencies to appreciably narrow the spread between the prices received by the farmer or agriculturist for the products he has to sell and the price said farmer or agriculturist has to pay for the necessary equipment or machinery to the successful operation of said agricultural industry has been of no avail, and

WHEREAS, the farmer or agriculturist for the past many continuous years has been compelled to accept prices for his products much below the cost of production, while at the same time he has been compelled to pay ever-increasing prices for the machinery and equipment essential to the successful operation of said agricultural industry, bringing about a recognized condition where the purchase of new or replacement machinery is almost prohibitive, as for example during the year 1915 a farmer could buy a binder in exchange for approximately 145 bushels of wheat, while during the year 1938 it would require approximately 1050 bushels to replace the same machine, notwithstanding the ever-increasing supply of raw materials essential to the manufacture of machinery and equipment leading toward and actually bringing about a lower market price to the manufacturer, and

WHEREAS, the price spread between what the farmer or agriculturist receives for the products he has to sell and what the ultimate consumer has to pay appears to be sufficient to afford the producer the cost of production, and

WHEREAS, there is an ever-growing belief on the part of the agricultural commonwealth to the effect that an implement trust does in fact exist, exercising unfair practices to the detriment of agriculture, and

WHEREAS, there is entertained a further belief of sinister motives and unfair practices on account of the immensity, financial ability and influence arising therefrom on the part of said farm implement manufacturers by and between said manufacturers and the various Federal agencies, such as the Soil Conservation Department, the Department of Agriculture and the officials whose duty it is to impose duties and tariffs through the prohibition of the use of certain farm implements, such as the mold-board plow etc., making necessary the purchase of new equipment; the forbidding of farmers to raise flax while at the same time permitting large imports of flax from foreign countries to the detriment of the United States farmer; leading to the conclusion that the said United States farmer was sold down the river so that the door would be left open and enable the farm implement manufacturers to sell their wares to the countries favored with such imports to this country, and

WHEREAS, the farmer is anxious to co-operate with the Federal Government on any stable plan to benefit agriculture, but finds it a physical and financial impossibility to keep abreast of the kaleidoscopic changes in policies of the Department of Agriculture requirements, and

WHEREAS, Thomas Jefferson once said, "I have sworn on the Altar of God eternal hostility against any form of tyranny over the mind of man; I am for freedom of speech and freedom of the press; I am opposed to silence by force instead of reason, any complaint or criticism, just or unjust, by our people against the government," and further left with us with this admonition, "Were we directed from Washington when to sow and when to reap, we should soon want bread;"

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, That we petition and urge the Congress of the United States to institute immediately an investigation into all matters contained herein and to enact such laws that will eliminate the abuses complained of to the end that the farmers of this Nation may receive the cost of production for their products and thereby be placed on a parity with other forms of industry, and

BE IT FURTHER RESOLVED, That attested copies of this resolution be sent to both Houses of Congress of the United States, to each of the members thereof from this State, and to the Secretary of Agriculture, all of Washington, D. C.

Filed February 14, 1939.

Joint Memorial Resolution.—(Thorson)

HON. JOSEPH M. DEVINE

Be It Resolved by the Twenty-sixth Legislative Assembly of the State of North Dakota:

WHEREAS, since the close of the Twenty-fifth Legislative Assembly many former officers including 46 men who served in one or both houses of the Legislature, have been called from life,

AND WHEREAS, they all rendered a distinct and lasting service to this State not only in public office but in their private capacities by loyalty to duty and high ideals,

THEREFORE, BE IT RESOLVED, That in the death of these honorable and honored men, we severally and unitedly express our deep appreciation of them, and of the lives they lived, and of the services they rendered, not only in their public life but as earnest, loyal citizens and residents of their respective communities, and that we mourn their departure and express our deepest sympathy for the members of their families.

BE IT FURTHER RESOLVED, That the lessons we can learn from the lives of those who have preceded us are constant devotion to our country and that we must love and defend our country for our country's sake. We must faithfully and courageously discharge the duties which devolve upon us in whatever station or sphere of life we may be placed. We must transmit unimpaired to those who follow us the heritage we have received from those whose lives we memorialize today.

AND BE IT FURTHER RESOLVED, That these memorials be printed in the House Journal of this legislative day and that duly enrolled copies thereof be sent to the present head of the surviving family of each of said deceased.

The death of Joseph M. Devine removed from North Dakota one of its most prominent and useful citizens. He was born in March, 1861, in what is now the State of West Virginia, but at that time a part of Virginia, just at the beginning of the war between the States. He came of an excellent family who were neither rich or not poor, but were a part of that great substantial portion of the citizens of this country on whom rests the responsibility for the stability of our government. Mr. Devine knew the necessity and the benefits of hard work. He worked his way through the University of West Virginia, from which institution he was honorably graduated.

In 1883 he came to Dakota Territory and filed on a homestead in LaMoure County and was engaged in both farming and school

teaching. For fifty-five years he took an active and honorable part in the public affairs of both Territory and State. He served the public in many different capacities with honor and credit to himself and great usefulness to the people.

In 1884 he was elected county superintendent of schools for that county and served ten years in that capacity. In 1896 he was elected Lieutenant Governor of North Dakota and in August 1898 he became Governor on the death of Governor Frank Briggs. In November 1898, he was re-elected Lieutenant Governor. It is said he was a model presiding officer and had the respect and confidence of the entire Senate during the two sessions he was in the chair.

In 1900, Mr. Devine was elected Superintendent of Public Instruction and occupied that office until January 1, 1903. He engaged in business at Minot in 1903, but was soon called to other public positions.

He was secretary of the board of trustees of State Normal Schools from 1911 to 1913. He superintended the construction of the buildings for the Normal School at Minot.

Mr. Devine was appointed superintendent of the State Training School at Mandan which position he held for more than ten years. He was then appointed State Immigration Commissioner and served in that capacity till the office was abolished.

Mr. Devine served the public for more than half a century and at no time did he receive more than a meager salary, but notwithstanding that, he rendered the highest degree of services he was capable of and was always true to every trust. Mr. Devine passed away at Mandan, August 31st, 1938. Mrs. Devine, one son and two daughters survive.

Filed March 8, 1939.

Senate Concurrent Resolution No. 24—(Thatcher, Brant, Morrison and Holl.)

**A CONCURRENT RESOLUTION URGING THE ESTABLISHMENT
OF A DIVISION OF COOPERATIVES IN THE DEPARTMENT
OF AGRICULTURE**

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring:*

WHEREAS: The establishment and maintenance of co-operative organizations is of vital importance to the Nation, and affords a commendable solution of the serious problems involving the farmers, workers and consumers; and,

WHEREAS: There is no government agency dedicated to the principles of co-operation and pledged to the upbuilding of the co-operative movement, the present status being as follows:

In the Department of Agriculture the former Division of Co-operative Marketing has been shifted, first to the Federal Farm Board, and thence to the Farm Credit Administration, performing certain services for farmers' producing and marketing co-operatives; the Consumers' Counsel Division of the Agricultural Adjustment Administration rendering assistance to consumers' co-operatives by supplying them with information and reporting progress in "The Consumers Guide"; and,

In the Department of Labor the Bureau of Labor Statistics conducts surveys of consumers' co-operatives and issues publications on the subject; and,

WHEREAS: It is highly desirable to coordinate the work in co-operative buying and selling done in the several government agencies, and to strengthen it in such a way that it will provide the maximum of service to farmers, workers and consumers:

NOW, THEREFORE: BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, That we petition and urge the Congress of the United States to enact legislation and make the necessary appropriations to create and establish a Division of Co-operatives in the Department of Agriculture, having for its purpose the assembling, compiling and maintaining of files of statistical data relating to the accomplishments of co-operative enterprises, the statutes of Congress, of the several States and foreign countries affecting co-operatives, together with the co-ordinating of all duties and responsibilities toward co-operatives, now reposed in the various agencies of government; all to be used for the benefit and use of established co-operatives and new projects in process of organization, and further providing for the appointment of a Director, whose duty it shall be to render all personal and other assistance possible to such co-operatives, to make appropriations therefor; and,

BE IT FURTHER RESOLVED: That the Secretary of State is instructed and directed to transmit copies of this resolution to the President of the United States, the Secretary of Agriculture, the President of the Senate, the Speaker of the House of Representatives and to each of the members of Congress of this State.

Filed January 30, 1939.

House Resolution "H"—(Williams of Richland, Symington,
Odegard, and Hultstrand.)

REQUESTING CONGRESS TO LIFT EMBARGO ACT
IN CERTAIN CASES.

*Be It Resolved by the House of Representatives of the State of
North Dakota:*

WHEREAS, President Franklin Roosevelt in his message to Congress specifically pointed out the unjust and unfair operation of the present Embargo Act which prevents the victims of aggressor nations from obtaining the necessary materials and supplies for proper self-defense; and

WHEREAS, with the lifting of the present embargo Loyalist Spain stands ready to buy for cash and provide necessary transportation for large quantities of agricultural products which now constitute the surplus in our country and aggravates the depression here; and

WHEREAS, such sale of surplus commodities will definitely improve the economic position of our farmers while at the same time it will be of incalculable aid to the cause of democracy in Spain and serve to unite democratic nations against the encroachments of undemocratic and dictatorial forms of government which now seek to displace the form of government which we revere; now, therefore, be it

THEREFORE BE IT RESOLVED, That the House of Representatives of the State of North Dakota hereby memorialize Congress and the President of the United States to take immediate steps in lifting the present unjust and unfair embargo in keeping with the conditions as set forth hereinbefore; and be it also

RESOLVED, That one copy of this resolution be forwarded to each of the following:

The President of the United States, Franklin D. Roosevelt,
Vice Pres. John Garner, Pres of the U. S. Senate
The Secretary of State, Cordell Hull
Speaker Bankhead, House of Representatives
Senator Lynn J. Frazier
Senator Gerald P. Nye
Congressman William Lemke
Congressman Usher L. Burdick
Filed February 8, 1939.

House Concurrent Resolution No. 398.—(Scholl and Lange.)

FORT BERTHOLD ROAD PROGRAM

A concurrent resolution petitioning Congress to make appropriations ample for the road program of the Fort Berthold Reservation.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the Three Affiliated Tribes of the Fort Berthold Reservation have eight well-equipped government schools, with four busses traveling over ninety miles of poorly constructed roads in all kinds of weather, and

WHEREAS, medical and hospital service at the agency renders appreciable service to the Indians, but the work in the field is made very difficult due to poor road facilities, creating a condition unsatisfactory and dangerous, alike to the field medical service, and the members of the Three Tribes, and

WHEREAS, the construction of roads has enabled the young men of the reservation, just out of school, an opportunity to learn practical work and earn a livelihood, and

WHEREAS, the tribal council favors the construction of all-weather Indian Service roads, to serve as "life lines" to truck trails and fire suppression lanes to remote areas of the reservation, and

WHEREAS, the allotment for the past two years has been forty thousand dollars (\$40,000) per annum, a much smaller amount than allowed in many jurisdictions of smaller area, and it is believed this sum may be curtailed, and

WHEREAS, this fund does not allow for the employment of sufficient labor to operate equipment to advantage, nor employ available man power, and this, not being supplemented by State or other funds, makes it necessary to rely solely upon gratuitous appropriations, now therefore,

BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring: That the North Dakota Legislative Assembly urgently recommends that in the interests of health, welfare and education, that a yearly allotment of not less than seventy-five thousand dollars (\$75,000) be appropriated for the road program of the Three Affiliated tribes of the Fort Berthold Reservation, and

BE IT FURTHER RESOLVED: That the Secretary of State is instructed and directed to transmit copies of this resolution to the President of the Senate, the Speaker of the House of Representa-

tives, each of the members of Congress of this State, the Secretary of the Interior and the Commissioner of Indian Affairs.

Filed March 7, 1939.

House Concurrent Resolution No. 248.—(Schimke, Myers,
Schauss, Gray.)

FRAZIER-LEMKE REFINANCING ACT.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the farmers of the State of North Dakota are in a severe economic emergency because of the fact that it has cost them more to operate their farms than they have received for the crops produced, and

WHEREAS, the extreme drought of the past five years has made it necessary for large numbers of farmers to go on relief, and

WHEREAS, the Frazier-Lemke Refinancing Act, which is about to be voted upon by Congress, will be of great assistance to the farmers of North Dakota and will save thousands of people from hunger and privation,

NOW THEREFORE BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring, That we memorialize Congress to enact into law the Frazier-Lemke Refinancing Act, and

BE IT FURTHER RESOLVED That the Chief Clerk of the House of Representatives transmit a copy of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to the North Dakota delegation in Congress.

Filed March 4, 1939.

Senate Concurrent Resolution No. 17—(Nelson from McKenzie, Skarvold and Thorson.)

RELATING TO FUEL BRIQUETTES TO BE MADE FROM STRAW
Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, it would appear that the development of mobile or portable equipment which would make practical the utilization of straw and other farm by-products as fuel for heating purposes would be tremendous value to the farmers of the country.

THEREFORE, Be it resolved that the President of the United States, the United States Congress and the Secretary of the United States Department of Agriculture be and are hereby urged and requested that the development of mobile or portable equipment for the manufacture of briquettes out of straw for heating purposes be made a project on an extremely active basis at the Northern Regional Laboratory to be located at Peoria, Illinois.

BE IT FURTHER RESOLVED That copies of this resolution be transmitted by the Secretary of State to the President of the United States, the Secretary of Agriculture and to each member of Congress from North Dakota.

Filed January 26, 1939.

