

juvenile commissioner, or other officer shall utilize the least expensive method of transportation, and the mileage allowed to him shall be based only upon the use of such least expensive method of transportation. Such mileage shall be paid only after the filing with the county auditor of an itemized statement verified by affidavit showing the mileage traveled, the manner in which traveled, the days traveled, and the purpose of the travel and showing that the method of travel was the least expensive method of transportation. Such statement and affidavit shall be submitted to the board of county commissioners and such claims shall be approved by such board before the same shall be allowed or paid.

§ 4. REPEAL.] That Chapter 173 of the Session Laws of 1917 (ss. 3526a1 to 3526a5, both inclusive, of the 1925 Supplement to the 1913 Compiled Laws) as amended by chapter 275 of the Session Laws for the year 1931 is hereby repealed.

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

Approved March 14, 1941.

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## TAXATION

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### CHAPTER 267

S. B. No. 145—(Committee on Tax and Tax Laws)

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#### ASSESSMENT OF CAR LINE COMPANIES, EXPRESS AND AIR TRANSPORTATION COMPANIES

An Act to amend and re-enact Chapter 236 of the Session Laws of 1937.

An Act to provide for the assessment of car line companies, express companies, and air transportation companies. Providing for the allocation of the Tax to the State of North Dakota; and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. All of the provisions of Chapter 291, Laws of 1931, are hereby made applicable in so far as the same may be consistent with the provisions of this Act, to the assessment of car line companies, express companies, and air transportation companies subject to the provisions as follows:

(a) The State Tax Commissioner shall, after all of the pro-

visions of said Chapter 291, Laws of 1931, have been complied with as to tentative valuation hearing and assessment by and before the State Board of Equalization, figure a tax upon that part of the valuation thus determined, as by law provided in the assessment of other utilities. Said taxes shall be computed by applying to said taxable valuation the average millage rate, obtained by dividing the total taxable valuation of all property within the State for the current year, into the total of all State and local taxes assessed within the State on a millage basis for the current year.

(b) On or before the 31st day of January in each year the Tax Commissioner shall file with the State Treasurer a certified list of all companies assessed under the provisions of this Act for the preceding year, together with the valuations and taxes assessed in each case. Such tax shall fall due upon the 1st day of February next following the date of certification, and shall become delinquent on March 1st.

(c) All of the provisions of the law respecting interest rates and penalties upon delinquent personal property assessments generally, shall be equally applicable to the assessments herein provided.

§ 2. If any tax required to be paid by any company under the provisions of this Act shall not be paid on or before October 1st following delinquency, the State Treasurer shall seize personal property belonging to such company found within this State sufficient to pay the amount of such tax, with penalty and interest. The State Treasurer, immediately after seizing said property, shall proceed to advertise such property for sale by publishing a notice for at least two times in a newspaper published in Burleigh County, which notice shall describe the property seized, the amount of the tax and penalty for which the property has been seized, and the time, day, and place when and where said property will be sold, and if the said tax and penalty, with the interest due thereon, is not paid before the time appointed for such sale, which shall not be less than ten days after the first publication of such notice, the State Treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

§ 3. LEGAL PROCEEDINGS TO ENFORCE PAYMENT OF TAX.] If the State Treasurer is unable to find within this State sufficient personal property belonging to such company charged with such tax to pay such tax, with the penalty and interest thereon, he shall notify the Attorney General of the amount of such delinquent tax, with penalty and interest accrued thereon, and it shall be the duty of the Attorney General to institute an action in the district court of Burleigh County to collect the same, and upon the institution of any such action an attachment may be issued and any property owned by such company may be attached.

§ 4. That the tax imposed herein shall be levied for the purpose of providing revenue for the payment of interest due or to accrue upon outstanding North Dakota Real Estate Series Bonds, that the State Treasurer shall collect the tax levied pursuant to the provisions of this act and deposit the same monthly to the credit of, 'Real Estate Bond Interest Payment Fund', established by Chapter 128 of the Session Laws of 1929 and the State Board of Equalization shall consider the revenue derived from the administration of this act in determining, the necessity and amount of any tax to be levied in the manner provided by law.

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

Approved March 18, 1941.

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## CHAPTER 268

S. B. No. 133—(Committee on Judiciary)

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### ASSESSMENT OF COAL DEPOSITS

An Act to Amend and re-enact Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, relating to Aid to Assessors in Valuing Coal Deposits Reserved to Grantors by Providing That All Deeds and Transfers of Real Property Which Reserves the Coal Deposits to the Grantor Shall Contain a Full Description of the Coal Deposits so Reserved, its Length, Width, and Thickness, and Validating all Reservations and Conveyances of other Minerals or Mineral Deposits Made Prior to the Passage and Taking Effect of this Act, and Limiting the Time Within Which Actions May be Commenced in the Courts of this State to Contest the Validity or Legality of Such Reservations or Conveyances, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 5518 of the Compiled Laws of North Dakota for 1913 be, and the same is hereby amended and re-enacted to read as follows:

§5518. Reservation of coal limited to description. All deeds and transfers of real property in this state that reserve to the grantor the coal in said property shall contain an accurate description of the coal reserved to the grantor, its nature, length, width and thickness and the coal reserved to the grantor shall be limited to such description. Provided that the provisions hereof shall not apply to state and school lands.

§ 2. AMENDMENT.] That Section 5519 of the Compiled

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

§ 5519. Reservation without description ineffectual. Every deed and transfer of real property in this state that recites a reservation to the grantor of the coal deposits in said property, but which does not contain an accurate description of such deposits as required in Section 5518 shall be construed to transfer to the grantee named in such deed, all right, title and interest to such property and all deposits of coal imbedded therein, notwithstanding such attempted reservation.

§ 3. VALIDATION.] Notwithstanding the provisions of Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, all reservations of minerals or mineral deposits other than coal, contained in all deeds and transfers of real property in this state, executed prior to the passage and taking effect of this act, and all conveyances and transfers of minerals or mineral deposits other than coal, separate from the surface rights, by mineral deed or otherwise, executed prior to the passage and taking effect of this act, are hereby declared legal and valid for all purposes, and no action to contest the validity or legality of such reservations or conveyances or transfers by reason of any of the provisions of Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, shall be brought in the Courts of this State unless commenced within ninety days after the passage and taking effect of this act.

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

Approved March 7, 1941.



## CHAPTER 269

S. B. No. 195—(Committee on Delayed Bills)

## DECLARING ASSESSMENTS OF TAXABLE PROPERTY IN EXCESS OF FULL AND TRUE VALUE OF MONEY, VOID

An Act Declaring Assessments of Taxable Property in Excess of the Full and True Value in Money Void; providing for Administrative and Judicial Review of Valuations of Individual or Classes of Taxable Property and the Equalization of Valuations Between Assessment Districts within and among the Several Counties of the State, and Prescribing Procedure for such Review; Providing for the Annual Meetings of the State Board of Equalization to Assess and Equalize Taxable Property, Fixing the Time when Real, Personal and Other Taxes Become Due and Delinquent with Penalties; Prescribing the time for the Levy of State Taxes, and the Fixation of the Mill Rate for State Purposes; providing that the Act Operate Prospectively Only; Repealing Subdivisions 7 of Section 1, Chapter 276 of the Session Laws of 1931, Chapter 225 of the Session Laws of 1939, Section 2141a1 of the 1925 Supplement to the Compiled Laws of 1913, Chapter 246 of the Session Laws of 1937 and Chapter 233 of the Session Laws of 1939.

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

§ 1. TAXABLE PROPERTY, HOW ASSESSED.] That all property in this state subject to taxation upon an ad valorem basis shall be assessed only at its full and true value in money; and that all assessments of any taxable property in excess of the full and true value in money shall be null and void.

That each year the county auditor shall cause to be published (in) the official county newspaper, for two successive weeks the first publication to be not earlier than May 1st and the last publication not later than May 20th, a notice to the effect that proceedings for the equalization of taxes will be taken by the several local Equalization Boards on the second Monday in June and that each taxpayer has a right, on or before July 10th, to make application to the Board of County Commissioners for a review of the assessment made by the assessor and equalized by such local board, and has a right to appeal to the District Court from the decision of such Board of County Commissioners and that if he fails to make such application the assessment against his property and the valuation thereof for taxing purposes will be final.

§ 2. APPLICATIONS, FOR WHAT PURPOSE MADE.] That after the local boards of review have performed the duties prescribed by Section 2133 of the Compiled Laws of North Dakota for the year 1913 applications may be made to the board of county commissioners: (1) to review and re-determine the full and true value in money of any individual property or of any class of property within any taxing district; and (2) to review and equalize the assessments between the several assessment districts of the county.

§ 3. APPLICATIONS, BY WHOM MADE.] Such applications may be made: (1) by any person who owns or has any interest in taxable property that is subject to taxation on an ad valorem basis; (2) by any group of persons or taxpayers acting jointly, or by one taxpayer for and on behalf of other taxpayers when made at their request; or (3) by the governing body of any local taxing district or the presiding and attesting officers thereof.

§ 4. APPLICATIONS, HOW EXECUTED.] All applications to review and re-determine the full and true value in money of taxable property shall be signed and verified: (1) by the owner or person having a taxable interest in the property involved; (2) by all of the owners acting jointly, or by one owner for and on behalf of all taxpayers for whom such application is made, or by their duly authorized attorney of record; and (3) by the presiding and attesting officer of any local taxing district.

§ 5. APPLICATIONS, WHEN AND WHERE FILED.] All applications authorized to be filed under the provisions of this Act shall be brought by the applicant as petitioner against the board of county commissioners as respondents, and shall be filed with the county auditor on or before the tenth day of July of each year.