Senate Resolution No. C—(Committee on Agriculture and Livestock)

A RESOLUTION RELATING TO THE ERADICATION OF GRASSHOPPERS BY ARSENIC POISON

Be It Resolved by the Senate of the State of North Dakota:

WHEREAS, the Senate Committee on Agriculture unanimously agreed on the following: that grasshoppers cannot be eliminated by the spreading of arsenic poison and to the best judgment of the committee less than three per cent (3%) were killed by the use of arsenic poison in 1938;

WHEREAS, the farmers were more willing to cooperate in the spreading of arsenic in 1938 than they will be in 1939, and to the best judgment of the Committee eighty per cent (80%) of the farmers in North Dakota will not be willing to cooperate in the spreading of the bait in 1939, because of the poor results in the 1938 experiment and of great losses to livestock from such poison, and also the killing of upland birds, which are the natural remedy for the eradication of insects;

WHEREAS, several million dollars of the tax payers' money collected by the Federal, State and counties have been spent for this purpose and hardly any benefit has been received therefrom;

WHEREAS, the greatest benefit resulting from the preparation of grasshopper poison goes to the manufacturers of arsenic and other ingredients used in the preparation of the grasshopper poison, all of which is promoted and recommended by the Extension Department of the Agricultural College of this State;

THEREFORE, BE IT RESOLVED, That we recommend that all Federal money appropriated for the eradication of insects be allotted to the States according to amount or degree of infestation, to be spent and used by the State Grasshopper Committee according to their best judgment; and

BE IT FURTHER RESOLVED, That the State Grasshopper Committee make use of parasitic fungus prepared by Charles C. Hass of Whitewood, South Dakota, and other methods which they may see fit to adopt.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Secretary of Agriculture of the United States at Washington, D. C., to each member of Congress of this State, to the director of the County Agent's Extension Department of the Agriculture College at Fargo and to the chairman of each board of county commissioners of the State of North Dakota.

Filed February 9, 1939.

House Resolution "J"—(Heckman, Morland, Brown and Rait.)

REQUESTING FEDERAL FUNDS FOR GRASSHOPPER CONTROL

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the people of North Dakota did take an active part and cooperate to the fullest extent in last year's campaign to destroy grasshoppers by the spreading of poison, and

WHEREAS, experience has shown that this method was not effective in the western part of the State with its high altitude, dry climate and large acreage of idle land, and

WHEREAS, the predominating kind of grasshoppers which infested our State last year were the migratory kind which deposit their eggs in the stubble all over the fields, it is imperative that some kind of control work be carried on not only along the edges

of the fields but more or less by cultivating the land both what is cropped as well as all idle crop land, and

WHEREAS, there is a growing feeling in the State that at least some other method be tried to control grasshoppers and other insect pests.

BE IT THEREFORE RESOLVED by the House of Representatives of the State of North Dakota That they earnestly request that a portion of the appropriation for grasshopper control which is allocated to the State of North Dakota be used under the control and direction of the Grasshopper Control Committee of this State in conjunction with the Extension Service to carry on new projects in this State for the control of grasshoppers and other insect pests and that funds be made available in the early spring of 1939.

BE IT FURTHER RESOLVED That we also recommend that the program for propagating wildlife be further encouraged as a permanent help to control grasshoppers and other insect pests.

BE IT FURTHER RESOLVED That copies of this resolution be sent by the Secretary of State to the Secretary of Agriculture of the United States at Washington, D. C.; to each member of Congress from this State; to the director of the County Agricultural Extension Department of the Agricultural College at Fargo, North Dakota and to the chairman of each board of county commissioners in the State of North Dakota.

Filed February 16, 1939.

Senate Concurrent Resolution No. 25.—(Morrison)

HARRISON-FLETCHER BILL

A concurrent resolution urging enactment of the Harrison-Fletcher Bill for the benefit of needy schools, and for the expansion of the Smith-Hughes Act.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the most important duty and privilege of our State and Nation is to provide educational facilities for our young people, and

WHEREAS, due to a series of successive crop failures throughout the North Central States, and to the general economic distress, many schools in this State are in a precarious financial condition, threatening their continuance and jeopardizing their very existence, and

WHEREAS, the Harrison-Fletcher bill, proposed in the United States Congress, through contemplated grants to the States for the use and benefit of distressed school districts, points a way to undisturbed educational continuance and advancement, and

WHEREAS, to meet changing conditions it will be necessary for our young people on the farms to fit and prepare themselves by taking courses of intensive agricultural training and thereby be better equipped to engage in diversified farming and dairying activities, and

WHEREAS, such training may be effected through expansion of the terms of the Smith-Hughes vocational education act to more thoroughly and intensively cover the field of training in agriculture,

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring: That we hereby petition and urge the Congress of the United States to enact the proposed Harrison-Fletcher Legislation, and so amend and expand the present commendable Smith-Hughes Act, to meet the needs of the schools and young people of our agricultural region, and

BE IT FURTHER RESOLVED: That the Secretary of State is instructed and directed to transmit copies of this resolution to the President of the United States, the U. S. Commissioner of Education, and to each of the members of Congress of this State.

Filed March 4, 1939.

House Concurrent Resolution No. 225.—(Anderson of Benson, Anfinson, Beede, Panko, Ireland and Byrne.)

HAYDEN-CARTWRIGHT ACT

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the Hayden-Cartwright Act of Congress authorized a maximum of four million dollars be spent for Indian Service roads; and

WHEREAS, the appropriation of such an amount by Congress would provide for an expenditure of two hundred fifty thousand dollars for Indian Service Roads on Indian reservations in North Dakota; and

WHEREAS, the recommendations of the Bureau of Budgets for the fiscal year 1939-1940 provides for an amount of only two million dollars to be appropriated by Congress for Indian Service roads thus depriving the Indian reservations in the State of North Dakota of nearly one hundred fifty thousand dollars per annum.

NOW THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring: That the Congress of the United States be and the same is hereby memorialized to provide in their present appropriation bills that the full amount of the Hayden-Cartwright Act to-wit: four million dollars be allotted the several Indian reservations of the United States for Indian Service road purposes.

BE IT FURTHER RESOLVED, That the Chief Clerk be instructed to send a copy of this resolution to the Speaker of the House of Representatives in Congress, the President of the Senate, to the members of Congress from the State of North Dakota, to the Commissioner of Indian Affairs and to the Bureau of Budgets.

Filed March 4, 1939.

Senate Resolution "B"—(Select Committee)

JOHN L. HULTENG

WHEREAS, Divine Providence in His infinite wisdom has seen fit to remove from our midst our colleague and fellow worker, Senator John L. Hulteng of the seventh legislative district, and

WHEREAS, the said Senator John L. Hulteng left behind him a long and honorable record of public service both to the State of North Dakota and his home city of Grand Forks, having served with distinction as an alderman and president of the city commission of Grand Forks and as a member of the State Pardon Board, and had been elected a member of this body when his final illness prevented him from taking an active part in our deliberations,

BE IT RESOLVED, by the Senate of the Twenty-sixth Legislative Assembly of the State of North Dakota, That we express our grief at the loss of Senator Hulteng at a time when he was most valuable to his State, and that we express our condolences to the members of his family.

BE IT FURTHER RESOLVED, That this resolution be inscribed on the record of the Senate and that the Secretary be instructed to send properly executed and engrossed copies of this resolution to his wife and son.

Filed January 11, 1939.

House Concurrent Resolution No. 400.—(Byrne and O'Brien)

INVITATION TO PREMIER OF EIRE

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, we have been informed that His Excellency, Eamon DeValera, Premier of Eire will honor our country with a visit during the coming summer;

NOW THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring: That we extend to him a hearty welcome to our country and express the hope that he will be able to visit our State and be welcomed again by the men and women, and the sons and daughters of those who gave so generously their support financial and moral to him when he was in this country some years ago making his valiant and finally successful effort to establish his country as a free and independent nation.

We will welcome him to our State as a man who brought peace to his country, ended centuries of bloody warfare, ended foreign rule and established a free and independent nation.

The thousands of descendants of those who claimed Eire as their homeland still carry a bit of Ireland in their hearts and will generously welcome him to this State.

BE IT FURTHER RESOLVED, That a copy of this resolution duly authenticated by the signatures of the Governor of this State, the President of the Senate, the Speaker of the House, and with the Great Seal of this State affixed be transmitted by the Secretary of State through the proper official channels to His Excellency, Eamon DeValera, Premier of Eire.

Filed March 6, 1939.

House Concurrent Resolution No. 229.—(Representatives Stormon, Morland, Rait, Fraser and O'Brien and Senators Holl, Guenther, Lavik, Thatcher and Gronvold.)

INVITATION TO KING & QUEEN OF ENGLAND

Be It Resolved by the House of Representatives of the State of North Dakota the Senate Concurring Therein:

WHEREAS, we have been informed that Their Majesties, the King and Queen of the United Kingdom of Great Britain this summer will honor our country and people with their presence; and,

WHEREAS, there has been established, and is being maintained by the people of the Dominion of Canada and the people of the United States of America, a park situated partly in North Dakota and partly in the Province of Manitoba and known as the International Peace Garden, which park has been established and is being maintained as a constant memorial to the peaceful relations between the United States of America and the Dominion of Canada and the other members of the British Commonwealth of Nations.

Here there are no messengers of death and desolation, no fear of destruction by shot, shell, or poisonous gasses. Trees unselfishly give their shade—flowers their beauty and fragrance to all. Songs of birds, and not the shrieks of shrapnel or boom of cannon, are heard.

THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring, That we respectfully extend to Their Majesties a hearty welcome to our country, and we fervently express the hope that they may find it possible to come to this State and to the garden which our people and the loyal subjects of Their Majesties in Canada have established and dedicated to the principles of freedom, justice, and peace.

BE IT FURTHER RESOLVED That a copy of this resolution, duly authenticated by the signatures of the Governor of this State and of the presiding officers of the Senate and the House of Representatives, and with the Great Seal of the State of North Dakota thereunto attached, be transmitted by the Secretary of State of the State of North Dakota through the proper official channels for presentation to Their Majesties, the King and Queen of the United Kingdom of Great Britain.

Filed February 10, 1939.

House Concurrent Resolution No. 230—(Representatives Stormon, Morland, Rait, Fraser and O'Brien and Senators Holl, Guenther, Lavik, Thatcher and Gronvold.)

INVITATION TO CROWN PRINCE & PRINCESS OF NORWAY

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, we have been informed that Their Royal Highnesses, the Crown Prince Olaf, and his wife, the Crown Princess Martha, of the Kingdom of Norway, this summer will honor this State and its people by their presence here:

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring. That we extend to them a hearty welcome on behalf of the State and its people.

We welcome them as a man and a woman who have raised high the standards of public duty and civic virtue, and by their daily lives have set an example, not only for their own people, but for men and women everywhere.

We welcome them as representatives of a country and a people who have demonstrated their devotion to world peace and the principles of national honor and integrity, upon which any real peace must rest. In a world torn with barbaric strife and warfare, it is heartening to be able to view in retrospect the high example set by Norway and Sweden in 1905. They then demonstrated to the world that intelligent and truly civilized nations can settle fairly, effectively, and permanently, and without the sacrifice of national honor, any and all questions that may arise. As the people of Norway and Sweden today point with pride to the dismantled forts and razed fortifications along their common boundary, and rejoice in the fact that today flowers grow where formerly cannon stood, and birds sing where formerly messengers of death stood ready to bring destruction and woe, so we of North Dakota are proud of the fact that here on our soil, in the heart of the great North American continent, along our northern border, there lies a garden established and maintained through the voluntary efforts of the peoples of the United States of America and of the Dominion of Canada, our neighbor to the north, which garden is dedicated to the principles of good faith and justice between nations, and is a pledge of just and lasting peace.

We therefore respectfully invite Your Royal Highnesses to visit the International Peace Garden, in this State, as representatives of a country that has adopted as a part of its national creed the observation of "good faith and justice toward all nations," and that has constantly cultivated "peace and harmony with all."

BE IT FURTHER RESOLVED That a copy of this resolution, duly authenticated by the signatures of the Governor of this State, and the presiding officers of the Senate and the House of Representatives, and with the Great Seal of the State of North Dakota thereunto attached, be transmitted by the Secretary of State of the State of North Dakota through the proper official channels for presentation to Their Royal Highnesses, the Crown Prince and Crown Princess of Norway.

Filed February 10, 1939.

House Concurrent Resolution No. 231.—(Representatives Stormon, Morland, Rait, Fraser and O'Brien and Senators Holl, Guenther, Lavik, Thatcher and Gronvold.)

INVITATION TO PRESIDENT OF THE UNITED STATES.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, there has been established and is being maintained by the people of the Dominion of Canada and the people of the United States of America, a park known as the International Peace Garden, situated partly in North Dakota and partly in the Province of Manitoba, which park is dedicated to the principles of freedom, justice, and peace, and was established and is being maintained as a constant reminder of, and memorial to, the peaceful relations that so long have existed between the United States of America and the Dominion of Canada and other members of the British Commonwealth of Nations, and is a pledge that those relations shall continue for all time; and

WHEREAS, the governments of the United Kingdom of Great Britain, and the Kingdom of Norway, are dedicated to the same sacred principles of liberty and justice upon which the government of the United States of America rests, and have adopted as a part of their national creed the fundamental policy of our country, originated by George Washington, to "observe good faith and justice toward all nations" and to "cultivate peace and harmony with all."

THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate Concurring: That we respectfully extend to His Excellency, the President of the United States of America, a hearty invitation to visit the International Peace Garden, and suggest that, if possible, arrangements be made so that the time of his visit Their Majesties, the King and Queen of the United Kingdom of Great Britain, and Their Royal Highnesses, the Crown Prince and Crown Princess of the Kingdom of Norway, also visit the International Peace Garden, and thereby call again to the attention of all men the immutable principles of freedom and justice to which these nations are dedicated; the inalienable right of each individual to life, liberty and the pursuit of happiness; free government of, by, and for free men; and good faith, justice, and peace among all nations.

BE IT FURTHER RESOLVED That a copy of this resolution, duly authenticated by the signatures of the Governor of the State of North Dakota, and the presiding officers of the Senate and the House of Representatives, and with the Great Seal of the State of North Dakota, be transmitted by the Secretary of State of the State of North Dakota through the proper official channels for

presentation to His Excellency, the President of the United States of America.

Filed February 10, 1939.

House Concurrent Resolution No. 404.—(Joint Committee on Employment.)

PREPARATION OF PERMANENT JOURNALS.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That William J. Lowe, Secretary of the Senate, and Mrs. Minnie D. Craig, Chief Clerk of the House, are hereby authorized, empowered and employed to compare and index the Journal of the Twenty-sixth Legislative Assembly, and to complete the Senate and House Journals and mail out to the members the temporary Journals of the last days of the session, which have not been delivered to members before the close thereof; and the said William J. Lowe, Secretary of the Senate, and Mrs. Minnie D. Craig, Chief Clerk of the House, are hereby directed and required at their own cost and expense to arrange for and procure sufficient assistance to insure that the said work shall be completed within thirty days after the adjournment of the session.

BE IT FURTHER RESOLVED, that for the services of the said William J. Lowe, Secretary of the Senate, and Mrs. Minnie D. Craig, Chief Clerk of the House, as above set forth, that they be paid the sum of \$400.00 each, which shall include compensation for an assistant to be selected by each, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said William J. Lowe, and Mrs. Minnie D. Craig showing the completion of such work.

BE IT FURTHER RESOLVED, That the necessary postage for mailing out the copies of temporary Journals as aforesaid be furnished to the said Secretary of the Senate and the said Chief Clerk of the House as part of the legislative expenses of this session.

Filed March 7, 1939.

House Concurrent Resolution No. 224—(Crockett, Byrne and Fitch)

DANCE—LEGISLATIVE EMPLOYEES

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS it has in the past been the custom to make available to the members of the Third House the Memorial Hall of the State Capitol Building, to be used for their various entertainments during the duration of the legislative assembly, and

WHEREAS it would be of benefit to the House of Representatives and to the Senate, as well as to the members of the Third House, to have this hall used by the Third House for such purposes,

NOW, THEREFORE, be it resolved by the House of Representatives, the Senate concurring, That the Memorial Hall of the State Capitol Building be made available to the members of the Third House for entertainments as above referred to.

Filed February 9, 1939.

House Concurrent Resolution No. 81.—(Committee on Employment)

PROVIDING AND DESIGNATING HOUSE AND SENATE EMPLOYEES AND NAMING AND FIXING THEIR SALARIES:

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That for and during this Twenty-sixth Legislative Assembly the following named persons be employed and appointed as officers and employees of the Senate and of the House, and shall be paid the compensation set opposite their respective names:

HOUSE	
Minnie D. Craig, chief clerk	\$8.00
Albert Peterson, first assistant chief clerk	6.50
E. O. Waydeman, second assistant chief clerk	6.50
Marie Garske, desk reporter	8.00
Edw. Savre, sergeant-at-arms	5.00
C. E. Erickson, assistant sergeant-at-arms	4.50
Clara A Kane, chief stenographer	5.00
Marie Tunnell, stenographer	5.00
Pearl Lerfold, stenographer	5.00
Evelyn Anderson, stenographer	5.00
Corinne Emme, stenographer	5.00

Dorothy Witcik, stenographer	5.00
Adeline Orvik, stenographer	5.00
Walter Bubel, bill clerk	5.00
Henry O. Lundene, bill room clerk	4.50
Howard Crockett, voucher clerk	4.50
Arnold E. Banse, enrolling and engrossing clerk	5.00
A. O. Haugerud, calendar clerk	5.00
F. J. Haines, postmaster	4.50
Viola Erickson, assistant postmistress	4.50
Kenneth Morgan, page	4.50
Wesley Belter, page	4.50
Walter Radke, page	4.50
Oscar Wahlund, page	4.50
O'Neil Maasjo, page	4.50
Elsbeth Godwin, telephone attendant	4.50
Nellie Larson, cloak room attendant	4.50
Joe Bohn, cloak room attendant	4.50
Oscar Nelson, cloak room attendant	4.50
Helmer Twito, proofreader	5.00
William M. Dohn, ass't enrolling and engrossing clerk	5.00
Arnold Fuchs, proofreader	5.00
A. R. Powers, mailing clerk	4.50
Joseph Kratochvil, assistant mailing clerk	4.50
Albert Schmolenberger, assistant mailing clerk	4.50
Kasimir Schmalz, assistant mailing clerk	4.50
O. T. Haakenson, messenger to Governor	4.50
Gust Edlund, head janitor	4.50
Max L. Thiel, janitor	4.50
Martin Olson, janitor	4.50
Philip Himmerick, janitor	4.50
Jacob G. Kruger, janitor	4.50
Steafon Volk, janitor	4.50
Erick Westberg, doorkeeper	4.50
R. A. Dotzenrod, doorkeeper	4.50
Nels Quale, doorkeeper	4.50
William Holmquist, doorkeeper	4.50
Dominick Goetz, doorkeeper	4.50
M. J. Burns, night watchman	4.50
Nick A. Schall, clerk Appropriations Committee	4.50
R. H. Haaven, clerk	4.50
Morris Larson, clerk	4.50
John G. Nelson, clerk	4.50
R. C. Stubbs, clerk	4.50
Ben A. Schneider, clerk	4.50
B. J. Anderson, clerk	4.50

SENATE

William J. Lowe, secretary of Senate	\$8.00
A. Z. Nelson, assistant secretary of Senate	6.50
Phil Poppler, assistant secretary of Senate	6.50
Ruth Smith, desk reporter	8.00
Helen Steuart, bill clerk	5.00
Pearl Shaw, chief stenographer	5.00
June Baribeau, stenographer	5.00
Leone Hoff, stenographer	5.00
Louise Chase, stenographer	5.00
Dorothy Lundy, stenographer	5.00
Margaret Kraning, stenographer	5.00
Frances Rudel, stenographer	5.00
Vernice Wolff, stenographer	5.00
Jean Traynor, stenographer	5.00
Helen Steinmetz, stenographer	5.00
Eleanor Ahlstrom, clerk, State affairs	4.50
Idar Rimestad, clerk, judiciary	4.50
Emil Helberg, clerk, appropriations	4.50
Herbert Roberts, clerk, tax and tax laws	4.50
Eva Goetz, enrolling and engrossing clerk	5.00
B. Dortha Tabbert, assistant enrolling and engrossing	5.00
Emil Strand, sergeant-at-arms	5.00
Joe Fetting, assistant sergeant-at-arms	4.50
Henry Anderberg, proofreader	5.00
Bruce Nelson, assistant proofreader	5.00
Nels Johnson, postmaster	5.00
O. J. Harris, telephone clerk	4.50
C. S. Tornbom, press room messenger	4.50
Clarence Anderson, page	4.50
Vernon Otis, page	4.50
John Koehn, page	4.50
Lloyd Olson, page	4.50
J. C. Goll, bill room clerk	4.50
I. M. Hanson, assistant bill room clerk	4.50
Edwin M. Nething, doorkeeper	4.50
Charles Walby, doorkeeper	4.50
T. O. Thompson, doorkeeper	4.50
F. J. Wanner, doorkeeper	4.50
Harold Burau, chart clerk	4.50
George Schlafmann, house messenger	4.50
Theodore Heinle, janitor	4.50
Elmo B. Ressler, night watchman	4.50
Robert Wage, janitor	4.50
Gilbert Lee, janitor	4.50
E. W. Willoughby, cloak room attendant	4.50
S. B. Salverson, chief mail room clerk	4.50
George Gehringer, assistant mail room clerk	4.50

Theodore Thompson, assistant mail room clerk ----- 4.50
Chaplain ----- 3.00

That the compensation of each of said employees shall commence from the date upon which said employee was sworn in.

Filed February 8, 1939.

Senate Concurrent Resolution No. 288—(Blaisdell, Stucke
and Fredrickson)

EXTRA PAY FOR EMPLOYEES

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring:*

WHEREAS, the employees of the Senate and the House of Representatives are entitled to four extra days compensation,

THEREFORE BE IT RESOLVED That each of said employees of the Senate and the House of Representatives be paid for four extra days at the rate at which they were employed and paid during the session, to be paid from the appropriation for legislative expense of the 1939 Legislative Assembly of the State of North Dakota.

Filed March 7, 1939.

Senate Concurrent Resolution No. 42.—(Raschko)

A CONCURRENT RESOLUTION FOR RE-ESTABLISHING AND
RE-HABILITATING THE FOUNDATION HERDS OF LIVE
STOCK FOR THE FARMERS AND RANCHERS OF
THE STATE OF NORTH DAKOTA.

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring:*

WHEREAS, by reason of extreme drouth conditions existing throughout the State of North Dakota during the past several years, the foundation herds of cattle and other live stock have been seriously depleted,

WHEREAS, the limited number of acres which can be planted to wheat under the Federal Crop Control Act, the land taken out of wheat production can, for the most part, only be planted to feed crops or used for grazing land, and

WHEREAS, a return of the farmers of North Dakota to a condition of economic stability can only be accomplished by providing

a source of such loans to farmers for the purpose of re-habilitating themselves by means of a re-stocking program and

WHEREAS, despite the many forms of loans now being made available to the distressed farmers of the United States through the various Federal loaning agencies, no provision has been made by such agencies for loans to be used in re-establishing foundation herds of live stock, and

WHEREAS, such loans must of necessity run over a considerable period of time, and are in the nature of capital loans which the banks, State and National, are not permitted to make because of the length of time involved in the liquidation thereof,

NOW, THEREFORE, BE IT RESOLVED by the Legislative Assembly of the State of North Dakota, That the serious drouth conditions be called to the attention of all Federal agencies set up and now operating for the purpose of extending loans to distressed farmers, and that said agencies be urged to immediately make available to such farmers residing in the State of North Dakota, such loans as may be deemed advisable considering the condition and circumstances of each and such farmer, for the purpose of re-establishing foundation herds of live stock.

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted to each such Federal loaning agency, and to each of the Senators and Representatives in Congress from the State of North Dakota.

Filed February 2, 1939.

Joint Memorial Resolution.—(Thorson)

HON. WILLIAM D. LYNCH

Be It Resolved by the Twenty-sixth Legislative Assembly of the State of North Dakota:

WHEREAS, since the close of the Twenty-fifth Legislative Assembly many former officers including 46 men who served in one or both Houses of the Legislature, have been called from life,

AND WHEREAS, they all rendered a distinct and lasting service to this State not only in public office but in their private capacities by loyalty to duty and high ideals,

THEREFORE, BE IT RESOLVED, That in the death of these honorable and honored men, we severally and unitedly express our deep appreciation of them, and of the lives they lived, and of the services they rendered, not only in their public life but as earnest, loyal

citizens and residents of their respective communities, and that we mourn their departure and express our deepest sympathy for the members of their families.

BE IT FURTHER RESOLVED, That the lessons we can learn from the lives of those who have preceded us are constant devotion to our country and that we must love and defend our country for our country's sake. We must faithfully and courageously discharge the duties which devolve upon us in whatever station or sphere of life we may be placed. We must transmit unimpaired to those who follow us the heritage we have received from those whose lives we memorialize today.

BE IT FURTHER RESOLVED, That these memorials be printed in the House Journal of this legislative day and that duly enrolled copies thereof be sent to the present head of the surviving family of each of said deceased.

William D. Lynch was born December 24th, 1880, died April 13, 1938. He came to North Dakota in 1885, receiving his schooling in this State. He taught school in LaMoure County for several years. He then worked with the late Congressman T. F. Marshall making surveys in northwestern North Dakota. He also worked for the Northern Pacific and Northwestern Railroads making surveys.

While working with Congressman Marshall he became interested in law and later studied at the Universities of Wisconsin and Minnesota and was a graduate of the latter. Senator Lynch was admitted to the bar in 1906 and became county judge of LaMoure County in 1908 holding this office until 1916.

During the Wilson administration Senator Lynch was the first State Prohibition Director.

He was elected to the State Senate in 1923 and served until 1935. He was a member of the National, State, district and county bar association.

In 1910 Mr. Lynch married Anna C. Cruden of LaMoure, who died in 1923. In 1926 he married Agnes Dougherty of Forman. He is survived by his widow and the following children: Thomas, David, John, Marianna and William David, Jr.

Senator Lynch was a leader of men, a noted lawyer and statesman who rendered to his State, county and district a lasting service.

Filed March 8, 1939.

House Concurrent Resolution No. 405.—(Joint Committee
on Employment.)

EXTRA TIME MAILING CLERKS AND PROOFREADERS

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring:*

That A. R. Powers and Albert Schmolenberger, mailing clerks of the House, and S. B. Salveson and Theo. Thompson, mailing clerks of the Senate, of the Twenty-sixth Legislative Session, be retained for five days after the close of this session to complete sending Senate and House Journals of the last days of the session; and Helmer Twito, proofreader in the House and Bruce Nelson, proofreader in the Senate be retained for two days after the close of the session to finish proofreading the Journals of the House and Senate for the last day of this Twenty-sixth Legislative Assembly; and that Kenneth Morgan and O'Neil Maasjo, pages of the House, and Clarence Anderson and John Koehn, pages of the Senate, be retained for two extra days after the close of the session for the purpose of wrapping and either mailing or expressing to the members of the Senate and House, bill books, Journals, reports and files.

BE IT FURTHER RESOLVED, That each of the above named employees, to-wit: A. R. Powers and Albert Schmolenberger and S. B. Salveson and Theo. Thompson as mailing clerks, be paid for said additional five days the sum of \$4.50 per day; and Helmer Twito and Bruce Nelson, proofreaders be paid the sum of \$5.00 per day for two days, that Kenneth Morgan, O'Neil Maasjo, Clarence Anderson and John Koehn as pages be paid the sum of \$4.50 per day for said additional two days; all the above to be paid as other legislative expense and paid when the respective claims are verified by the affidavits of said parties herein named, at the completion of such work.

Filed March 7, 1939.

House Resolution F.—(Joiner, Lange, Anderson of McKenzie, Rettke and Knutson.)

A RESOLUTION MEMORIALIZING CONGRESS TO ENACT NECESSARY LEGISLATION AND MAKE THE REQUIRED APPROPRIATION TO COMPLETE THE MISSOURI RIVER DIVERSION PROJECT IN NORTH DAKOTA.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS surveys have been made of the Missouri River, and completed, the same being favorable for the diversion of such river, and

WHEREAS considerable money has been expended in the making of such surveys, the engineers having made their reports thereof, and

WHEREAS a great deal of time and money have been expended in water conservation and flood control, and

WHEREAS it appears that the diversion of the Missouri River would be most advisable, and beneficial to the people in the State of North Dakota

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota that we earnestly and emphatically recommend to the Congress of the United States, and request them, to enact necessary legislation and make the required appropriations to provide for the completion of the Missouri River Diversion Project in the State of North Dakota as soon as the same may possibly be done.

BE IT FURTHER RESOLVED that we direct attention to the many benefits that will be generally provided for the people of the State of North Dakota, in addition to the water conservation and flood control benefits, from such diversion.

BE IT FURTHER RESOLVED that the Chief Clerk of this Assembly transmit a copy of this resolution to each of our Congressmen in both Houses of the United States Congress, with the request that the matter be brought up for immediate attention.

Filed January 30, 1939.

Senate Concurrent Resolution No. 285.—(Committee on Agriculture and Livestock)

NATIONAL LAND POLICY

A concurrent resolution memorializing the members of the United States Congress urging Congress to pass a bill to establish a National land policy and to provide homesteads free of debt for actual farm families, which bill is now pending in Congress known as S. 136.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

WHEREAS, there is a bill known as S. 136 now before the Congress of the United States to establish a National Land Policy, and to provide homesteads free of debt for actual farm families, and,

WHEREAS, if said bill is enacted into law, it will do more to relieve the agricultural situation in the United States than any measure that has heretofore been proposed in Congress and will bring immediate and permanent relief to more than 35,000 farm families in North Dakota whose farm homes are heavily mortgaged.

NOW, THEREFORE, the Twenty-sixth Legislative Assembly of the State of North Dakota respectfully requests and petitions the Congress of the United States to give immediate and favorable consideration of this bill, and,

BE IT FURTHER RESOLVED, That the Secretary of State cause sufficient copies of this resolution to be printed, and that he cause to be mailed a copy to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States requesting that said resolution be read before each of said bodies, and also that a copy of this resolution be sent to each of the Senators and Representatives in Congress from the State of North Dakota.

Filed March 6, 1939.

Joint Resolution "A"—(Senator Whelan and Representative Fitch.)

NATIONAL PATRIOTIC REVIVAL

Be It Resolved by the Senate of the State of North Dakota and the House of Representatives:

WHEREAS, the whole world, rent asunder by strife and contention, violences and intolerance, is today in a state of turmoil and uncertainty, marked by a titanic struggle between Democracy and Autocracy, while in this country anti-American forces are striving to discredit and destroy the ideals and institutions symbolized by the

American Flag, and social, political and economic forces are combating one another; and

WHEREAS, never before in the history of the Nation has there been greater need among our people for the unity, cooperation and tolerance for which our Country's Flag stands; and

WHEREAS, with the Stars and Stripes as its emblem the United States Flag Association, a non-profit, non-partisan and non-sectarian organization incorporated under Federal law and headed by the President of the United States as Honorary President General, is, with the cooperation of various groups, organizations and fields of activity in our National life, conducting a National Patriotic Revival, culminating in FLAG WEEK, June 8th to 14th next, for the two-fold purpose (1) of awakening our people to the dangers threatening our National life, thereby causing them to resolve as never before to uphold and preserve our country's ideals and institutions, and (2) promoting national unity, patriotic cooperation and racial and religious tolerance; therefore, be it

RESOLVED by the Senate and the House of Representatives of the State of North Dakota that they heartily indorse the plan for a great National Patriotic Revival, and that the Governor is hereby authorized and requested, first, to direct the State Commissioner of Public Instruction to arrange for the suitable observance of FLAG WEEK in all the public schools, and, secondly, to issue a proclamation calling upon the State officials to display the United States Flag on all State buildings during FLAG WEEK, and inviting the people of the State to fly the Flag at their homes and other suitable places as well as on their cars, and that in every community they hold special exercises at which means shall be taken to give significant expression to our thoughtful love of America, our pride in its glorious history, our faith in its destiny, our devotion to its ideals and institutions and our determination to uphold and preserve them now and forever.

Filed March 6, 1939.

House Concurrent Resolution No. 412—(Anderson of McKenzie)

**METHOD OF EXPENDITURE OF FUNDS APPROPRIATED FOR
OLD AGE ASSISTANCE FOR THE BIENNIUM BEGINNING
JULY 1, 1939, AND ENDING JUNE 30, 1941.**

Be It Resolved by the House of Representatives, the Senate Concurring Therein, That

WHEREAS, the Public Welfare Board has requested an appropriation of \$7,143,380 for old age assistance on the \$40 a month

minimum basis as provided for by the amendment to the Old Age Assistance Act approved by the electorate on November 8, 1938; and

WHEREAS, it is the judgment of the Public Welfare Board, after a careful survey that this amount would be needed to provide for old age assistance in North Dakota for the biennium on the basis of the \$40 minimum; and

WHEREAS, the Public Welfare Board have estimated that the sum of \$1,414,700 will be necessary to provide for old age assistance for the biennium beginning July 1, 1939 and ending June 30, 1941 on the basis of the Old Age Assistance Act prior to its amendment on November 8, 1939; and

WHEREAS, the Public Welfare Board in estimating the amount necessary for old age assistance during the biennium on the \$30 a month maximum basis have made this estimate assuming that the State is only required to pay 50% of the amount in excess of that furnished by the Federal Government and that the counties are to furnish the other 50%; and

WHEREAS, the initiated amendment approved November 8, 1938 provided that the State shall pay 85% of the amount in excess of that furnished by the Federal Government and that the counties shall only pay 15% of the amount in excess of the amount paid by the Federal Government; and

WHEREAS, the Public Welfare Board has asked for an additional appropriation so as to enable the State to pay on the basis of 85% of the amount in excess of that contributed by the Federal Government instead of 50%; and

WHEREAS, the State Senate, because of excess demands made upon public funds from other sources, does not feel that there are funds sufficient available to appropriate either the amount of \$7,143,380 required to finance old age assistance on the minimum of \$40 a month basis as provided by the initiated amendment of November 8, 1938 or the additional sum requested by the Public Welfare Board to make payments by the State of 85% of the amount in excess of the amount paid by the Federal Government; and

WHEREAS, the 1939 Legislative Assembly has seen fit to appropriate but the sum of \$1,414,700 for old age assistance during the biennium beginning July 1, 1939, and ending June 30, 1941;

THEREFORE, BE IT RESOLVED, That the Public Welfare Board use the sum of \$1,414,700 appropriated by this Legislative Assembly in providing for old age assistance; that the Public Welfare Board is authorized and directed to expend such funds each month as it is necessary to use in excess of the amount contributed by the Federal Government to continue paying old age assistance grants to

needy old age assistance clients on the basis of need, providing, however, that not to exceed 75% of the appropriation so made may be expended during the first eighteen months of the biennium.

IT IS FURTHER RESOLVED, That in the event that the courts should hold that it is necessary for the State to pay 85% of the amount of old age assistance in excess of that contributed by the Federal Government and that the counties shall only be required to furnish 15% of the amount in excess of that contributed by the Federal Government and the Public Welfare Board finds that the amount appropriated by the 1939 Legislative Assembly is not sufficient to provide for old age assistance on the basis of need that the Governor of the State of North Dakota is hereby requested, if in his judgment it is necessary, to call the Legislative Assembly into special session for the purpose of providing such additional funds as may be necessary to provide for old age assistance to the needy aged of this State and for such other purposes as in the judgment of the Governor of this State may be necessary.

Filed March 8, 1939.

House Concurrent Resolution No. 402.—(Peterson of Bottineau
and Fraser.)

REQUESTING PEGGED PRICE ON GRAIN

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring:*

WHEREAS, the State of North Dakota and other northwestern States, for the past forty years, have supplied the needs of the American people with small grains and have produced untold wealth in the form of agricultural products, and

WHEREAS, financial manipulation and other causes have made it impossible for the farmers of the State of North Dakota and other northwestern States to realize a living from the sale of such products, and

WHEREAS, the farmers of North Dakota and other agricultural States are bankrupt because of financial manipulation and control of the prices of agricultural products,

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives; the Senate concurring:

That we memorialize Congress to pass such legislation as may be necessary to enable the Federal Government to purchase wheat, corn, barley, oats, spelts, flax, cotton, rye and other agricultural

products and to store same in suitable local government terminal elevators.

That Congress take such further steps as may be necessary to finance the purchase of such products by small denomination, low interest bearing bonds and that the price pegged upon such products so as to insure to the farmers of the United States and particularly the State of North Dakota, a parity price upon agricultural products.

BE IT FURTHER RESOLVED That a copy of this resolution be mailed to the President of the United States, to the Director of the Department of Agriculture and to the congressional delegation of the State of North Dakota in Congress.

Filed March 7, 1939.

Senate Concurrent Resolution No. 12—(Thorson, Skarvold,
Nelson of McKenzie.)

A CONCURRENT RESOLUTION RELATING TO THE RESEARCH
BY THE NORTHERN FEDERAL LABORATORY ON PRO-
DUCTION OF POWER ALCOHOL.

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring Therein:*

WHEREAS, it is apparent that the investigation and production of power alcohol from agricultural products is in its infancy and whereas this field holds tremendous possibilities for the future in stabilizing farm income and increasing the demand for agricultural products.

THEREFORE, BE IT RESOLVED That the President of the United States, the United States Congress and the Secretary of the United States Department of Agriculture be and are hereby urged and requested to make the research and investigation of the conversion of agricultural culls, wastes and surplus into power alcohol a project on extremely active basis at the Northern Regional Laboratory to be established at Peoria, Illinois.

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted by the Secretary of State to the President of the United States, the Secretary of Agriculture and to each member of Congress from North Dakota.

Filed January 28, 1939.

Senate Concurrent Resolution No. 287.—(Guthrie)

PUBLIC RELIEF NEEDS.

A resolution urging the President of the United States and the Congress of the United States to make such adequate provisions for public relief needs in the State of North Dakota as are warranted by conditions as they have been developed in reports to the Governor of North Dakota and to members of the Twenty-sixth Legislative Assembly of the State of North Dakota, by a special citizens committee, and urging that there be no further curtailment at this time of Federal funds for work relief, old age assistance, aid for dependent children, aid to the blind, and for grants in aid to farmers:

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the relief needs of the State of North Dakota as they are developed by the inescapable facts are greater at this time than at any time in the history of this State, the Twenty-sixth Legislative Assembly of the State of North Dakota respectfully represents to the President and to the members of Congress of the United States the following facts:

The State of North Dakota has approximately 680,000 people. For more than seven years because of drought, crop failures, insect pests, and other factors over which the people of the State have no control, there has been developed a tremendous burden of tax delinquency, arriving at the point where to discharge its ordinary constitutional obligations to the people of the State, the government of North Dakota is faced with the greatest problem of its history.

On the basis of four members to a family, a population of 680,000 persons is the equivalent of 170,000 families in North Dakota. Of this number there are at present in a relief status, as evidenced by the employment on WPA rolls of 14,300 and by the grant in aid lists of FSA approximately 30,000 families, a total of more than 44,000 families. In addition to this, it is estimated that easily 30,000 more families are reduced to a bare subsistence level of living and are unable to discharge normally their responsibilities as taxpayers. It thus becomes evident that approximately 90,000 families must accept responsibility for a tax burden of more than \$25,000,000 in the forthcoming biennium. While facing further uncertainties of crop production, it is also evident that the burden of relief now indicated can be but slightly reduced in the coming year.

WHEREAS, it is apparent that the current Federal relief appropriations, while going a long way to meet need, are necessarily expended upon an emergency basis, while it is clearly evident that the State has before it is a great problem of rehabilitation, it is respectfully urged upon the President and members of Congress that appropriation of Federal funds to North Dakota be continued on a

basis which will meet insofar as possible, utilizing the best available rehabilitation methods, the needs of the people.