§ 6. HEARING OF APPLICATIONS.] That all applications filed with the county auditor shall be heard upon not less than five days' written notice to all applicants, which notice shall be served by mail upon every applicant who has signed such application, or upon the applicant who brought such proceedings for the use and benefit of all other taxpayers similarly situated, or upon the applicant's attorney, if any, of record. That the county auditor shall mail such notice of hearing and make proof of service by affidavit, showing the names and addresses of all parties and attorneys to whom such notice was mailed, and shall attach a copy of such notice to such affidavit and file the same in his office.

§ 7. POWER AND DUTIES OF BOARD OF COUNTY COMMISSIONERS.] That the board of county commissioners shall have the power to consolidate two or more applications for the purpose of hearing and in re-determining the full and true value in money of any property for the purpose of taxation; and said board shall consider the location, fertility of soil, the average amount and distribution of seasonal rainfall, wind erosion, soil drifting, the use for which the lands involved are suitable, the kind, quantity, quality and value of crops which are or may be produced, the average rental value for the five preceding years, the reasonable market value of like property situated in the same taxing district, the value of improvements when taxable, and any other facts and circumstances which may be competent and admissible to prove the full and true value in money of such property in courts of competent jurisdiction.

§ 8. DETERMINATION, WHEN MADE, AND NOTICE REQUIRED.]

The Board of county commissioners shall: (1) review and re-determine the full and true value in money of all taxable property described in the application; and (2) review and equalize the assessments between the several assessment districts of the county in accordance with the relief prayed for in each application, so that all assessments and valuations of similar individual property or classes of property within the several assessment districts shall be equal and uniform throughout the county. The Board shall decide and dispose of all applications before the first day of August. Such determination shall be in duplicate and shall show the full and true value in money of all taxable property described in the application, and the increase or decrease, if any, in the valuations of property situated in the several assessment districts made to equalize such assessments. The original and copy of such determination shall be filed with the county auditor, and if an appeal is taken therefrom to the district court the copy shall be attached to the notice of appeal, and if no appeal is taken then the county auditor shall make whatever changes and corrections in the assessment list that may be necessary to conform to the findings and determinations of the board of county commissioners, and notify all the applicants or parties interested in such proceeding, which notice shall be served in the manner as the notice of hearing is served, and like proof of service shall be made and filed in the office of the county auditor.

§ 9. RIGHT OF APPEAL TO THE DISTRICT COURT.] That all applicants who feel aggrieved by the determination of the board of county commissioners may appeal therefrom at any time before the 15th day of August to the district court of the county wherein decision was rendered in the same manner as is now provided by law for appeals from the board of county commissioners; provided that no bond of any kind shall be required to perfect such appeal. Such notice of appeal shall be filed with the clerk of the district court, who shall notify the district or presiding judge of said court of the number of appeals filed in his office after the time allowed to take such appeals has expired; and thereupon the district judge shall call a special term of said court, if no general term is to be held, within ten days thereafter, and shall direct the clerk thereof to place all appeals filed in his office upon the calendar of any regular, special or adjourned term of said court for immediate trial and disposition. The presiding judge of the said district court shall set a definite date for the hearing and trial of all appeals pending in his court which shall not be less than ten days from the date of such order. The judge of said court shall thereupon request a district judge of another judicial district to hear, try and determine all appeals taken under the authority of this Act, and shall direct the clerk of his court to serve notice of the time and place of hearing of all appeals pending trial, which notice shall be served by mail upon all of the applicants interested in said proceeding, or their attorneys, if any, of record, at

least five days before the time specified for the trial thereof. The clerk of said court shall also publish notice in the official newspaper of the county, giving the place and time when all appeals will be heard, which notice shall be published once at least five days before the time specified by the order of the court for the trial of such appeals.

§ 10. MANNER OF TRIAL AND DISPOSITION OF CAUSE.] The district judge designated to preside at such term of court shall hear, try and determine all issues of fact and law presented by such appeals de novo, and shall decide all appeals pending in said court for determination before the first day of October. The court shall have power to require a consolidation of two or more applications for the purpose of trial if the pleadings, facts and issues justify the same to facilitate and expedite the trial and disposition of said applications upon their merits. The court shall hear and consider all testimony submitted relative to the full and true value in money of taxable property which may be admissible under the provisions of Section 7 of this Act, and thereupon the court shall: (1) fix and determine the full and true value in money for the purpose of taxation of all of the property described in each application; (2) adjust and equalize the valuations of all taxable property in the several assessment districts so that they shall be uniform and equal throughout the county in accordance with the relief prayed for by the applicant. That every decision of the district judge rendered pursuant to the provisions of this Act shall be final and shall not be subject to review by appeal.

§ 11. POWER OF COUNTY COMMISSIONERS.] After any judgment of the district court becomes final the county commissioners shall have power to convene in general or special session to order any increase or decrease in the average assessed valuation consistent with the judgment of the court. Provided, that in no case shall the assessed valuation be increased above that found and fixed by the District Court, which in the judgment of the board may be necessary to render the assessments of similar property in the several assessment districts uniform and equal throughout the county; provided, however, that such meeting must be held and order made within ten days after the judgment of the district court has become final.

§ 12. CORRECTION OF ASSESSMENT RECORD.] That after the expiration of ten days from the time when any judgment of the district court has become final the county auditor shall immediately make whatever amendments, changes or corrections of the assessment records of his county that may be necessary to conform such record to the decisions of the district court or the order of the board of county commissioners, if any is made, pursuant to the provisions of Section 11 of this Act; and thereupon the county auditor shall prepare and transmit the assessment record of his county to the

state board of equalization in accordance with the provisions of Section 2140, Compiled Laws of North Dakota for the year 1913.

§ 13. ANNUAL MEETINGS OF STATE BOARD OF EQUALIZATION TO ASSESS TAXABLE PROPERTY.] The board of equalization shall meet annually on the first Tuesday in August at the office of the state tax commissioner to assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of Section 179 of the State Constitution, as amended, and the statutes of this State.

§ 14. ANNUAL MEETINGS OF THE STATE BOARD OF EQUALIZATION TO EQUALIZE TAXABLE PROPERTY.] The state board of equalization shall meet annually on the fourth Tuesday in October at the office of the state tax commissioner, and shall then examine and compare the returns of the assessment of the taxable property assessed by the assessors in local taxing districts in the several counties of the state and proceed to equalize the same so that all assessments of similar taxable property shall be uniform and equal throughout the state at its full and true value thereof in money or at such percentage of the full and true value as may be required by law.

§ 15. HEARING BEFORE STATE BOARD OF EQUALIZATION.] The Board of county commissioners of any of the several counties of the state or representative groups of taxpayers or any taxpayers' association may appear, with counsel, before the state board of equalization at its annual meeting to be heard for the purpose: (1) of opposing any unreasonable or unjust increase or decrease in the valuation of the taxable property of their county as equalized by its county board of equalization; or (2) of demanding a raise or increase of valuation of similar property in any other county that may be necessary so that all assessments of such taxable property in the several counties shall be uniform and equal throughout the State.

§ 16. APPEALS FROM THE STATE BOARD OF EQUALIZATION.] The board of county commissioners of any county feeling aggrieved by the determination of the state board of equalization may, on their own motion or upon request of representative groups of taxpayers or of any taxpayers' association shall, within ten days after notice of such decision appeal to the district court of Burleigh county and demand a trial de novo of the issues of fact and law presented thereby. Such appeal shall be taken by the filing of notice of appeal with the clerk of the district court of Burleigh county, stating the nature and effect of the determination appealed from. A copy of such notice of appeal shall be forthwith served by the appellant upon the state tax commissioner who, as secretary of said board, shall within ten days after the service of such notice of appeal prepare under his certificate a full and complete record of all proceedings had and made of record before the state board of equalization, to-

gether with a certified copy of the determination appealed from, and transmit the same to the clerk of the district court of Burleigh county. Said record, when so filed, shall constitute the judgment roll upon said appeal; and upon the filing thereof the district judge of said court shall set a definite date for the hearing thereof, which shall not be more than ten days from the date of the order of the court. The clerk of said court shall serve notice of the time of the hearing of said appeal by mail upon the appellants and respondents or their attorneys, if any, of record, at least five days before the time specified for the trial of said cause. The trial judge shall have the power to permit the board of county commissioners and any representative group or association of tax payers of any other county to intervene in such proceeding, either as parties appellant or respondent and may permit the filing of complaints in interventions or of answers in defense of the determination of the state board of equalization, whenever in his judgment a complete determination of the controversy presented by such appeal cannot be had without the presence of other counties who are interested in and who will be affected by the judgment of the court.

The trial judge shall review anew the determination of the state board of equalization, and may admit the testimony of the county auditor and other competent evidence to show the valuations of taxable property as equalized by the county board of equalization and any other competent evidence which may establish the relative value of the taxable property involved in such proceeding. The court shall render its decision within ten days after the submission of said cause and order whatever increase or decrease in the percentage of the average of assessed valuations of taxable property involved may be necessary to render such assessments of similar property between the several counties uniform and equal throughout the state; and upon the rendition of such decision the clerk of said court shall immediately transmit a copy thereof to the appellants, intervenors, if any, and the state tax commissioner.

§ 17. APPEALS TO THE SUPREME COURT.] Any party feeling aggrieved by the decision of the district court upon appeal from a determination of the state board of equalization may appeal therefrom to the Supreme court within twenty-days after written notice of the rendition thereof. Such appeal shall be taken and perfected in the same manner as appeals are taken in civil actions. Upon filing of the record on appeal the clerk of the supreme court shall immediately notify the chief justice, who shall direct the clerk to place such case at the head of the calendar and notify the attorneys of record that such cause will be brought on for oral argument not less than five days from the date of such notice; that the supreme court shall decide the issues of fact and the law presented upon such appeal within fifteen days after the submission thereof; that a petition for rehearing may be filed within five days after written notice of

the rendition of such decision, which petition shall be disposed of by the court with reasonable dispatch consistent with the nature and importance of the issues involved. That whenever the judgment of the supreme court becomes final the clerk thereof shall immediately deliver a copy of the decision to the state tax commissioner, who shall immediately notify the governor as chairman of the state board of equalization of the rendition thereof.