WHEREAS, it is clearly established by the facts that in large sections of North Dakota because of crop failure we now have, what may be termed, stranded populations, and

WHEREAS, it is evident that nothing is to be gained by moving these stranded populations to new areas where their future welfare must necessarily be determined by new agricultural practices with which few of them are familiar, and their welfare will be effected by economic factors which exist throughout the country, and

WHEREAS, it is apparent that the future destiny of North Dakota and its proper development can best be assured by employing the efforts of the people who know the country, its production possibilities, the vicissitudes of its climate and the natural problems it presents, we urge that the most careful attention be given to scientific methods for the rehabilitation of the people where they are.

We urge that more funds be made available for intelligently engineered, and well considered water conservation projects, for the education of the people in new methods of land utilization, and for relief financing which will encourage stranded farmers and town workers to assume their full share of responsibility in rebuilding North Dakota.

We respectfully represent that any curtailment of Federal expenditures in North Dakota under present conditions cannot but result in suffering for individuals, loss of morale to the people and in a lamentable loss of time in obtaining the objectives which must be attained to rehabilitate this State.

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring:

That we urge a thorough investigation of the North Dakota relief situation, directed to the end that for the present the best results for the welfare of the greatest number of people be made a practical objective.

Filed March 7, 1939.

House Resolution No. G.—(Stone)

FEDERAL RELIEF APPROPRIATIONS

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the Honorable Franklin D. Roosevelt, President of the United States, requested of Congress an appropriation in the amount of eight hundred seventy-five million dollars for relief for the needy and jobless through the Works Progress Administration; and

WHEREAS, progressive minded citizens and leaders in business, labor and agriculture are supporting the President in this matter and have stated that it would be very unwise at this time to seriously curtail the work programs throughout the Nation; and

WHEREAS, this Legislative Assembly does believe and has gone on record in the proper resolutions asking that our Representatives in Washington, do support the President in this matter; and

WHEREAS, news reports indicate that the efforts of our President to aid the needy and jobless were frustrated, when in the United States Senate, by a majority of one vote, a slash of one hundred fifty million dollars was made; and

WHEREAS, Representative William Lemke from North Dakota did vote against the wishes of the majority of the people of the State of North Dakota in an endeavor to obstruct the passage of said measure by the House of Representatives in Congress; and

WHEREAS, the Junior Senator from North Dakota, Gerald P. Nye, did vote against the President and against the wishes of the majority of the people of North Dakota, as expressed in our resolution, and by his vote did defeat the high purpose of the President,

NOW, THEREFORE BE IT RESOLVED That this House of Representatives of the State of North Dakota do hereby severely criticize and condemn the actions of Representative William Lemke and Senator Gerald P. Nye as being detrimental to the best interests of the people of North Dakota.

Filed January 30, 1939.

House Concurrent Resolution No. 408—(Scholl, Byrne and Symington)

RELIEF AND DEBT SURVEY COMMISSION

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring, That:

WHEREAS, it is the sense of the members of the Legislative Assembly of the State of North Dakota, that there is not available to the members of this legislature, sufficient information to enable the legislature to properly consider some of the greatest problems now facing the State of North Dakota, to wit: The relief and pension problems, the school problem, in particular, the problems of our common schools, and the problems of our municipalities, in particular, our counties, insofar as their financial inability to live within their budgets, and to discharge the functions of government now imposed upon them by law, and

WHEREAS, it is increasingly apparent that in order to enable this legislature, or the next legislative body, to deal intelligently and justly with the problems which face the people of North Dakota, in the light of the ability of the people of the State to meet these problems, and

WHEREAS, it is deemed necessary that this Legislative Assembly, in conjunction with the executive department of the State Government, make a practical survey of the relief needs of our people, and with this, the question of adequate pensions to our old citizens, as well as a practical survey of the financial and general condition of our school districts, and of our municipalities, in particular our counties.

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the State of North Dakota, the Senate concurring:

That a State Relief and Debt Survey Commission be, and the same hereby is established to consist of seven (7) members all of which shall be citizens and electors of the State of North Dakota, and shall be selected and appointed as follows: Three (3) members of the House of Representatives, to be selected by the Speaker of the House with the approval of the members thereof, provided however, that one (1) of said three (3) House members shall be the Speaker. Two (2) members of the Senate to be selected by the President of the Senate with the approval of the members thereof. Two (2) persons to be appointed by the Governor.

BE IT FURTHER RESOLVED, That within sixty days of the adoption of this resolution, and the providing by this Legislative Assembly of the necessary funds for such commission to do its work, that such commission shall meet at the State Capitol, upon the call of the Governor, and shall organize by electing one of its members

as chairman, and adopting rules to govern its procedure. The State Tax Commissioner, or some member of the State Tax Department designated by him, shall act as secretary of the commission, with out compensation, but shall be paid his actual and traveling expenses while actively engaged in work assigned to him by the commission. The commission may appoint and pay such other employees as may be necessary for the performance of its duties.

BE IT FURTHER RESOLVED, That each member of said commission shall be entitled to his actual traveling and other expenses, and in addition, compensation of five (\$5.00) dollars per day while actually engaged in the work assigned to him by the commission, including attendance at commission meetings, provided, however, that such per diem shall not be paid to any member of such commission who may be an officer of the State and receiving compensation for such duties.

BE IT FURTHER RESOLVED, That it shall be the duty of the commission to make a practical and comprehensive survey of the debt situation of the municipalities and school districts of North Dakota, and to make a practical survey of the relief situation of this State, including the activities of the Welfare Board and any and all relief agencies, and prepare and file with the Governor for the information of the legislature and for the general information of the people of this State, a complete report of its study, findings, conclusions and recommendations, covering the subject and scope of its appointment.

BE IT FURTHER RESOLVED, That in order to facilitate the work of the commission, it shall have free access to all public records, files and official reports relating to the matters under investigation, and it may hold public hearings at such places within the State as it may deem necessary, and it may require any public official or employee of any State department, municipality or political subdivision, to appear before the commission and furnish to said commission any information, data or other matter within his possession or knowledge, pertaining to the subject matter under investigation by the commission, and

BE IT FURTHER RESOLVED That all State, county and municipal employees, agents and servants, shall, and they are hereby requested by the members of this legislature, to aid and assist such commission in every way possible in securing the necessary facts and information and in aiding and assisting such commission in the carrying out of its work, and

BE IT FURTHER RESOLVED That for the purpose of this resolution, the legislative members of such commission shall be considered as a joint interim legislative committee vested with legislative functions only; and that such joint interim legislative committee shall

serve in conjunction with the other members of the committee appointed by the Governor pursuant to the provisions of this resolution.

Filed March 7, 1939.

House Concurrent Resolution No. 411.—(Anderson of McKenzie)

RELIEF FUND LOANS

Requesting the Bank of North Dakota, with the approval of the Industrial Commission, to make a loan to the Public Welfare Board of North Dakota to meet the existing emergency for funds to match Federal funds under the Social Security program required for April, 1939 payments and to meet such emergencies as may arise hereafter in meeting Social Security or general relief requirements.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein: That

WHEREAS, the Public Welfare Board of North Dakota, as created by Chapter 221 of the 1935 Session Laws, is a department of the State of North Dakota; and

WHEREAS, the Bank of North Dakota, under the provisions of Section 5192a15 of the 1925 Supplement to the Compiled Laws of 1913, is authorized, with the approval of the Industrial Commission of this State, to transfer funds and make loans to any State department, which funds shall be returned to the Bank of North Dakota with interest; and

WHEREAS, State funds to match Federal funds for the Social Security Programs must be available 30 days prior to the beginning of each quarter in order to secure Federal matching funds in time to meet payments for the first quarter; and

WHEREAS, there are no funds in the State Treasury at the present time to meet the appropriation heretofore made for the Social Security Programs by the Legislative Assembly of 1937 for the biennium ending June 30th, 1939, and

WHEREAS, there is an unexpended balance of \$1,448,700 of the appropriation of \$2,600,000 made by the Legislative Assembly of 1937 under Chapter 86, Laws of 1937, but that there is not at this time available in the State Treasurer's office the sum of \$145,800 needed by the Public Welfare Board to match Federal funds for the April, 1939, payment of old age assistance and aid to dependent children grants,

THEREFORE, BE IT RESOLVED That the Industrial Commission

be requested to approve a loan by the Public Welfare Board from the Bank of North Dakota of the sum of \$145,800 with which to match Federal funds for the April, 1939, old age assistance and aid to dependent children grants and that the Public Welfare Board repay such loan with interest as soon as there is available in the State Treasurer's office sufficient funds from the amount appropriated by Chapter 86 of the Session Laws of 1937.

IT IS FURTHER RESOLVED That in the event of emergencies which may arise in the future prior to January 1st, 1941 where funds appropriated by the legislature for meeting Social Security or general relief requirements are not available when needed that the Industrial Commission be requested to approve loans and the Bank of North Dakota be requested to make such loans, if possible to do so, and further providing that such loans shall in no case be in excess of \$200,000 or the amount appropriated by the legislature for such purposes and that as soon as there is money available in the State Treasurer's office that said loan be paid with interest before any further funds are withdrawn from the State Treasurer's office by the Public Welfare Board for any other purpose whatsoever.

Filed March 7, 1939.

House Concurrent Resolution No. 413.—(Anderson of McKenzie.)

**RECOMMENDING TO THE PUBLIC WELFARE BOARD METHOD
OF EXPENDITURE OF FUNDS APPROPRIATED FOR GEN-
ERAL RELIEF FOR THE BIENNIUM BEGINNING JULY 1,
1939 AND ENDING JUNE 30, 1941.**

*Be It Resolved by the House of Representatives, the Senate Con-
curring Therein:*

WHEREAS, the Public Welfare Board has requested an appropriation of \$3,743,600 for general relief for the ensuing biennium; and

WHEREAS, it is the best judgment of the Public Welfare Board after a careful survey of probable relief needs has been made, that this sum will be necessary to care for the destitute people of this State on a standard compatible with health and decency; and

WHEREAS, the 1939 Legislative Assembly because of excessive demands made upon it from other sources in [is] unable to appropriate the amount requested by the Public Welfare Board and has seen fit to make an appropriation of but \$2,500,000; and

WHEREAS, if during the farming season of 1939, conditions existing in this State during the past 7 years should be reversed

and the State enjoy bountiful crops and these crops may be sold for a fair price an appropriation of \$2,500,000 may be ample to provide for such needs during the biennium;

THEREFORE, BE IT RESOLVED That the Public Welfare Board use the \$2,500,000 appropriated by this Legislative Assembly in caring for the relief needs of the destitute people of this State in a manner compatible with health and decency; that while strict economy should be practiced in the expenditure of such funds that nevertheless the Public Welfare Board is directed to provide for the needs of the destitute people of this State to the best of its ability with the funds appropriated; that in caring for such needs the Public Welfare Board shall not be required to restrict expenditures to such an amount each month as will spread this appropriation over the entire biennium but is directed to expend such funds each month as is necessary to properly care for the needs of the destitute people of this State, providing, however, that not to exceed 75% of the appropriation so made may be expended during the first 18 months of the biennium.

IT IS FURTHER RESOLVED That in the event that the State suffers another crop failure or it becomes evident that the amount of \$2,500,000 appropriated is not sufficient to provide for the relief needs that the Governor of the State of North Dakota is hereby requested, if in his judgment it is necessary, to call the Legislative Assembly into special session for the purpose of providing such additional funds as may be necessary to provide for general relief to the needy and destitute people of this State and for such other purposes as in the judgment of the Governor of the State may be necessary.

Filed March 8, 1939.

Joint Memorial Resolution "A"—(Anderson of Benson)

ROBERT ROTERING

WHEREAS, Divine Providence has called from our midst the Honorable Robert Roterling, Representative from the 39th Legislative District; and

WHEREAS, during his brief term of service in this assembly, we had come to know him as a public spirited citizen, splendid example of integrity, loyalty and conscientious endeavor; and

WHEREAS, in his passing, the Legislative Assembly of the State of North Dakota has lost a true friend, one who spared no efforts in behalf of the State, his community and his fellowmen;

THEREFORE, BE IT RESOLVED, by the Senate and House of Representatives that we do hereby express our heartfelt appreciation of the loyalty and service of our distinguished citizen and legislative member, Robert Rotering; that we therefore express the keen sorrow we feel because of his passing; and

BE IT FURTHER RESOLVED, by the Senate and House of Representatives of the State of North Dakota of the Twenty-sixth Legislative Assembly assembled in joint session that upon the dissolution of the joint session and re-convening of both Houses, that they immediately adjourn for this legislative day out of respect for our deceased member and co-worker, Robert Rotering, and to express to his family and relatives our sincere sympathy.

BE IT ALSO RESOLVED, That the Secretary of State be, and he is hereby, directed to forward to the widow of our departed friend a properly enrolled copy of this joint resolution.

Filed January 16, 1939.

House Concurrent Resolution No. 132.—(Committee on Agriculture.)

LEASING AND SALE OF SCHOOL AND STATE LANDS

A concurrent resolution relating to an amendment to the Enabling Act of February 22nd, 1889.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, a considerable portion of the lands, granted by the Enabling Act, approved February 22nd, 1889, to the State of North Dakota for educational purposes, and lying in the southwestern part of the State, are suitable primarily only for grazing purposes; and

WHEREAS, such grazing lands are not now, and probably never will be, worth the minimum price of \$10.00 per acre, fixed as the minimum price for the sale of lands so granted and, therefore, cannot be sold and disposed of by the State for the benefit of the permanent school funds; and

WHEREAS, by the terms and conditions of Section 11 of said Act, as amended by Act of Congress, approved June 25th, 1938, such grazing lands may be leased in quantities not exceeding one section to any one person or company for terms not longer than ten years; and

WHEREAS, experience has shown that it is impracticable to lease

said grazing lands upon such terms, thereby depriving said permanent school funds of any applicable benefit from said lands; and

WHEREAS, there are now in existence several co-operative grazing associations, the members of which are bona fide residents of the State of North Dakota, engaged in the principal occupation of the raising of livestock, who would lease said grazing lands in large quantities from the State, if such leases could lawfully be made,

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring:

That the Congress of the United States be memorialized to further amend Section 11 of the Enabling Act, approved February 22nd, 1889, to provide that such portions of the lands, granted by said act to the State of North Dakota for educational purposes, as are suitable primarily only for grazing purposes, may be sold only to the United States Government at a price not less than \$1.00 per acre; and further providing that such grazing lands may be leased to bona fide co-operative grazing associations in quantities not exceeding twenty sections to any one such co-operative grazing association.

Filed March 1, 1939.

House Concurrent Resolution No. 135.—(Committee on State Affairs.)

A CONCURRENT RESOLUTION PETITIONING THE UNITED STATES SECRETARY OF AGRICULTURE TO FAVORABLY INTERPRET, OR THE CONGRESS OF THE UNITED STATES TO AMEND THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the State of North Dakota, by means of Federal land grants and through foreclosure or liquidation of real estate mortgage loans, has acquired title to and now owns 19,439 tracts of agricultural lands comprising approximately 3,879,269.03 acres, and

WHEREAS, it has in past years been the policy of the officers supervising and administering said lands, to have same farmed and placed in compliance with the Federal Agricultural Adjustment Act, and

WHEREAS, because of drouth, grasshopper infestation and other damage to agricultural pursuits during past years, tenants farming the said lands have received considerable benefit by reason of same having been placed in the compliance with said Agricultural Adjustment Act, and

WHEREAS, the 1938 amendment to the Soil Conservation and Domestic Allotment Act provides that beginning with the calendar year of 1939 no total payment for any year, to any person, shall exceed \$10,000.00, except in the case of payments to any individual, partnership or estate, the said limitation shall apply to the total of the payments for each State, territory, or possession, which limitation, under definitions formulated by the Department of Agriculture has been interpreted to apply to a sovereign State, a political subdivision of a State, or any agency thereof, and

WHEREAS, said definition of the term "person", by the Department of Agriculture, seems unjustified by the language used in said act, and contrary to the usual and accepted meaning of said term when used in legislative enactments, and

WHEREAS, the Federal Crop Insurance Act provides that insurance can be obtained only on lands which are farmed in compliance with the Agricultural Adjustment Act, and consequently, unless said act is defined and interpreted by the Department of Agriculture, or if necessary amended by the Congress, to permit all lands owned by a sovereign State, territory or possession to be placed in compliance and made eligible for benefit payments, the State of North Dakota and its tenants on 19,439 tracts of land will be denied an opportunity of taking advantage of said Federal crop insurance benefits.

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the State of North Dakota, the Senate concurring:

1. That the Secretary of Agriculture of the United States is hereby petitioned to interpret the said \$10,000.00 payment limitation provided for in said 1938 amendment to the Soil Conservation and Domestic Allotment Act, as not applying to a sovereign State, any of its departments or agencies, or to a territory or possession of the United States, and if necessary, to accomplish said exemption of States, territories or possessions from said limitation, that the Congress of the United States is hereby petitioned to pass such legislation as may be required to provide for such exemption.

2. That copies of this resolution shall be sent to the Secretary of the United States Department of Agriculture and to our United States Senators and members of the House of Representatives in Washington.

Filed February 1, 1939.

House Concurrent Resolution No. 80—(Crockett)

50TH ANNIVERSARY STAMP

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, this year, 1939, is the 50th anniversary of statehood of the State of North Dakota; and

WHEREAS, it is customary for the various States in the United States of America to observe this period of statehood by issuing a stamp commemorating a 50th anniversary of statehood; and

WHEREAS, the Pioneer Daughters Chapter of the North Dakota Federation of Women's Clubs brings to our attention this observance, and

WHEREAS, that this request may be placed in permanent historical record in the archives of history as a part of the official record of this legislative body,

BE IT HEREBY RESOLVED, by the House of Representatives and the Senate concurring of this 26th Legislative Assembly of the State of North Dakota, that approval of this above consideration be recorded, and

BE IT FURTHER RESOLVED, That we hereby petition the Postmaster General at Washington, D. C. to bring his influence to bear in uniting with us to bring about the issuance of a stamp commemorating this statehood event.

Filed January 24, 1939.

Senate Concurrent Resolution No. 67—(Morrison and Young)

REQUESTING CONGRESS TO ENACT LEGISLATION PERMITTING PAYMENT OF SEED LOANS BUSHEL FOR BUSHEL.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

WHEREAS, it seems to have been impossible to secure legislation necessary to stabilize the market price of farm crops in these United States; and

WHEREAS, the difference in the price of grains when bought for seed and feed, and when sold in the market, has been so great that the farmers who have been compelled to borrow money from the various Federal agencies for the purpose of buying such feed

or seed are frequently required to sell four or more bushels in order to discharge the cost of each bushel purchased; and

WHEREAS, under such conditions it will be utterly impossible for many of our farmers to discharge their obligations to the Federal agencies;

THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring:

That through this resolution we earnestly appeal to the Congress of the United States to enact such legislation as will permit any person now indebted, or who may hereafter become obligated for a Federal seed or feed loan, to discharge such debt by payment in kind, bushel for bushel.

BE IT FURTHER RESOLVED, That one copy of this resolution be sent to the Secretary of Agriculture and one copy to the President of the United States, one copy to each of our Congressmen, one copy to each of our United States Senators, one copy to M. W. Thatcher, 423 E. Leland St., Chevey Chase, Md., these copies to be forwarded to them by our Secretary of State immediately upon the passage of this resolution.

Filed February 8, 1939.

House Resolution D.—(Beede)

STATE HOSPITAL FOR THE INSANE

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, recent events have occurred in connection with the State Hospital for the Insane at Jamestown which tend to discredit the administration of the affairs of said institution; and

WHEREAS, it has been charged that the administration of the affairs of that institution have been conducted in an improper, incompetent and inefficient manner; and

WHEREAS, the charges concerning the affairs of said institution have become so prevalent that the Honorable John Moses, as Governor, appointed a special examiner to investigate the conditions at said State hospital; and

WHEREAS, the welfare of the hundreds of inmates at the said State hospital is of vital concern to every citizen of the State of North Dakota, and that if the charges made as to the conditions at said State hospital are true, immediate steps should be taken by this legislature to correct the evils existing.

NOW, THEREFORE, in order for this House to be appraised of the facts regarding the true situation at the Jamestown Hospital for the Insane so that any evils which may in fact exist can be corrected,

BE IT THEREFORE RESOLVED, That a committee of three members of this House be appointed by the Speaker to inquire into and investigate not the finances, but the facts and conditions surrounding the administration of the affairs at the State Hospital at Jamestown, and that said committee be instructed to report back to this House its findings, and its recommendations as to what action, if any, should be taken in the matter, and what, if any, future legislation should be enacted in connection with said institution, and

BE IT FURTHER RESOLVED, That the Governor be asked to assist in this investigation by turning over to the committee to be appointed, copies of the findings and reports of his special examiner previously appointed to investigate the conditions at said State hospital.

Filed February 4, 1939.

House Concurrent Resolution No. 407.—(Twichell, Scholl & Byrne.)

EXPENSE STATE HOSPITAL INVESTIGATION

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the members of the special committee appointed [by] this assembly for the purpose of investigating the conditions existing at the State Hospital at Jamestown have now filed their report, and with such report have filed an itemized statement showing a total expenditure of two hundred fifty-five (\$255.00) dollars.

THEREFORE BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring, That this assembly does hereby appropriate and there is hereby appropriated the above sum for the purpose of reimbursing the members of said committee for the sum so expended.

BE IT FURTHER RESOLVED, That a single voucher for said sum payable to the chairman of the committee Honorable William Crockett be forthwith drawn.

Filed March 7, 1939.

House Resolution No. L.—(Braun of Stark.)

IGNATZ STICKA

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the Honorable Ignatz Sticka, a member of this House from the 31st Legislative District, on the morning of February 18th, 1939, passed to the Great Beyond:

BE IT RESOLVED That he be shown by the records of this House as excused for the balance of the session and his name be omitted in reading the roll call; but that his name be continued upon the payroll as a member of this body; that the chief clerk be hereby authorized and directed to sign the legislative payroll for and in the name of said deceased member, and that warrants to be issued in payment of mileage and per diem of said Ignatz Sticka, our said fellow member, be made out in the name of his widow, Mrs. Ignatz Sticka, and that the same be by the House voucher clerk forwarded to her at New England, North Dakota.

Filed February 20, 1939.

House Concurrent Resolution No. 391—(Scholl)

REV. R. E. STRUTZ

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS the Supreme Ruler of the Universe, in His infinite wisdom, has removed Rev. R. E. Strutz from the midst of his family and the community, and

WHEREAS Rev. Strutz has served as a highly respected member of the Legislative Assembly of the State of North Dakota during the 1931 and 1933 sessions, and

WHEREAS Rev. Strutz has been a pioneer resident of the State of North Dakota for the last fifty years, and a minister of the gospel for the past forty-five years, having founded the Evangelical Church and Hospital at Bismarck, and

WHEREAS Rev. Strutz has reared a fine family of North Dakota citizens, several of whom have won honor and distinction in public service in their respective fields of endeavor, and one of whom, the Honorable Alvin C. Strutz, now holds the high office of Attorney General in the State of North Dakota,

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring, That we hereby express our regrets to the family of this sterling citizen, and to the members of his community;

BE IT FURTHER RESOLVED That this resolution be printed in the Journal for the benefit of the citizens at large of the State of North Dakota, and that a copy thereof be mailed to Mrs. R. E. Strutz at Jamestown, North Dakota.

Filed February 22, 1939.

Senate Concurrent Resolution No. 271.—(Braun)

DISTRIBUTION SURPLUS COMMODITIES.

A concurrent resolution relating to the distribution of food commodities by Federal relief agencies.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

WHEREAS, the distribution of surplus food commodities and clothing to persons in need is necessary to many people in this State, but in many instances the distribution is not made to those who are in the greatest need thereof.

WHEREAS, the present system of distribution is costly to both the United States Government, the State of North Dakota, and the several counties participating in the distribution thereof.

WHEREAS, large quantities of the commodities distributed are not best adapted to the needs of the people of this State, which likewise results in waste and expense, and

WHEREAS, the system of distribution results in diminishing the volume of wholesale and retail sales of commodities in the State, and the total cost of distribution, equals the profit of regular dealers and merchants,

THEREFORE, BE IT RESOLVED by the Senate, the House of Representatives concurring That we memorialize the Congress of the United States to enact such measures as will correct these objections and that direct grants be made to the States for the purchase of such commodities of such kind and quality as are most adopted and suitable to the needs of such recipients, and that such commodities be distributed to persons found eligible and in need through regular commercial channels of trade by the issuance of purchase orders upon merchants and business establishments operating in North

Dakota and offering for sale at points of consumption such commodities.

Filed March 6, 1939.

Senate Concurrent Resolution No. 64.—(Trout and Whelan)

REQUESTING CERTAIN TAX PAYMENTS BY THE FEDERAL GOVERNMENT

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the Federal Government has purchased, and is contemplating the purchase of large tracts of land in North Dakota, which lands were the property of private owners, and as such were assessed and taxed with the other property located in the same taxing districts; and

WHEREAS, when such purchases are completed, the land can no longer be taxed by the State of North Dakota or its subdivisions; and

WHEREAS, the removal of large tracts of land from the tax rolls of the taxing districts of the State of North Dakota, has created a very critical situation in such districts, which are largely dependent upon the property tax for the support of schools and other necessary governmental functions; and

WHEREAS, at the time of such purchases by the Federal Government, such lands were encumbered by a debt representing tax levies due annually to pay the principal and interest on bonded indebtedness, as required by Section 184 of the Constitution of the State of North Dakota; and

WHEREAS, the removal of large tracts of land from the tax rolls through such Federal purchases seriously impairs the value of the contracts represented by outstanding bonds and other evidences of indebtedness, issued by the subdivisions in which such lands are located, contrary to Section 10 and the 14th Amendment to the Constitution of the United States, and contrary to Section 16 of the Constitution of the State of North Dakota; and

WHEREAS, in some instances, the areas left in private hands are insufficient to pay outstanding indebtedness of the taxing districts; and

WHEREAS, it is unjust and inequitable, that the remaining property owners in such taxing districts be compelled to pay the whole of such outstanding indebtedness;

BE IT THEREFORE RESOLVED: That we the Senate and House of Representatives of the State of North Dakota,

Do petition and memorialize the Congress of the United States, to provide funds for the payment of such proportion of the outstanding indebtedness of the taxing districts, in which the Federal Government has made or will make such land purchases, in the proportion that the value of such land so purchased bears to the valuation of the entire taxing district.

BE IT FURTHER RESOLVED, That copy of this resolution be forwarded to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States, and each of the United States Senators and Congressmen from the State of North Dakota.

Filed February 8, 1939.