§ 18. STATE TAXES, WHEN LEVIED AND RATE FIXED.] That the state board of equalization shall not levy any taxes to defray the expenses of the state or to pay the interest on the state debt or determine the rate of state tax to be levied for the purposes authorized by law until all valuations of taxable property fixed and equalized pursuant to the provisions of this Act shall have become final; provided, however, that if no appeal is taken to the district court from its original determination within the time prescribed by this Act or if an appeal is taken therefrom then the state board of equalization shall meet within ten days after the time for the appeal has expired or the judgment upon appeal has become final to make whatever changes or corrections in its original determination that may be necessary so that the same shall conform to the final judgment of the district court or supreme court rendered upon appeal; and thereupon the said board shall levy all taxes for state purposes and fix the rate of state taxation certify its determination to all of the county auditors in the manner provided by law.

§ 19. REAL AND PERSONAL PROPERTY TAXES, WHEN DUE AND DELINQUENT, WITH PENALTIES.] Any real and personal property taxes, hail insurance taxes and yearly installments of special assessment taxes, shall become due on the first day of March following the year for which such taxes were levied; and the first installment on real estate taxes, all personal property taxes, hail insurance and yearly installments of special assessment taxes, shall become delinquent on the first day of May following, and if not paid on or before the first day of June following shall be subject to a penalty of one per cent, and on July 1st following an additional penalty of one per cent, and on August 1st following an additional penalty of one per cent, and an additional penalty of two per cent on October 15th following. The second installment of real estate taxes shall become delinquent on October 15th, and if not paid on or before that date shall become subject to a penalty of two per cent.

§ 20. DISCOUNT FOR PAYMENT OF TAXES BEFORE DELINQUENCY.] The county treasurer shall allow a five per cent discount to all taxpayers of taxes on real property who shall pay all of the real estate taxes levied and spread upon any tract or parcel of real property in any one year in full on or before the first day of April prior to the date of the delinquency of such real estate taxes. Such a discount shall apply to all general real estate taxes levied for state,

county, city, township, village and school district purposes, but shall not apply to personal property taxes, special assessment installments or to hail indemnity taxes.

§ 21. WAIVER OF RIGHTS AND REMEDIES BY TAXPAYER.] That every taxpayer who feels aggrieved by and dissatisfied with any valuations of his taxable property shall appear before the boards of review of the local taxing districts or before the board of county commissioners while acting in the capacity of a local board of review or of equalization at the time when said boards are required by law to review valuations of individual or classes of property and equalize such valuations in the several assessment districts of the county, to protest and object to any assessments or the equalization thereof which he claims to be unjust and excessive, and if denied, such taxpayer must make and file his application for relief authorized by the provisions of this Act and appeal therefrom within the time prescribed therefor; and unless such taxpayer shall avail himself of the rights and remedies conferred by this Act he shall be deemed to have waived and forfeited any and all rights and remedies which he may have in law or in equity for a review or reduction of any valuations of his taxable property on the ground that such valuations are unjustly excessive or that they exceed the full and true value of his property in money.

§ 22. WAIVER OF ALL RIGHTS AND REMEDIES BY TAXING DISTRICTS.] That unless the governing bodies of local taxing districts exercise the powers and avail themselves of their remedies within the time prescribed by the terms of this Act they shall be deemed to have waived and forfeited all the rights and remedies which they may have in law or in equity for a review of the assessments as equalized: (1) between the several assessment districts of each county, and (2) between the several counties of the state on the ground that such valuations as equalized by the county and state boards of equalization are unjust, excessive or discriminatory.

§ 23. ACT PROSPECTIVE.] The provisions of this Act shall operate prospectively only, and shall not apply to or affect any assessments of taxable property made for the years 1939 and 1940.

§ 24. REPEAL.] That Subdivision 7 of Section 1, Chapter 276, Session Laws of 1931, and Chapter 225 of the Session Laws of 1939, Section 2141a1 of the Supplement to the Compiled Laws of North Dakota for the year 1913, Chapter 246, Session Laws for the year 1937 and Chapter 233, Session Laws for the year 1939, are hereby expressly repealed.

Approved March 18, 1941.



**CHAPTER 270****H. B. No. 74—(Tax and Tax Laws Committee)****TAXATION OF BANKS AND TRUST COMPANIES**

**An Act Imposing a tax on banks and trust Companies Measured by Net Income, Including Income from Tax Exempt Securities, Providing for the Assessment and Collection Thereof; Providing for the Enforcement of such Act and Penalties for the Violation Thereof. Repeal.**

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

§ 1. DEFINITION.] The term "bank", as used herein, shall include any banking association organized under the laws of the United States or of the State of North Dakota located in and having its principal place of business in this state.

The term "trust company", as used herein, shall include any trust company organized under the laws of the State of North Dakota, located in and with its principal place of business in this state.

§ 2. IMPOSITION OF TAX.] Beginning with the year 1942, and annually thereafter, an annual tax as hereinafter provided is hereby imposed upon every national banking corporation or association and upon every banking corporation or association other than national banks and upon trust companies for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year.

It is understood that the state is hereby adopting the method numbered (4) authorized by the act of March 23, 1926 amending Section 5219 of the Revised Statutes of the United States relating to taxation of national banks.

§ 3. BASIS OF TAX.] The liability for the tax imposed hereunder shall arise upon the first day of the calendar year 1942, and upon the first day of each calendar year thereafter, and shall be based upon and measured by the net income of each such bank or trust company for the preceding calendar year including the amount of its income from tax exempt securities for such year as returned to the Tax Commissioner and the County Auditor, and the tax thereon shall be computed at the rate of four per centum; provided, however, that the minimum tax assessable to any one taxpayer shall be Fifty (\$50.00) Dollars.

§ 4. DUE DATE.] All taxes levied and assessed under the terms and provisions of this act shall become due on the 31st day of December following the return to the Tax Commissioner, provided for herein, and shall become delinquent on the first day of March next after they become due, and thereupon a penalty of five per

cent shall attach and be charged upon all delinquent taxes, and thenceforth interest shall be charged at the rate of three-fourths of one per cent per month of the original amount of the tax until the same is paid.

§ 5. LIEU TAX.] The tax referred to shall be in lieu of all other taxes or impositions, state, county and local, except taxes upon the real property of each such bank and trust company.

§ 6. REPORT AND PAYMENT OF TAX.] On or before the 15th day of March, 1942, and each year thereafter the managing officer of each bank or trust company located in this state shall file with the State Tax Commissioner of the State of North Dakota, on forms to be provided by said Tax Commissioner, a report in writing under oath showing the amount of the net income of said bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year, and shall at the same time file with the county auditor of the county in which such bank or trust company is located a duplicate original of such return.

§ 7. COMPUTATION AND CERTIFICATION OF TAX.] On or before August 1st of each year the State Tax Commissioner shall compute the total tax to be assessed under the terms and provisions of this act, and shall certify the same to the county auditor of the county in which each such taxpayer is located.

§ 8. DUTY OF THE COUNTY AUDITOR.] It shall be the duty of the county auditor, after receiving such statement from the Tax Commissioner, to certify such taxes to the county treasurer for collection at the same time and in the same manner as real and personal property taxes are required to be so certified.

§ 9. ACCESS TO RECORDS.] For the purpose of enforcing the provisions of this act the State Tax Commissioner shall, upon demand, have access to any and all books and records of each and every bank and trust company subject to the terms and provisions of this act, and shall also have access to any and all records, reports, and information in the office of the State Examiner, concerning any taxpayer subject to the terms and provisions hereof; provided, however, that such information so obtained from such source shall not be disclosed by the Tax Commissioner or any of his agents or employees excepting insofar as may be necessary in the enforcement of the provisions of this act.

§ 10. DUTY OF TAX COMMISSIONER.] Upon the filing with the Tax Commissioner of the report, as provided in Section 6 hereof, it shall be his duty to check such report of net income and the income on tax exempt securities with the Federal income tax report returned to the Collector of Internal Revenue of the United States for the district of North Dakota for such tax year. In the

event of any discrepancy between such return and the return filed with the tax commissioner, it shall be the duty of the tax commissioner to notify the bank or trust company making such return and the county auditor of the county in which such bank or trust company is located, of any error in the amount of such computation, and the amount due shall be adjusted accordingly.

§ 11. REASSESSMENT OF TAX.] It shall be the further duty of the Tax Commissioner from time to time to check the income tax returns of each bank or trust company as made to the Collector of Internal Revenue, and in the event such check reveals a reassessment of such Federal income tax for the year in question, the Tax Commissioner shall immediately reassess the tax due from such bank or trust company under the provisions of this act, and notify such bank or trust company, as the case may be, and the county auditor of the county in which the same is located. If at any time the Tax Commissioner has reason to question the correctness of any return so made to him under the terms and provisions of this act he shall, if he deems it advisable or necessary, investigate the books and records of the bank or trust company in question. If additional tax is due and owing it shall be paid by such bank or trust company to said county treasurer within thirty days after receiving notice thereof from the tax commissioner. If said bank or trust company shall have been found to have overpaid said tax and is entitled to a refund it shall be entitled to deduct the amount thereof from such tax as may be payable by it for the next succeeding calendar year.

§ 12. ALLOCATION OF TAX.] Upon receipt by the county treasurer of the amount of the tax payable hereunder, such county treasurer shall apportion and distribute to the state, county, and to the political subdivisions in which each such bank or trust company is located, the amount of such tax payment so received by him, on the same basis as the general real estate tax levy is apportioned and distributed.