House Concurrent Resolution No. 179.—(McInnes)

**PAYMENTS IN LIEU OF TAXES ON LANDS ACQUIRED BY
GOVERNMENT AGENCIES**

Authorizing and directing the Governor, Tax Commissioner and Attorney General to ascertain what provision has been made by the Federal Government for making payments in lieu of taxes on lands acquired in this State by various departments, bureaus and agencies of the Government and authorizing and directing the Governor, Attorney General and Tax Commissioner to file with the Secretary of State proposals or commitments submitted by such departments, bureaus or agencies with reference thereto.

Be It Resolved by the House of Representatives, of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the Biological Survey Bureau of the United States Department of Agriculture has acquired large tracts of rich meadow land in several counties, particularly in the Mouse River Valley, for the purpose of impounding waters thereon, and creating nesting places and refuges for water-fowl and aquatic birds, and

WHEREAS, the Farm Security Administration of the Department of Agriculture has acquired large tracts of land in several western counties for the purpose of removing sub-marginal lands from cultivation and to restore the range and to institute and create thereon controlled grazing, and

WHEREAS, the Farm Security Administration has also acquired, and is now acquiring, lands in various counties of this State for the rehabilitation and resettlement of need and stranded farm families, and

WHEREAS, lands thus acquired became exempt from taxation when the title thereto vests in the Government, and

WHEREAS, representatives of the various Federal agencies acquiring lands in this State represent that the Federal Government will make certain payments in lieu of taxes to the State, and to the local sub-divisions effected, in order that the tax burden ordinarily carried by such lands may not be unfairly shifted to the taxpayers whose lands are not purchased, and

WHEREAS, it is desirable that the State, for the protection of our people, arrive at a definite understanding with the Federal Government concerning such payments in lieu of taxes, and that the various agencies of the government, engaged in such land acquisition programs, be requested to submit to the State definite proposals or commitments in regard to such payments, and the procedure required for securing them, in order that the people of this State may, if found necessary, call upon the Congress to sustain such commitments in the event that the Federal agencies now concerned, or their successors, should, in the future, determine upon a change of policy;

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the Legislative Assembly of the State of North Dakota, the Senate concurring:

That the Governor, the Attorney General and the State Tax Commissioner be and they are hereby, authorized and directed to ascertain and determine what arrangements, if any, have been made by the Federal Government, or by the departments, bureaus and agencies thereof acquiring lands in North Dakota, for making payments in lieu of taxes to the State and to the local sub-divisions where such lands are situated, and that the Governor, Attorney General and the State Tax Commissioner obtain, and file in the office of the Secretary of State such proposals or commitments submitted by such departments, bureaus and agencies concerning such payments, including the procedure required for securing the same.

Filed March 4, 1939.

Senate Concurrent Resolution No. 18—(Tweten, Olson of Mountrail
and Blank.)

TOWNSEND RECOVERY PLAN

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring Therein:*

WHEREAS, many of our aged people are dependent upon the Government for food, clothing and shelter, and many more are dreading the day when they will be forced from the payrolls of industry and swell the throng of dependents, and

WHEREAS, many of our young people in the prime of life are unable to secure employment, and

WHEREAS, many of our middle aged people, who are employed, are afraid of losing their jobs, and

WHEREAS, as a result of the above mentioned facts, the vast majority of our population are living in a state of fear, and as fear is the greatest dictator in the world today and to a large extent is responsible for the increase of insanity, vice and crime,

NOW, THEREFORE, BE IT RESOLVED, That the Senators and Representatives of the State of North Dakota in the Congress of the United States be, and hereby are, requested to take such necessary steps as will insure the immediate passage of the aforesaid "Townsend Recovery Plan" bill, and that copies of this memorial be forwarded forthwith to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives of the Congress of the United States.

Filed January 26, 1939.

Senate Concurrent Resolution No. 185.—(Blank, Thatcher, Fowler
and Braun.)

A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO
INCREASE THE MINIMUM NUMBER OF EMPLOYEES RE-
QUIRED IN AGRICULTURAL STATES UNDER THE UNEM-
PLOYMENT COMPENSATION ACT.

*Be It Resolved by the Senate of the State of North Dakota, the
House of Representatives Concurring:*

WHEREAS, the present minimum number of employees fixed and required by the Federal Unemployment Act is eight (8) persons, and

WHEREAS, such limit may not be too low in industrial States but is too low and too oppressive a requirement in States where the

income of the people, and particularly the business interests in such State, is wholly or almost wholly from agriculture;

NOW THEREFORE, BE IT RESOLVED That we hereby memorialize Congress, and particularly our Senators and members of the House of Representatives in Congress, to enact an amendment to the existing Federal requirement of a minimum of eight (8) employees, as required in the present Unemployment Act, so as to raise said minimum to not less than twenty (20) employees in States where 75 per cent or more of the gross income of such States is derived from agricultural sources.

Filed March 6, 1939.

House Concurrent Resolution No. 368.—(Braun, Scholl, Lange, Mollett, Rohde, Anderson of McKenzie, Jensen, Rettke, Semerad, Hofstrand, and Anderson of Benson.)

PAYMENTS OF OLD AGE ASSISTANCE, AID TO THE BLIND,
AND AID TO DEPENDENT CHILDREN GRANTS
TO WARD INDIANS.

Be It Resolved by the House of Representatives, of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, there are on Indian reservations within the State of North Dakota a large group of ward Indians who are wards of the United States Government, and

WHEREAS, many of these ward Indians living on Indian reservations are eligible for old age assistance and are now receiving old age assistance grants and others, as they become eligible, will be making application for old age assistance grants, and

WHEREAS, there are many ward Indians living on Indian reservations who are blind and are eligible for aid to the needy blind, and

WHEREAS, many ward Indian children living on Indian reservations are receiving aid to dependent children, and many more will no doubt apply and be eligible for aid to dependent children, and

WHEREAS, payments of old age assistance and aid to dependent children grants are paid by the Federal Government, State and county, and aid to blind grants are paid by the Federal Government and State to these ward Indians on the same basis as non-ward Indians and other citizens of the State of North Dakota not living on Indian reservations and who are not wards of the Federal Government, and

WHEREAS, the payment by the county and State for old age

assistance and aid to dependent children grants to ward Indians places a heavy burden on the State and those counties in which Indian reservations are located, and

WHEREAS, ward Indians are wards of the Federal Government and it would seem that they should therefore be the sole responsibility of the Federal Government,

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the State of North Dakota, the Senate concurring, That the Twenty-sixth Legislative Assembly of North Dakota respectfully request the Congress of the United States to amend Titles 1, 4 and 10 of the Federal Social Security Act so as to provide that 100 per cent payments of old age assistance, aid to the blind, and aid to dependent children grants to ward Indians living on Indian reservations be made by the Federal Government, and

BE IT FURTHER RESOLVED, That attested copies of this resolution be sent to both Houses of Congress of the United States, to each of the members thereof from this State, and to the Social Security Board, Washington, D. C.

Filed March 6, 1939.

Senate Concurrent Resolution No. 44.—(Owings, Wog, Guthrie and Fowler.)

**A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO
MAKE CREDIT IMMEDIATELY AVAILABLE TO FINANCE
WHEAT CROP INSURANCE.**

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the act of Congress providing for wheat crop insurance is in force and effect, but a very large number of our farmers, by reason of crop failures and existing economic conditions, are unable to take advantage of such act;

NOW THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring:

(1) That Congress is hereby petitioned to pass such legislation as may be required to make the necessary credit immediately available to the wheat farmers of this country so that they will be able to take advantage of said act of Congress and to finance the wheat crop insurance provided for in such act.

(2) That copies of this resolution shall be sent to our United

States Senators and members of the House of Representatives and to the Secretary of Agriculture.

Filed February 2, 1939.

House Concurrent Resolution No. 114.—(Committee on Public Welfare.)

WOMEN EMPLOYED OUTSIDE THE HOME.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the employment of women in paid work outside the home has increased materially in recent years, and

WHEREAS, the home keeping women going into commercial and industrial work was mentioned by the report of the Biggers Committee on National Unemployment as one of the causes of the unemployment problem, and

WHEREAS, in 1940 the Federal Government will take a census of the United States, and

WHEREAS, we all recognize the service rendered by the women of our homes in the building of character,

THEREFORE BE IT RESOLVED That the House of Representatives of the State of North Dakota, the Senate concurring, hereby petition the Women's Bureau under the Department of Labor at Washington to use its influence toward the securing of data on women employed outside the home as one of the objects of the 1940 census and thereupon to make a survey and a study of the problems of the home keeping women, to find the reason for the tendency to leave home for commercial and industrial work and to make recommendations to reduce and, so far as possible, eliminate this tendency in modern American living.

Filed February 1, 1939.

Senate Concurrent Resolution No. 31—(Young, Owings, Guenther.)

ESTABLISHMENT OF WORK PROJECTS

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, North Dakota has suffered many years of crop failures as a result of droughts, grasshoppers, rust and other causes, and

WHEREAS, as a result of such failures, the farmers have been obliged to secure large loans for feed and seed, and

WHEREAS, such obligations added to their other indebtedness is a burden which they are unable to bear, and causing many of them to leave their farms only to swell the throng of the unemployed, and

WHEREAS, there exists a willingness on the part of borrower to pay such loans by working on projects approved by the Federal Government.

NOW THEREFORE BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, That they urge the Congress of the United States to establish work projects, whereby the farmers will be able to pay said loans in the same manner as grants made by the Farm Security Administration.

BE IT FURTHER RESOLVED That certified copies of this resolution be forwarded to the President of the United States Senate, to the Speaker of the House of Representatives, and to the members of the North Dakota delegation in Congress.

Filed January 26, 1939.

House Concurrent Resolution No. 83.—(E. C. Stone)

REQUESTING W.P.A. FUNDS

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, President Roosevelt has asked Congress for an extensive appropriation which, if passed, will result in the employment of many additional WPA workers and the expenditure of additional Federal funds in the State of North Dakota, and

WHEREAS there is pending in Congress an act to curtail WPA activities, which act, if enacted into law, will result in the discharge of twenty-six hundred WPA employees in the State of North Dakota,

and will mean a reduction of one hundred and fifty thousand dollars per month of Federal money which would otherwise flow into North Dakota for relief workers, and

WHEREAS, if the President's request for appropriation is denied, and the act of Congress curtailing WPA activities is passed the people of North Dakota who are in desperate need of Federal assistance in maintaining their homes will suffer untold hardship,

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring, That we memorialize Congress to make the full appropriation asked for by President Roosevelt for WPA purposes, and that Congress do not enact into law any act curtailing WPA activities.

BE IT FURTHER RESOLVED That the chief clerk of the House of Representatives be instructed to forward copies of this resolution to President Roosevelt, to our Senators and Representatives in Congress, to the Secretary of Agriculture, and to Col. F. C. Harrington, WPA Administrator, Washington, D. C.

Filed February 3, 1939.

VETOES

S. B. No. 205.—(Whelan and Lian)

PUBLICATION OF COUNTY WELFARE BOARD PROCEEDINGS

An act requiring the publication of the proceedings of meetings of County Welfare Boards, repealing all acts and parts of acts in conflict herewith, and declaring an emergency.

V E T O

March 18, 1939

Hon. James D. Gronna
Secretary of State
Bismarck, North Dakota

DEAR MR. SECRETARY:

I am transmitting to you herewith Senate Bill 205, entitled, "An act requiring the publication of the proceedings of meetings of county welfare boards, repealing all acts and parts of acts in conflict herewith, and declaring an emergency."

This bill provides for the publication of the proceedings of the county welfare boards, including the names of the beneficiaries of such disbursements, publications to be paid for by the welfare boards. I have made as careful an investigation of the probable expense of

such publications as it has been possible to do in the limited time at my disposal. From such investigation I am convinced that the cost of such publications will be a considerable drain upon the appropriations for the welfare boards, and as no specific appropriation has been set up for such publications, the whole expense will have to come out of the money appropriated by the legislature for relief of our destitute and distressed people, and that the amount available for their needs will thereby be considerably reduced.

While I recognize that the legislature, in passing this bill, had in mind that publication of the proceedings would serve as a deterrent upon chisellers, and that some good would be accomplished, it is also to be borne in mind that the complete publication of all proceedings would of necessity involve the parading of the misfortunes of unmarried mothers and unfortunates in similar positions, a matter to be avoided from a humanitarian standpoint.

For these reasons, I am withholding my approval of this bill.

Very truly yours,

JOHN MOSES

Governor

JM:B

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

§ 1. It shall be the duty of the County Welfare Board to cause to be published in some legal newspaper in the county designated by the county commissioners, a full and complete report of all its official proceedings at each meeting, including a statement of all receipts and disbursements, the person or persons to whom such disbursements are made and the beneficiaries of such disbursements. Such proceedings shall be published as soon after each meeting as practicable. The board shall pay for such publication at the rate and in the manner now prescribed by law for the payment of publication of legal notices and publications.

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

§ 3. 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.

H. B. No. 359.—(Morland, Byrne, Peterson, Bingenheimer, and Fitch)

APPLICATIONS FOR STATE HAIL INSURANCE

An act to amend and re-enact Section 189b3, 189b5, 189b9, 189b14 and 189b15 of Chapter 137 of the Session Laws of North Dakota for 1933, relating to State hail insurance, providing for the manner of taking applications therefor; defining duty of hail inspectors, adjusters and county auditors; repealing acts in conflict herewith, and declaring an emergency.

V E T O

Minot, North Dakota
March 18, 1939

Hon. James D. Gronna
Secretary of State
Bismarck, North Dakota

MY DEAR SECRETARY:

I hereby transmit House Bill No. 359 entitled "An act to amend and re-enact Section 189b5, 189b14 and 189b15 of Chapter 137 of the Session Laws of North Dakota for 1933, relating to State hail insurance, providing for the manner of taking applications therefor; defining duty of hail inspectors, adjusters and county auditors; repealing acts in conflict herewith, and declaring an emergency", without my approval.