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

§ 14. FALSE RETURN. PENALTY.] Any taxpayer, or any officer thereof, who, with intent to violate the provisions of this act, shall make, render, sign, or verify any false or fraudulent return or statement required under the terms and provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall

be liable to a fine of not more than One Thousand (\$1000.00) Dollars or imprisonment for not to exceed one year, or, in the discretion of the court, to both such fine and imprisonment.

§ 15. LIEN OF TAX.] The amount of tax due shall, from the date of its assessment, constitute a prior lien upon the assets of the bank, and no dividend shall be declared or distributed while any tax assessed under the provisions hereof remains delinquent and unpaid.

§ 16. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1941.

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## CHAPTER 271

H. B. No. 98—(Dalzell, Crockett, Bolmeier, Carlson, Wolf of McIntosh, Nelson of Cass)

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### CIGARETTE TAX

An Act Relating to the Sale of Cigarettes, cigarette papers used for the making of cigarettes, and Snuff; Providing for the Levy, Assessment, Collection and Payment of a Tax Thereon; Providing for the Regulation of the Sales Thereof; Providing Penalties for the Violation Thereof; Repealing Chapter 106, Session Laws of North Dakota for 1927, Chapter 105, Session Laws of North Dakota for 1931, Chapter 269, Session Laws of North Dakota for 1935, and all Acts or Parts of Acts in Conflict Therewith.

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

§ 1. DEFINITION.] Whenever used in this Act, unless the context shall otherwise require, the word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association however formed; the word "distributor" shall mean any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, or snuff, or importing into this State cigarettes, cigarette papers, or snuff, for the purpose of distribution and sale of such cigarettes, cigarette papers, or snuff to dealers and retailers; the words "licensed distributor" shall mean a distributor licensed under the provisions of this Act; the word "dealer" shall mean any person other than a distributor, as defined herein, who is engaged in the business of selling cigarettes, cigarette papers, or snuff; the words "licensed dealer" shall mean a dealer licensed under the provisions of this Act; the word "sale" or "sell" shall include or apply to gifts, exchanges and barter; the word "stamp" shall mean the stamps prepared by the Tax Commissioner, as provided in Section 7, and the word "insignia" shall mean the impression or

mark made on the cigarettes, cigarette papers, or snuff, approved by the Tax Commissioner, as provided in Section 10.

§ 2. DISTRIBUTORS AND DEALERS TO BE LICENSED.] Each person engaged in the business of selling cigarettes, cigarette papers, or snuff in this State, including any distributor or dealer, shall secure a license from the State Tax Commissioner before engaging in such business or continuing to engage therein after July 1, 1941. A separate application and license shall be required for each distributor at each outlet or place of business within the State, and a separate dealer's license shall be required for each retail outlet when a person shall own or control more than one place of business dealing in cigarettes, cigarette papers, or snuff. No retailer shall be granted a distributor's license. Such licenses shall be issued by the State Tax Commissioner on applications stating, on forms prescribed by the State Tax Commissioner, the name and address of the applicant, the address and place of business at which it is proposed to engage in such business, the type of business, and such other information as the Tax Commissioner may require for the proper administration of this Act. Each application for a wholesale or distributor's outlet license shall be accompanied by a fee of \$10.00 and a surety bond to be approved by the Tax Commissioner in the sum of not less than \$1,000.00 nor more than \$5,000.00. Each application for a dealer's outlet license shall be accompanied by a fee of \$5.00. Stamps or insignia provided for in this Act shall be sold to and affixed by "Licensed Distributors" only; "Licensed Dealers", under this Act, may sell or buy or have in their possession, only cigarettes, cigarette papers, or snuff upon which such stamps or insignia have been previously affixed. A distributor's license does not authorize the holder thereof to make sales at retail, as provided in this Act. Each license so issued shall be prominently displayed on the premises covered by the license.

§ 3. LICENSE.] Each license issued under the provisions of this Act shall be valid until the first day of July subsequent to the date of issuance of such license, unless sooner revoked by the State Tax Commissioner pursuant to the provisions of this Act, or unless the business with respect to which such license was issued shall be transferred, in either of which cases the holder of the license shall immediately return it to the State Tax Commissioner. The license issued hereunder is annual and runs from July first of each year to the end of June thirtieth following.

§ 4. REVOCATION OF LICENSE.] The Tax Commissioner may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this Act, or any of the rules or regulations prescribed by the Tax Commissioner. Any person aggrieved by such revocation may apply to the Tax Commissioner for a hearing as hereinafter provided and may further appeal to the Court, as

provided in this Act. When a license has been legally revoked, no license shall again issue to such licensee for a period of one year thereafter. Any person who shall sell any cigarettes, cigarette papers, or snuff after the license of such person has been revoked, as provided herein, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 nor more than \$300.00, and the cost of prosecution and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months and all cigarettes, cigarette papers, or snuff in his possession shall be seized and forfeited to the State.

§ 5. UNLAWFUL TO SELL WITHOUT LICENSE.] No dealer or distributor shall sell cigarettes, cigarette papers, or snuff in this State at wholesale or at retail unless a license shall have been issued to him as prescribed by this Act; and any person who shall sell, offer for sale, or possess with the intent to sell any cigarettes, cigarette papers, or snuff without a license, as provided in this Act, shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$300.00 and the cost of prosecution and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months, and all cigarettes, cigarette papers, or snuff in his possession or in his place of business shall be confiscated and forfeited to the State.

§ 6. TAX.] 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 Tax Commissioner upon all cigarettes, cigarette papers, or snuff sold in this State the following taxes, to be paid prior to the time of sale and delivery thereof:

CLASS A. On cigarettes weighing not more than three pounds per thousand, one and one-half mills on each such cigarette.

CLASS B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette.

CLASS C. On cigarette papers made up in packages, books, or sets; on each such package, book or set containing more than fifty papers, one-half cent; containing more than fifty papers but not more than one hundred papers, one cent; containing more than one hundred papers, one cent for each fifty papers or major fractional part thereof.

CLASS D. On snuff, a box of one and one-fourth ounces, two cents tax; on boxes containing more than one and one-fourth ounces, add two cents for each additional one and one-fourth ounces, or major fractional part thereof.

All cigarettes sold in this State under the provisions of this Act shall be put up in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80, or 100 cigarettes each. All snuff sold in this State, under the provisions of this Act, shall be put up in packages containing not more than twelve ounces thereof each. Immediately upon receipt of

(by) the licensee, each package of cigarettes or snuff and each package, book, or set of papers shall, except as hereinafter provided, have securely affixed thereto a suitable stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to sale or removal for consumption, under such regulations as the Tax Commissioner shall prescribe. Each package of snuff or cigarettes displayed, exhibited, stored, or possessed in original cartons or containers or otherwise, within or upon the premises from which sale thereof may be made to the consumers shall be conclusively presumed to be intended for sale to consumers and to be displayed, exhibited, stored, or possessed for such purpose; and each package of snuff or cigarettes, book, or set of papers, at the time the same is displayed, exhibited, stored, or possessed upon such premises, shall, except as hereinafter provided, have securely affixed thereto a suitable stamp, or stamps denoting the tax thereon, which stamps shall be cancelled at the time and manner herein required; and the possession of any such package of snuff or cigarettes, within or upon any premises (possession), shall be prima facie evidence of a sale made in violation of this Act.

For any violation of any of the provisions of this Act, the offender shall upon conviction thereof, be fined not less than One Hundred (\$100.00) Dollars, nor more than Three Hundred (\$300.00) Dollars and costs of prosecution, and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months, and all cigarettes, cigarette papers and snuff in his possession or in his place of business shall be confiscated and forfeited to the State.

It shall be unlawful for any person not authorized hereby, with intent to defraud the State, to make, alter, forge or counterfeit any license, stamp or insignia provided for in this Act, or to have in his possession any forged, counterfeited, spurious, or altered stamps or insignia, and any person found guilty of any violation of this provision shall be fined not more than One Thousand (\$1,000.00) Dollars and shall be imprisoned in the State Penitentiary for a period of not more than three years.

§ 7. STAMPS PREPARED BY COMMISSIONER.] The Tax Commissioner shall prepare and have suitable stamps for use on each kind of package prescribed in Section 6 of this Act, and shall keep an accurate record of all stamps thus delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The Tax Commissioner shall sell the stamps herein provided for only to dealers holding a "distributor's license", issued as provided in this Act, and the monies received from the sale of said stamps shall be turned into the general fund of the State; provided that wholesale distributors of cigarettes, cigarette papers, or snuff, located outside of this State, may apply for and receive a "distributor's license", as hereinbefore provided, and may purchase stamps from the Tax

Commissioner and affix such stamps on cigarettes, cigarette papers, and snuff to be sold in this State, and cancel the same in the manner prescribed by the regulations of the Tax Commissioner, in which case the purchaser within this State receiving such stamped cigarettes, cigarette papers, or snuff, will not be required to purchase and affix stamps thereon.

§ 8. RECORDS TO BE KEPT BY DISTRIBUTORS.] All distributors, who shall dispose of cigarettes, cigarette papers, or snuff, shall keep and preserve for one year all invoices, of cigarettes, cigarette papers, or snuff purchased by them, together with all receipts issued by the State for stamps purchased by said persons, firms, corporations, or associations, and shall permit the State Tax Commissioner, his assistants, authorized agents or representatives to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the State Tax Commissioner, his assistants, authorized agents, or representatives in ascertaining whether the stamps provided for herein have been purchased and used, or to determine the amount of such tax as may be yet due. All persons, firms, or corporations selling or otherwise disposing of cigarettes, cigarette papers, or snuff as distributors, shall keep a record of all sales made within the State, showing the name and address of the purchaser, and the date of sale.

On the first day of January, April, July and October of each year all permittees hereunder, holding a distributor's license, shall, on such form as the State Tax Commissioner shall prescribe, report to such officer all purchases and sales of cigarettes, cigarette papers, or snuff made, from or to any persons either within or without this State during the preceding three months, showing the name and address of the seller, and of the buyer, the date of such sale or purchases and the quantity and make of all cigarettes, cigarette papers, or snuff. Any person, firm, or corporation violating any provisions of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred (\$100.00) Dollars or more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail not more than sixty days, or both such fine and imprisonment. The State Tax Commissioner may revoke any license when the licensee does not make the report herein provided for.