I believe that the interest and welfare of our people will be amply safeguarded and taken care through the laws now in force, providing for the writing of State hail insurance through the various assessors and can see no good reason for making a change in the system.

For these reasons, I withhold my approval of this bill.

Respectfully yours,

JOHN MOSES

✓

Governor of the State of North Dakota.

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

§ 1. AMENDMENT.] Section 189b3 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for 1913, as amended by Chapter 137, Session Laws of North Dakota for 1933, is hereby amended and re-enacted to read as follows:

§ 189b3. EMPLOYEES, SALARY, AND OPERATING EXPENSE.] The Commissioner of Insurance with the approval of the Governor, shall appoint a manager who shall be in direct charge of the department, and whose salary shall be set by the Commissioner of Insurance. With the approval of the Commissioner of Insurance, the manager shall employ all the assistants necessary to operate the

department, and may employ such legal counsel as he shall deem necessary.

The salaries of all employees, together with all other expenditures for the operation and maintenance of the department, shall remain within the appropriation and surplus available in each year for such purposes, and shall not exceed the sum of one hundred fifty thousand dollars (\$150,000.00) per annum, except as provided by Section 16 and 17 of this act. The Commissioner of Insurance shall pay all salaries and expenses of the department by vouchers issued under his authority and approved by the State Auditing Board, except payment for writing applications, as provided for in Section 9 of this act.

§ 2. AMENDMENT.] Section 189b5 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended by Section 1 of Chapter 170, Session Laws of the State of North Dakota for 1931, and Chapter 137, Session Laws of North Dakota for 1933, be and the same is hereby amended and re-enacted to read as follows:

§ 189b5. CROPS INSURED.] The crops insured under this act shall consist of crops grown on cultivated lands, listed as actually cropped and subject to the payment of taxes specified in this act. The following crops may be insured: rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa, and cane. The insurance herein provided for shall, in no event, become effective on winter rye and winter wheat before 12 o'clock noon, C.S.T., on June the 1st, and shall not become effective on any other crops before 12 o'clock noon, C.S.T., of June the 10th of any year, subject to the provisions of Section 9, 11 and 25 of the Hail Law. Provided, that no indemnity shall be allowed for loss to winter rye and winter wheat which occurs later than 12 o'clock noon, C.S.T., of August 25th of each year, and flax and corn should be considered insured up to 12 o'clock noon, C.S.T., September 15th of each year, on all other crops the protection shall cease at 12 o'clock, C.S.T., of September 10th of each year. The insurance provided for in this act shall become effective six hours after same is taken by the inspector, adjuster, or the county auditor.

§ 3. Section 189b9 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and is hereby amended and re-enacted to read as follows:

§ 189b9. WRITING THE PROTECTION.] It shall be the duty of the manager, with the approval of the Insurance Commissioner, to appoint such adjusters and inspectors as he deems necessary to solicit and take applications for State hail insurance. Such inspectors and adjusters shall be bonded for faithful performance of their duties with the State Bonding Fund in the sum of five hundred dollars (\$500.00) each.

It shall be the duty of such inspectors and adjusters to solicit and take applications for State hail insurance in such manner and form as may be prescribed by the Insurance Commissioner. They shall be entitled to compensation for their services at the rate of one cent per acre, on approved applications listed and reported by them in accordance with the provisions of this act. Such compensation shall be paid out of the Hail Insurance Fund Operating Account, and the Commissioner of Insurance shall certify to the State Auditor the respective amounts due them, and thereupon the State Auditor shall draw warrants to the State Treasurer for payment of same out of the State Hail Insurance Fund Operating Account.

Applications may be taken by the inspectors, adjusters or by the county auditor at any time before crops are damaged in excess of nine percent by hail, and not later than the 15th day of July of the year for which said insurance is desired. Provided further, that the county auditors may take applications for State hail insurance in their respective counties in the same manner as adjusters and inspectors, and shall be entitled to the same compensation therefor.

All applications shall be made in triplicate and shall carefully describe each piece of land to be insured, describing particularly the quarter section or sub-division thereof, the number of the section, the township and range, with acreage, descriptions and locations of the different kinds of crop to be insured. Each application shall also show the interest of the applicant in such crop and shall be invalid and not subject to approval unless the applicant has stated whether or not the crop has been hailed upon, and the amount of damage. Provided, however, that the applicant, if same be a tenant, may make application as owner's agent, if he has written authority and files such written authority with his application. The information contained in such application shall be furnished by the applicant and shall be binding upon him. Provided, however, that such applicant may amend such application as to kind of crop and location thereof at any time before July 6th by notifying the Hail Insurance Department thereof by registered mail.

At the time of taking the application, the party taking the same shall endorse on each copy thereof, the date and hour of same, and shall forward by mail, within twenty-four hours, the triplicate copy to the county auditor of his county, and the original and duplicate copies to the Hail Insurance Department at Bismarck; all such applications shall be subject to the approval of the Commissioner of Insurance. Immediately upon receipt and checking of the original and duplicate copies in the office of the Hail Insurance Department, the Commissioner of Insurance shall note his approval, or disapproval, on the original and copy and return the duplicate copy to the applicant, which copy thus endorsed, shall constitute the policy of insurance under the provisions of this act, and shall entitle the applicant to the protection thereof. The application shall be the basis

of computing the hail indemnity tax which shall be charged against the land upon which said crops are grown, except as further provided in this act. If, at the time of taking the application, it appears therefrom that hail has fallen upon the crop, it shall be the duty of the adjuster or inspector to appraise the damage thereon, and if in his judgment, the same shall amount to more than nine per cent, such crops shall not be eligible for coverage, but in the event the damage does not exceed nine per cent, the inspector or adjuster shall note the amount thereof upon the application, and same shall be taken into consideration and deducted from any future losses.

§ 4. Section 189b14 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for 1913, as amended by Chapter 137, Session Laws of North Dakota for 1933, is hereby amended and re-enacted to read as follows:

§ 189b14. PENALTY.] Any person making a false or fraudulent affidavit, and any person who shall place or contribute to the placing of a false effective date upon an application for State hail insurance, with the intent to defraud, shall, upon conviction thereof, be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not less than one year, or by a fine of not less than three hundred dollars, or by both such fine and imprisonment.

§ 5. Section 189b15 of Chapter 137 of the Session Laws of North Dakota for 1933 is hereby amended and re-enacted to read as follows:

§ 189b15. AMOUNT OF INDEMNITY.] The maximum amount of indemnity for total loss shall be either \$5.00 or \$8.00 per acre, as the application for insurance may specify. Provided, however, that if the original application calls for \$5.00 per acre insurance, the insured may before loss and before July 15th make application to the Hail Insurance Department for an additional \$3.00 per acre protection. Such application shall be made out in duplicate upon forms prepared and furnished by the Commissioner of Insurance and mailed directly to the Department at Bismarck, and if approved by the Commissioner of Insurance, the duplicate of such application shall be returned to the maker and considered his policy of insurance. Such application shall contain the legal description of the land, the kind of crops and the acreage of same on which additional insurance is desired. The location of such crops shall also be given upon a diagram on the application blank, and such application shall contain a statement to the effect that such crops have not been damaged or destroyed by hail. Provided further, that such application shall be signed by the applicant and shall be acknowledged by the inspector, adjuster or county auditor, and such application may be taken in the office of the Hail Insurance Department in Bismarck. If the applicant is a tenant, the signed consent of the person liable for the taxes authorized by this act must appear upon such appli-

cation, and if the owner makes such application, the written consent of the tenant must appear thereon. If either owner or tenant, in filing such application, acts as agent one for the other, a written authorization shall be attached to the application. Such applications are subject to the approval of the Commissioner of Insurance.

In no event shall such additional insurance become effective before application is on file in the office of the Hail Insurance Department.

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

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

S. B. No. 84—(Walter Troxel)

HIGHWAY CROSSINGS, FARM IMPLEMENTS

An act to amend and re-enact Section 42 of Chapter 162 of the Session Laws of 1927 relating to restrictions as to tire equipment, and repealing all acts or parts of acts in conflict herewith.

V E T O

March 15, 1939

Hon. James D. Gronna
Secretary of State
Bismarck, North Dakota

DEAR MR. SECRETARY:

I am transmitting to you herewith, unsigned, Senate Bill 84, entitled, "An act to amend and re-enact Section 42 of Chapter 162 of the Session Laws of 1927 relating to restrictions as to tire equipment, and repealing all acts or parts of acts in conflict herewith."

While I approve in a general way of the purposes sought to be accomplished through the enactment of this bill, I am unable to approve thereof for the reason that the provisions of Paragraph B-2, Section 42, of the bill as amended, requires the Highway Department to furnish protection for all permanent highway crossings, as further stated in the bill itself. I am reliably advised that in order to comply with these requirements, that the State Highway Department would be put to a tremendous annual expense, and in the absence of any appropriation whatever for such purpose, I can not see my way clear to permit this bill to become law. I therefore withhold my approval thereof.

Respectfully,

JOHN MOSES

Governor

JM:B

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

§ 1. AMENDMENT.] That Section 42 of Chapter 162 of the Session Laws of 1927 is hereby amended and re-enacted to read as follows:

§ 42. RESTRICTIONS AS TO TIRE EQUIPMENT.] (a) Every solid rubber tire on a vehicle moved on any hard surfaced highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No tire on a vehicle moved on any hard surface highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible:

1. To move farm machinery upon any public highway with tires having protuberances which will not injure such highway.

2. Where permanent crossing is established the highway department shall furnish protection for such crossing, so that a farmer who owns or operates land on both sides of any public highway can cross at such protected crossing without removing the stud, flange, cleat, spike, lugs or any other protuberances from farm tractors.

3. For the driver of any motor vehicle to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

(c) The State Highway Commission and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

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

H. B. No. 174.—(Peterson and Frazer of Bottineau)

PROCEDURE FOR REMOVAL OF CERTAIN
PUBLIC OFFICIALS

An act to amend and re-enact Section 686 of the Compiled Laws of North Dakota for 1913, as amended by Section 686 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, being an act providing for petitioning the Governor to remove certain public officials; providing the procedure therefor; requiring a petition by qualified electors, and prescribing the procedure thereon; further providing for the Attorney General and appointed attorneys to prosecute such proceedings.

V E T O

March 15, 1939

Hon. James D. Gronna
Secretary of State
Bismarck, North Dakota

DEAR MR. SECRETARY:

I am transmitting to you herewith, without my signature, House Bill 174, entitled, "An act to amend and re-enact Section 686 of the Compiled Laws of North Dakota for 1913, as amended by Section 686 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, being an act providing for petitioning the Governor to remove certain public officials; providing the procedure therefor; requiring a petition by qualified electors, and prescribing the procedure thereon; further providing for the Attorney General and appointed attorneys to prosecute such proceedings."

I disapprove of this bill for the reason that it confuses the procedure to be followed in instituting removal proceedings and unless the entire law relating to the removal of public officials was to be modified and changed, I can see no good reason in adopting this particular bill.

Respectfully,

JOHN MOSES

Governor

JM:B

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

§ 1. The complaint or charges against any such official authorized to be removed by the Governor shall be entitled in the name of the State of North Dakota, and shall be filed with the Governor. It may be made upon the petition of 5% of the qualified electors of the county in which the person charged is an officer, or by the State's attorney in such county, and such complaint and charges shall be filed by the Attorney General, when directed to do so by the Governor. When the officer sought to be removed is other than the State's attorney, it shall be the duty of the State's attorney or

other competent attorney, upon request of the Governor, to appear and prosecute, and when the proceedings are brought to remove the State's attorney, the Governor shall request the Attorney General, or other competent attorney, to appear on behalf of the State and prosecute such proceedings.

H. B. No. 171.—(Bingenheimer, Byrne, & Lange)

TESTING OF GASOLINE

An act providing for the testing of gasoline, kerosene and other petroleum products used for fuel and power purposes and purchased for resale; repealing all acts and parts of acts in conflict herewith; providing a penalty.

V E T O

March 15, 1939

Hon. James D. Gronna
Secretary of State
Bismarck, North Dakota

DEAR MR. SECRETARY:

I am transmitting to you herewith House Bill 171, entitled, "An act providing for the testing of gasoline, kerosene and other petroleum products used for fuel and power purposes and purchased for resale; repealing all acts and parts of acts in conflict herewith; providing a penalty."

I disapprove of this bill for the reason that the legislature has failed to make adequate provisions for the enforcement thereof; I am reliably informed that the proper enforcement of this bill would entail an additional annual expense of between \$30-35,000 on the part of the State Laboratories Department; no appropriation has been made for this additional work, and in the absence of such appropriation, the State laboratories would be unable to properly enforce the provisions of this bill.

Respectfully yours,

JOHN MOSES
Governor

JM:B

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

§ 1. All gasoline, kerosene and other petroleum products used for fuel or power purposes, and purchased for resale shall be tested by sample taken at place of destination within the State & sent to the State chemist as provided by Article 69 of Chapter 38 of the 1925 Supplement to the 1913 Laws of the State of North Dakota, prior to resale of any such products.

§ 2. PENALTY.] Any person, firm, association or corporation exposing for sale or selling any gasoline, kerosene or other petroleum products, to be used for fuel or power purposes, without having first complied with Section 1 hereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25.00), or more than three hundred dollars (\$300.00), or by imprisonment for not less than ten (10) days or more than ninety (90) days, or both, at the discretion of the court.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

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