Every consumer who purchases any package of cigarettes, cigarette papers, or snuff, which package does not bear the stamp or insignia placed thereon pursuant to the provisions of this Act; and every person who shall use or consume within this State any cigarettes, cigarette papers, or snuff, unless the same shall be taken from a package or container, as required by and defined in this Act, having attached thereto the stamp or insignia as herein provided for and required, shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment, as in the preceding section set forth.

Any person, firm, or corporation violating any of the provisions



of this Act, or maintaining a place where such cigarettes, cigarette papers, or snuff are sold or kept with intent to sell in violation of the provisions of this Act, shall be deemed guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale cigarettes, cigarette papers, or snuff in violation of the provisions of this Act, shall be deemed to be a nuisance, and such person, firm, or corporation shall be enjoined, and such building or place abated as a nuisance.

§ 9. DISTRIBUTORS IN OR OUT OF STATE MAY PURCHASE STAMPS. DISCOUNT.] Any licensed distributor located within or without this State, shall be entitled to purchase such stamps at a discount of five per cent of the face value of such stamps; and the Tax Commissioner is hereby authorized to allow such discount in the settlement of the account of such wholesale distributor upon the payment to him of any monies which may be, or become due to the State, by reason of the sale, delivery, or consignment to such distributor, of such stamps.

§ 10. TAX METER MACHINES.] The Tax Commissioner may, in lieu of selling stamps, as provided in Section 7 hereof, authorize any manufacturer or distributor located within or without the State to stamp cigarettes, cigarette papers, or snuff with a tax meter machine, and may, under such regulations, as he shall prescribe, provide for the leasing of a tax meter machine to any such manufacturer, or distributor, and supervise and check the operation thereof, and, in such cases, he shall collect and receive the stamp tax herein provided for on all cigarettes, cigarette papers, or snuff sold in, or delivered to dealers in the State for resale, barter, gift, or any other purpose; and any cigarette, cigarette papers, or snuff so stamped with a tax meter machine, shall not be required to have affixed thereon stamps prescribed by Section 6 hereof, and the same may be lawfully possessed and sold by any wholesale or retail dealer in this State; provided that any manufacturer or distributor who stamps cigarettes, cigarette papers, or snuff with a tax meter machine, pursuant to the provisions of this Section, shall be entitled to the discount provided for in Section 9 hereof.

§ 11. DISTRIBUTORS MAY NOT SELL STAMPS.] No distributor or wholesale dealer shall resell to any other distributor or dealer any stamps purchased by him from the Tax Commissioner; and any distributor who has on hand any unused and uncanceled stamps at the time of discontinuing business of selling cigarettes, cigarette papers, or snuff, may return such stamps to the Tax Commissioner and receive 95 per cent of the face value thereof.

§ 12. UNLAWFUL TO TRANSPORT UNSTAMPED.] It shall be unlawful for any person, firm, or corporation to transport into, receive, carry, or move from place to place in this State, by automobile, truck, airplane, conveyance, vehicle, or other means of transporta-

tion, except in the course of interstate commerce, any unstamped cigarettes, cigarette papers, or snuff, and any such automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation, in which any cigarettes, cigarette papers, or snuff are transported or carried, in violation of this Act, and any cigarettes, cigarette papers, or snuff, and other equipment or personal property used as an incident to such transportation and found in such means of transportation, shall be subject to seizure by the Tax Commissioner, or by any sheriff, or other police officer, with or without process, and shall be subject to forfeiture in the manner hereinafter provided.

§ 13. SEIZURES.] Upon the seizure of any cigarettes, cigarette papers, or snuff, and within two days thereafter, the officer making such seizure shall deliver an inventory of the property seized to the person from whom such seizure was made, if known, and file a copy thereof with the Tax Commissioner. Within ten days after the date of the service of such inventory, the person from whom the seizure was made, or any other person claiming an interest in the property seized, may file a demand for a judicial determination of the question as to whether such property was, or is lawfully subject to seizure and forfeiture, and thereupon the Tax Commissioner shall, within thirty days, institute an action in the District Court, of the county where such seizure was made, to determine the issue of forfeiture. Such action shall be brought in the name of the State of North Dakota, and shall be prosecuted by the State's Attorney, the Tax Commissioner, or by the Attorney General. The District Court shall hear such action as a court case, and shall try and determine the issues of law and fact involved. In case a judgment of forfeiture is entered, the Tax Commissioner shall, unless such judgment is stayed pending an appeal to the Supreme Court, as soon as convenient, sell such forfeited property and cover the proceeds, less court costs, into the common school fund of the State. In case such demand is made and no action is commenced, as herein provided, such property shall be released by the Tax Commissioner and redelivered to the person entitled thereto. In the event no demand is made, as herein provided, such seized property shall be deemed forfeited to the State by operation of law, and the Tax Commissioner may thereupon sell the same. In case of the seizure of an automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation pursuant to the provisions of this Act, the officer making the seizure shall file a like inventory, and upon demand as hereinbefore provided, the Tax Commissioner shall, within thirty days thereafter, commence an action in the District Court of the county where such seizure was made, to declare a forfeiture of such vehicle or other means of transportation, and such action shall be heard and determined as other forfeiture actions instituted hereunder; provided, however, that whenever the Tax Commissioner is satisfied that any person from whom property is seized, under the provisions

of this Act, was acting in good faith and without intent to evade the revenue provisions hereof, he shall release the property seized without further legal proceedings.

§ 14. HEARINGS BY COMMISSIONER.] The Tax Commissioner and his duly authorized agents are empowered to conduct investigations, inquiries, and hearings hereunder, and shall have the power to administer oaths and take testimony under oath, relative to the matter of inquiry or investigation. At the hearing the Tax Commissioner or his authorized agent may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry.

The Tax Commissioner or his agent, after said hearing, shall make his findings and his order in writing, which findings and order shall be filed in the office of the Tax Commissioner and a copy thereof shall be delivered by mail or otherwise to the party or parties investigated and a further copy shall be mailed to the State's Attorney in and for the county in which the hearing was held.

§ 15. APPEALS.] Any person aggrieved by any action taken by the Tax Commissioner or his authorized agent, under the provisions of this Act, may within thirty days of such action apply to the Tax Commissioner in writing asking for a hearing or re-hearing of the matter before the Tax Commissioner. The Tax Commissioner shall promptly consider each such application and may grant or deny the hearing requested. If the hearing be denied, the applicant shall be notified thereof forthwith, and, if granted, the Tax Commissioner shall notify the applicant of the time and place fixed for such hearing or re-hearing. After such hearing, the Tax Commissioner may make such order in the premises as may appear to him just and lawful, and shall furnish a copy of such order to the applicant. The Tax Commissioner, on his own initiative, may, by at least ten days' notice in writing, order a hearing on any matters concerned with the administration of this Act.

§ 16. APPEALS FROM DECISION OF THE TAX COMMISSIONER.] Any person aggrieved because of any action or decision of the Tax Commissioner, under the provisions of this Act, may appeal therefrom to the District Court in and for the county of the taxpayer's residence or place of business, which appeal shall be taken by notice of appeal in writing setting forth the grounds upon which the appeal is taken, or the action or decision of the Tax Commissioner, of which the appellant is aggrieved. Such appeal shall be perfected within thirty days of notice of any decision and taken by serving a notice of appeal upon the Tax Commissioner, and filing the same with the Clerk of District Court of the county in which the appeal is taken, together with the filing with said Clerk of Court of a bond to the State of North Dakota conditioned upon the prosecution of said appeal and the compliance with the orders and decrees

of the Court in the premises. The bond shall be in the form required by law and in such amount as the Court may require. Such notice of appeal shall be signed by the appellant or his attorney, and shall be heard upon ten days' notice by either party or upon stipulation. Said District Court may grant such relief as may be equitable in the premises.

§ 17. TAX COMMISSIONER TO ADMINISTER ACT.] The Tax Commissioner and his authorized agents are charged with the duty of enforcing the provisions of this Act, and are hereby given the power of peace officers, and authorized and empowered to arrest violators of this Act, and to enter complaint before any Court of competent jurisdiction, and to seize without formal warrant and use as evidence any forged, counterfeit, spurious, or altered license or stamp found in the possession of any person, firm, or corporation in violation of this Act.

The Tax Commissioner shall have power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act for its detailed and efficient administration.

§ 18. JUDICIAL INTERPRETATION.] If any section, part, or provision of this Act, or the application thereof to any party or class, or to any circumstances, or if any portion of the rules and regulations adopted under the provisions hereof shall be held to be invalid for any cause whatsoever, the remainder of this Act or the application thereto to the parties or circumstances other than those as to which it is held to be invalid, shall not be affected thereby and shall remain in full force and effect, as though no part thereof had been declared to be invalid.

§ 19. STATE'S ATTORNEY AND OTHER OFFICERS MAY BE CALLED.] In the enforcement of this Act, the State Tax Commissioner may call to his assistance any State's Attorney, or any peace officer, and is hereby authorized to appoint such additional assistants as may be required to carry out the provisions of this Act.

§ 20. REPEAL.] Chapter 106 of the Session Laws of North Dakota for 1927, Chapter 105 of the Session Laws of North Dakota for 1931, Chapter 269 of the Session Laws of North Dakota for 1935, and all other Acts, or parts of Acts in conflict herewith are hereby repealed.

Approved March 8, 1941.

## CHAPTER 272

H. B. No. 282—(Aker, Fuglestad, Gackle, Wambheim)

## CONTRACTS FOR TAX COLLECTION

An Act to Amend and Re-enact Section 2173, Compiled Laws of 1913, Relative to Contracts for Tax Collection.

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

§ 1. Section 2173 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2173. CONTRACT FOR COLLECTION.] In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid, uncanceled or not put into personal property tax judgments, or in any county where delinquent taxes have been put into tax judgment, the commissioners of such county may contract with the sheriff of the county, or with any elector of the county, to pay a percentage of such delinquent personal property taxes, or personal property tax judgment, as compensation for collecting same, in lieu of or in addition to the compensation now provided by law. When such a contract is made with any person other than the sheriff the contract may cover all or only certain taxing districts within the county so that contracts may be made with different collectors for different portions of the territory within such county. Such percentage for collections shall not exceed ten (10) per cent nor shall a collection fee, as herein provided, be paid to the sheriff or any other collector for any moneys deducted from warrants or other obligations of the county or of the taxing districts thereof, under the provisions of Chapter 273 and 274, Laws of 1935, as amended, or under similar deduction statutes. Any such collectors, other than the sheriff, with which the county has contracted for collection of such moneys shall furnish a good and sufficient bond in an amount to be set by the commissioners for the faithful discharge of their duties and for the payment of all moneys by them collected to the county and they shall on the second day of each month file with the county treasurer a verified report and account of the taxes collected by them the preceding month showing the name of the individual from whom the taxes were collected and the amount collected from each and shall at the same time pay to the county treasurer the full amount of such collection. The expense of such collection shall be borne pro rata by the state, county, city, village, township, school district, or park district in which such tax is laid.

Approved March 7, 1941.

## CHAPTER 273

H. B. No. 152—(Committee on Tax and Tax Laws)

## ADJUSTMENT OF DELINQUENT TAXES

An Act to Amend and Re-enact Chapter 240 of the Session Laws of North Dakota for 1937 as Amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, Providing for an Adjustment of Delinquent Taxes for 1939 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. AMENDMENT.] That Section 1, Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be amended and re-enacted to read as follows:

§ 1. (1) All delinquent real and personal property taxes, except as hereinafter provided, for the years 1939 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 December 1, 1941; 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 purchases other than the county, nor to special assessments levied for local improvements, nor special assessments levied for 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, on or before December 1, 1941 upon application of any person owning property upon which taxes, either real or personal, are delinquent for the year 1939, 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, with interest at the rate of 4% per annum from April 1st, 1941, 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. AMENDMENT.] That Section 2 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read 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 1940, and the 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. AMENDMENT.] That Section 3 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read 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 1940, 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. AMENDMENT.] That Section 4 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby 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 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, and which contract is in force when this act goes into effect, shall have the right to discharge the interest in full upon his obligation under any existing contract by paying interest at 4% from April 1st, 1941. 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. REPEAL.] 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 amended by Chapter 227 of the Session Laws of North Dakota for the year 1939 as may be necessary for the enforcement of any contracts made pursuant thereto shall remain in force.

§ 7. 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 15, 1941.



## CHAPTER 274

S. B. No. 43—(Committee on Taxes &amp; Tax Laws)

## EXCISE TAX

An Act to amend and re-enact Sub-Section 4 of Section 1, and Section 2, of Chapter 241 of the Session Laws of North Dakota for 1939, and to repeal Sub-Section 9 of Section 3 of Chapter 241 of the Session Laws of North Dakota for 1939, being an act to impose a tax on the storage, use or consumption in this state of tangible personal property, as such terms are defined therein; to provide certain exemptions therefrom; to provide for the collection of such tax and the administration of the act; to fix fines and penalties for the violation of the provisions of the act, and to re-adopt Sections 1, 3, (excepting Sub-Section 9 of Section 3) 4, 5, 6, 8, 9, and 10 of said act by reference, and to amend and re-enact Sections 7, 11, and 14 of said Chapter 241 of the Session Laws of North Dakota for 1939.

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

§ 1. AMENDMENT.] That Sub-Section 4 of Section 1 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

(4) "Tangible personal property" means tangible goods, wares and merchandise, gas, electricity, and water, when furnished or delivered to consumers or users within this state, and also means machinery, appliances, apparatus, and other like property when leased for use within this state, or when purchased without this state, and used or operated by the owner or lessee thereof within this state.

§ 2. Amendment.] That Section 2 of Chapter 241 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted to read as follows:

§ 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 for storage, use or consumption in this state, at the rate of two per cent (2%) of the purchase price of such property.

§ 3. Repeal.] That Sub-Section 9 of Section 3 of Chapter 241 of the Session Laws of North Dakota for 1939, be and the same is hereby repealed.

§ 4. Provisions of Use Tax Law Applicable.] All of the provisions of Section 1, except Sub-Section 4 thereof (which is separately re-enacted herein), Section 3, except Sub-Section 9 thereof, Section 4, Section 5, Section 6, Section 8, Section 9, and Section 10, of Chapter 241 of the Session Laws of North Dakota for the year 1939, are hereby incorporated into and made a part of this Act; and the Tax Commissioner is hereby authorized and empowered to enforce the provisions thereof, and for that purpose, shall exercise all

of the powers and duties conferred upon him by the Use Tax and Sales Tax Laws in effect in this State.

§ 5. Provisions of Sales Tax Act Applicable.] All of the provisions of Section 5, Sub-Sections 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 North Dakota for the year 1937, and any amendment or re-enactment thereof, are hereby incorporated into and made a part of this Act; and the Tax Commissioner is hereby authorized and empowered to enforce all of the powers and duties conferred upon him by the provisions of said Chapter 249 of the Session Laws of North Dakota for the year 1937, and any amendment or re-enactment thereof.

§ 6. Amendment.] That Section 7 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 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.

§ 7. Amendment.] That Section 14 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 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.

§ 8. Severability Clause.] 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.

Approved March 15, 1941.

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## CHAPTER 275

S. B. No. 121—(Gronvold, Bond, Kehoe, and Troxel)

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### FARM MACHINERY TAXATION, EXEMPTION

An Act to exempt new farm machinery, purchased to be used in farming operations from personal property tax in first year after the purchase.

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

§ 1. FARM MACHINERY, TAXATION, EXEMPTION.] All new farm machinery, purchased to be used by the buyer in his farming operations, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase, were this Act not in force.

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

Approved March 6, 1941.

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## CHAPTER 276

H. B. No. 330—(Delayed Bills Committee)

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### HAIL INDEMNITY TAX ABATEMENT

An Act to Amend and Re-enact Section 189b29 of the 1925 Supplement to the Compiled laws of North Dakota for 1913 as amended by Section 18 of Chapter 137 Session Laws of North Dakota for 1933, providing for the abatement of Hail Indemnity Tax, correction of records and reduction from surplus and Declaring an Emergency.

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

§ 1. AMENDMENT. That Section 189b29 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended by Section 18 of Chapter 137, Session Laws of North Dakota for 1933, be and the same is hereby amended and re-enacted to read as follows:

§ 189b29. ABATEMENT OF HAIL INDEMNITY TAX AND CORRECTION OF RECORDS.] The Commissioner of Insurance may make proper correction of the hail insurance tax records on applications submitted to him in the manner and form he shall determine. In cases of erroneous listings of lands for hail insurance purposes, before the Commissioner may approve the corrections, proofs satisfactory to him shall first be submitted. Provided, that such applications, in order to be considered, must be filed before the levy for hail indemnity tax be determined for that year, and before adjustment of loss, if any, for such year is made. Provided, further, that in all such cases where holders of the superior liens have on proper showing paid general taxes without the inclusions of the hail indemnity tax, and where such taxes still remain of record, when three years have elapsed after passing of title on foreclosure of such superior liens without the premises reverting to the original owner, such hail indemnity taxes shall be cancelled from the records of the counties and the Hail Insurance Department. Provided further, that as far as pertains to hail taxes for any year prior to 1932, the county commissioners, with the approval of the Commissioner of Insurance, may in case of error abate any hail insurance tax wrongfully levied and refund any tax wrongfully collected under the provisions of this Act upon presentation to them of a written application. The Commissioner of Insurance is hereby invested with authority to make compromise settlements, including cancellation and satisfaction of records, of hail indemnity taxes not constituting prior liens where the hail indemnity tax lien is subject to extinction by mortgage foreclosure; however, in case the ownership of the land reverts to the original mortgagor, the balance of the taxes shall again become a lien against the land, provided, however, that the amount of cancellations or compromises made upon State Land Department property or real estate acquired by tax deed proceedings by the various counties, shall be deducted from the Hail Insurance Surplus Fund, and no subsequent levy shall be required to compensate for the loss thereof.

§ 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 8, 1941.

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**CHAPTER 277**

H. B. No. 329—(Committee on Delayed Bills)

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**CANCELLATION OF PENALTY AND INTEREST CERTAIN  
HAIL TAXES**

**An Act Providing for the Cancellation of Penalty and Interest on 1937 and Prior Hail Indemnity Taxes; Reduction from Surplus Fund of the State Hail Insurance Department of the amounts cancelled; Declaring an Emergency.**

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

§ 1. CANCELLATION OF PENALTY AND INTEREST OF THE 1937 AND PRIOR HAIL INDEMNITY TAXES.] Upon the passage and approval of this Act, it shall be the duty of the State Hail Insurance Department to cancel off and discharge all penalty and interest upon hail indemnity taxes for the year 1937 and prior, and to deduct from the Surplus Fund of the State Hail Insurance Department the amounts so cancelled and further providing that no levy shall hereafter be made by the Hail Insurance Department to compensate for said cancellations.

§ 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, 1941.

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**CHAPTER 278**

H. B. No. 248—(Bymers, Nelson of Cass, Arndt, Schwartz, Rygg and Sagehorn)

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**INCOME TAX, AMENDMENT**

**An Act to Amend and Re-enact Section 2346a16 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Chapter 253 of the Session Laws of 1933; to enact a Reciprocity Clause and declaring and Emergency.**

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

§ 1. AMENDMENT.] That Section 2346a16 of the 1925 Supplement to the Compiled Laws of 1913 as amended by Chapter 253 of the Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 2346a16. GROSS INCOME DEFINED.] (1) The words "gross income" include gains, profits, and income derived from salaries,

wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use or interest in such property; also from interest, rent, dividends, securities or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatsoever, including all salaries, wages and commissions of whatever kind received from the State of North Dakota or any of its political subdivisions, and includes and applies to the salaries and compensation of the following officers of the State of North Dakota: Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads (now called Public Service Commission), Attorney General, Commissioner of Agriculture and Labor, Tax Commissioner, all Judges of the Supreme Court and of the District Courts, all county officials including Sheriffs, State's Attorneys, County Auditors, Treasurers, Register of Deeds, Superintendents of Schools, Clerks of Court, County Judges, County Surveyors, Coroners, and each and every elected state or county official who is now in office or who may be elected to office, and any salary, wages or compensation of officers or employees of the United States or agencies or instrumentalities including those in the military, naval and postal forces of the United States to the extent the collection of state taxes thereon is not prohibited by the terms of the "Public Salary Act of 1939" (it being hereby declared the policy of this state to comply with the provisions of said act) and all other gains, profits, and income which the state may now or hereafter constitutionally tax.

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

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

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

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

d. Interest upon obligations of the United States or its possessions or upon obligations of the State of North Dakota or any political subdivisions of the State of North Dakota except that interest upon non-tax-exempt securities at present or in future shall be included in gross income and be subject to tax.

e. Any amount received through accident or health insurance for personal injuries or sickness, plus the amount of damages re-

ceived whether by suit or agreement on account of such injuries or sickness.

§ 2. RECIPROCITY CLAUSE.] The Tax Commissioner of the State of North Dakota is hereby charged with the administration of this Act. Such Tax Commissioner shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed and efficient administration, and may enter into reciprocal agreements with the authorized tax officials of other states to assist in the enforcement and to avoid injustices to taxpayers from double taxation.

§ 3. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 4. DATE OF EFFECT.] This Act shall be effective on all income received during the year ending December 31, 1940, as provided in this Act.

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

Approved March 6, 1941.

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## CHAPTER 279

S. B. No. 151—(Bond and Troxel)

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### TAX COLLECTION PERSONAL PROPERTY

An Act to Amend and Re-enact Subsection (e) of Section 1 of Chapter 279 of the Session Laws of 1931, the Same being an Amendment of Section 2166 C. L. 1913 as Amended by Section 3 of Chapter 241 of the Session Laws of 1929, Relating to Collection of Personal Property Taxes by County Sheriff, and Declaring an Emergency.

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

§ 1. AMENDMENT.] Subsection (e) of Section 1 of Chapter 279 of the Session Laws of 1931, the same being an amendment of Section 2166 C. L. 1913 as amended by Section 3 of Chapter 241 of the Session Laws of 1929, is hereby amended and re-enacted to read as follows:

(e) After receiving such list from the County Treasurer, which list shall give the name and/or number of the school district in which tax debtor named therein resides, the sheriff shall on the first day of each month thereafter make out and file with the County Treasurer a statement of the personal property taxes collected, giving the name of the taxpayer, the name of the township and the

name and/or number of the school district wherein he resides, and the post office address, of the taxpayer, and the amount of the tax and the amount of penalty and interest collected thereon. Upon receiving payment of any personal property tax specified upon list furnished by the County Treasurer as aforesaid, the sheriff shall make four copies of a receipt therefor, which receipt shall contain the information herein above required to be given by the sheriff in his statement to the County Treasurer of taxes collected, one of which receipts shall be given to the taxpayer, one shall be retained by the sheriff and one shall accompany the statement furnished to the County Treasurer as aforesaid, and one shall be delivered to the County Auditor together with a duplicate of the statement furnished to the County Treasurer as aforesaid. The sheriff shall pay to the County Treasurer all personal property taxes collected as shown by his said statement at the time of delivering said statement to the County Treasurer. And the sheriff, on or before January 1st of each year, shall also file with the County Auditor a full and complete statement of taxes collected, as herein provided, together with the list of uncollected taxes as required by Section 2169 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof. Failure by any sheriff to file any of the reports herein required shall subject him to a penalty of five dollars (\$5.00) for failure to file such report and such penalty shall be deducted from salary due him or which may thereafter become due him.

The sheriff shall retain in his office the original delinquent tax list furnished him by the County Treasurer, and it shall be his duty to collect at any time any taxes remaining uncanceled, unabated or unpaid, and upon sending his notices for each succeeding year he shall include any unpaid balances together with interest, penalty and costs, with the new delinquent amount, which shall be collected in the same manner as the current delinquent tax.

§ 2. As the purpose of this amendment is to eliminate a duplication of receipts now required by the Section amended and to reduce the expense of the county in collection of personal property taxes, this act is hereby declared to be an emergency measure, and the same shall be in full force and effect from and after its passage and approval.

Approved March 15, 1941.



## CHAPTER 280

S. B. No. 116—(Bond and Blank)

LISTING OF REAL AND PERSONAL PROPERTY FOR  
ASSESSMENT

An Act to Amend and Re-enact Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as Amended by Chapter 229, of the Session Laws for 1939, Relating to the Manner of Listing Real and Personal Property for Assessment Purposes, and Providing that as to Stocks of Merchandise, the Average Value thereof for the Year Preceding the Time of Assessment, Shall be taken as the Value thereof for Assessment Purposes, 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, as amended by Chapter 229 of the Session Laws for the year 1939, is hereby amended and re-enacted to read as follows:

§ 2093. (1) 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.

(2) All personal property except stocks of merchandise, shall be listed and assessed annually with reference to its value on April first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve months period preceding April first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data, shall be available, at all times, for examination by the assessor and the other taxing officers.

(3) 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 injured 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 any 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. 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 17, 1941.

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## CHAPTER 281

S. B. No. 203—(Committee on Delayed Bills)

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### AUTHORIZING REASSESSMENT AND TAXATION OF CERTAIN REAL AND PERSONAL PROPERTY

An Act Authorizing and directing the Board of County Commissioners of the counties in this State in counties where tax levies upon taxable real and personal property have been declared null and void and vacated by Courts of competent jurisdiction to meet and make proper tax levies upon the property so involved for the year or years in which such tax levies have been vacated; providing for the giving of notice of such meeting to the owners of such property or their successors in interest; the levying and extension of taxes upon such property; making such taxes a lien upon such property and further providing that all general statutes relating to due and delinquent taxes and the collection thereof shall be applicable to the tax levies made under the provisions hereof and making the Act retroactive.

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

§ 1.] Where for any reason the County Commissioners of any county in this State have heretofore failed or shall hereafter fail to

make a proper levy of taxes upon the taxable real or personal property in their counties, and where such levy for any reason has been adjudged invalid or void, and ordered vacated or set aside upon any grounds by a Court of competent jurisdiction the Board of County Commissioners shall have the power and it shall be their duty to convene for the purpose of making a proper levy of taxes upon the taxable real and personal property involved for the years during which the levies were found or declared to be void and invalid or ordered vacated.

§ 2.] Whenever the judgment vacating such levy has become final or within ten (10) days thereafter, the County Auditor of such county shall give notice by registered mail to the person or persons owning such property or in possession thereof, or their agents or successors in interest, that a meeting will be held by the Board of County Commissioners of such county giving the time and place of such meeting, which notice shall state that at such meeting the county commissioners will make a tax levy upon the property involved, and shall describe the property in general terms, and shall notify such owner or owners, or persons in possession thereof, their agents or their successors in interest, to appear before the Board of County Commissioners at such meeting within twenty (20) days after the mailing of such notice to show cause, if any, why a tax levy should not be made on the property involved for the year or years in which the tax levy or levies have been declared void and vacated.

If the person or persons so notified do not appear or if they do appear and fail to give a good and sufficient reason why such tax levy should not be made upon the property involved, such tax levy shall be made.

The notice provided for herein shall be sent to such owner or owners, or persons in possession thereof, their agents or their successors in interest, by registered mail addressed to them at the post-office address as shown by the record in the office of the Register of Deeds, the County Auditor or the County Treasurer of such county, and the United States post office registry receipt shall be evidence of service of the notice provided for in this Act.

§ 3.] That after the County Commissioners have levied such tax the County Auditor in such county shall apply the consolidated mill levy for the year or years for which such levy is made to the equalized assessed valuation of the property involved and spread the proper tax charges upon the tax list of the county.

§ 4.] That the taxes levied pursuant to this Act shall be spread at the time provided by law for the extension of other real and personal property taxes upon all taxable property in such county.

That such taxes shall become due and delinquent and shall

constitute a paramount lien upon the real and personal property so taxed; and all of the general provisions of law relative to the levy and collection of taxes shall be applicable to the taxes levied under the provisions of this Act.

Approved March 22, 1941.

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## CHAPTER 282

S. B. No. 179—(Stucke, Bridston, Beaton, Aandahl)

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### TAXATION OF RURAL ELECTRIC COOPERATIVES

An Act to encourage rural electrification; classifying the personal property of rural electric cooperatives and imposing a gross receipts tax on such cooperatives in lieu of all other taxes on their personal property; providing for the collection of such tax and appropriating the proceeds; and repealing all Acts and parts of Acts in conflict herewith.

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

§ 1. CLASSIFICATION.] The personal property on non-profit, cooperative corporations engaged in the distribution, transmission and/or generation of electric energy for consumption in rural areas is hereby expressly classified for the purpose of taxation. Such corporations are hereinafter referred to as "Cooperatives."

§ 2. ANNUAL REPORT OF GROSS RECEIPTS.] On July 1 of each year, beginning July 1, 1941, each Cooperative shall file with the State Tax Commissioner, on forms prescribed by him, a report of its gross receipts derived from the furnishing of electric energy during the preceding calendar year. Such report shall be sworn to and verified by an officer of the Cooperative.

§ 3. TAX LEVIED IN LIEU OF PERSONAL PROPERTY TAX.] There is hereby levied on each co-operative as of July 1 of each year, a tax upon the gross receipts derived by it from the furnishing of electrical energy during the preceding calendar year. During the first five years in which such cooperatives engage in the distribution, transmission and/or generation of electricity the tax shall be one percentum, and thereafter the tax shall be two percentum. The tax hereby levied shall become due and be payable to the State Tax Commissioner on July 1 of each year and payment shall accompany the report of gross receipts provided for in Section 2 of this Act. The tax hereby imposed shall be in lieu of any taxes levied by the state, counties, cities, towns, villages, townships, school districts and other political subdivisions of the State on the personal property of the cooperative. The first payment of tax under this Act shall be

made on July 1, 1941, and shall be in lieu of all personal property taxes on the Cooperatives for the year 1941.

§ 4. PENALTY.] If the tax levied under this Act is not paid on the due date, a penalty of two per centum (2%) of the amount of tax shall be imposed for each month of delinquency.

§ 5. DEFINITION.] For the purpose of this Act, the personal property of the Cooperatives shall include the following property used by a Cooperative in connection with the distribution, transmission and/or generation of electric energy ; all poles, wires, lines, transformers, generating equipment, meters, machinery, buildings, fixtures and improvements of every character upon land.

§ 6. ALLOCATION OF TAX.] The Tax Commissioner shall ascertain and determine the number of miles of distribution lines which each company has in each assessment district and the proceeds received from taxes paid by each company shall be allocated and paid over by the Tax Commissioner to each assessment district in proportion to the number of miles of distribution lines in each such assessment district.

§ 7. REPEAL.] All acts and parts of Acts in conflict herewith are hereby repealed.

§ 8. SEVERABILITY.] The provisions of this Act are severable and if any of its provisions shall be unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Act.

Approved March 13, 1941.

## CHAPTER 283

S. B. No. 40—(Committee on Taxes and Tax Laws)

## SALES TAX ACT

An Act to amend and re-enact Section 2 of Chapter 249 of the Session Laws of North Dakota for 1937, as amended by Section 1 of Chapter 234 of the Session Laws of North Dakota for 1939, relating to the levying and imposing of a retail sales tax and the disposition of the funds collected therefrom, and to readopt Sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22 of Chapter 249 of the Session Laws of North Dakota for 1937 by reference, and to amend and re-enact Section 7 and paragraphs (1), (2), (3), (4), and (5) of Section 15 of said Chapter 249 of the Session Laws of North Dakota for 1937, and to amend and re-enact Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937, as amended by Section 2, Chapter 234 of the Session Laws of North Dakota for 1939, and declaring an emergency.

*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, as amended by Section 1 of Chapter 234 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 2. Tax Imposed.] There is hereby imposed, beginning the first day of July, 1941, and ending June 30, 1943, 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. Provisions of Sales Tax Law Applicable.] All of the provisions of Sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22, of Chapter 249 of the Session Laws of North Dakota for 1937 are hereby incorporated into and made a part of this act; and the Tax Commissioner is hereby authorized and empowered to enforce the provisions thereof; and, for that purpose, shall exercise

all of the powers and duties conferred upon him by the Sales Tax Laws in effect in this State.

§ 3. Amendment.] That Section 7 of Chapter 249 of the Session Laws of North Dakota for 1937, is hereby amended and re-enacted to read as follows:

§ 7. Unlawful Acts.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

§ 4. Amendment.] That paragraphs (1), (2), (3), (4), and (5) of Section 15 of Chapter 249 of the Session Laws of North Dakota for 1937 be amended and re-enacted to read as follows:

§ 15. Penalties; Offenses.]

(1) Any person failing to file a return or corrected return or to pay any tax within the time required by this division shall be subject to a penalty of five per cent (5%) of the amount of tax due, plus one per cent (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the Commissioner and disposed of in the same manner as other receipts under this act. Unpaid penalties may be enforced in the same manner as the tax imposed by this act.

(2) Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or steam, gas, water, electricity and communication service at retail in this State after his license shall have been revoked, or without procuring a license within sixty (60) days after the effective date of this act, as provided in Section 11 of this Act, or who shall violate the provisions of Section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1000.00 or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the Court.

(3) Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and shall, for each such offense, be fined not to exceed Five Hundred Dollars or be imprisoned in the county jail not exceeding one year, or be subject to both a fine and imprisonment, in the discretion of the Court.

(4) The certificate of the Commissioner to the effect that a

tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this act, shall be prima facie evidence thereof.

(5) Any person failing to comply with any of the provisions of this act, or failing to remit within the time herein provided to the State the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the County jail not exceeding six months or by a fine not exceeding Five Hundred Dollars, or by both such fine or imprisonment at the discretion of the Court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 5. Amendment.] That Section 25 of Chapter 249, Session Laws of North Dakota for 1937, as amended by Section 2 of Chapter 234 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 25. Allocation of Revenue.] 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. That the net amount of monies remaining in said "Retail Sales Tax Fund" shall be and shall constitute a special trust fund to be used and disbursed solely for the following purposes:

(1) That seventh-twelfths ( $7/12$ ) of said trust fund shall be used and disbursed only for the payment of appropriations made pursuant to and for the purposes set forth in the State Equalization Fund Law. That the remaining five-twelfths ( $5/12$ ) of said trust fund shall be used and disbursed only for the payment of appropriations to be expended by the Public Welfare Board for the purposes authorized by law; provided, however, that appropriations made from the General Fund to be expended by said Public Welfare Board shall constitute and include appropriations from said five-twelfths ( $5/12$ ) share of said trust fund.

(2) That the State Treasurer and State Auditor are hereby authorized and directed to make monthly transfers of all the amounts available in said trust fund, in the proportions provided herein to the State Equalization Fund and to be expended by said Public Welfare Board as provided by law.

§ 6. All monies now in the Retail Sales Tax Fund created by Chapter 249 of the Session Laws of North Dakota for 1937, as amended and re-enacted by Chapter 234 of the Session Laws of North Dakota for 1939, or collected pursuant to the provisions of said acts, are hereby appropriated and transferred into the Retail Sales Tax Fund created by this act, and shall be allocated and used as herein provided.



§ 7. Severability Clause.] If any section, sub-section, 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, sub-section, clause, sentence or phrase hereof, irrespective of whether any one or more of the sections, sub-sections, clauses, sentences, or phrases, be declared unconstitutional.

§ 8. Emergency.] There is hereby declared to exist an emergency and this bill shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

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## CHAPTER 284

H. B. No. 319—(Crockett and Morrison)

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### PER CAPITA SCHOOL TAX

An Act to Amend and Re-enact Chapter 247 of the Session Laws of 1931, Providing for the Payment of per capita School Tax; Repealing Acts in conflict and declaring an Emergency.

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

§ 1. AMENDMENT.] Section 1 of Chapter 247, Session Laws of 1931 is hereby amended and re-enacted to read as follows:

§ 1. Per Capita School Tax.] The County Auditor shall each year levy a tax of one dollar (\$1.00) on each person twenty-one (21) years of age or over who on the first day of April in each year has resided in the State ninety (90) days or more, and no property shall be exempt from the collection of such tax by distress or otherwise, conditioned, however, that if the tax debtor has paid a per capita school tax for the same year in the county in which he claims residence for voting purposes, and shall present to the County Treasurer a tax receipt showing such payment, the County Treasurer is authorized to cancel the per capita school tax levied against such tax debtor for the year in which payment is shown in such tax receipt. It shall be the duty of each assessor to prepare and file with the County Auditor a list of the names and addressed (addresses) of all persons subject to the per capita tax herein required, and upon the request of the County Auditor, the governing board of any city, village or township shall furnish him, or cause to be furnished, a list of the names and addresses of all persons residing therein subject to the levy herein required.

Such tax when collected shall be distributed to the several

school corporations in the county in proportion to the number of children of school age residing within the territorial limits thereof.

§ 3. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] This Act is hereby declared to be an Emergency Measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1941.

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## CHAPTER 285

H. B. No. 118—(Joint Committee on Refunding State Indebtedness)

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### TAX FOR PAYMENT OF STATE CAPITOL BUILDING CERTIFICATES

An Act Providing for the Levying of a Tax for the Payment of State Capitol Building Certificates and for the Payment of State Capitol Building Refunding Certificates.

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

§ 1. There shall be levied upon each dollar of assessed valuation of all of the taxable property within this state for the years of 1941, 1942, 1943, 1944 and 1945, a tax of one-tenth of one mill. All revenue as may be collected under such tax levy including all interest collected, shall be paid into the State Capitol Building Fund, and such fund shall be used only for the payment of outstanding State Capitol Building Certificates heretofore issued pursuant to Section 14, Chapter 205, Session Laws of 1931, and accrued interest thereon, and for the payment of State Capitol Building Refunding Certificates issued pursuant to law, and accrued interest thereon.

Approved February 24, 1941.

**CHAPTER 286****S. B. No. 205—(Brant)****TAX DEED PROCEEDINGS**

**An Act Providing for the giving of notice and fixing the time of the expiration of the period of redemption on property sold to the county for delinquent taxes limiting the amount of delinquent taxes to be included; providing for the service of notice by registered mail and publication; prescribing the effect of failure to redeem; authorizing issuance of tax deeds; providing for classification and appraisal for property for sale; fixing the time of notice and terms of public and private sale; prescribing form of deed on resale; providing for distribution of proceeds; reserving the right to the owner to repurchase; authorizing cancellation of taxes; requiring tender of taxes in actions; repealing Chapters 235 and 238 of the Session Laws of 1939, and declaring an emergency.**

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

§ 1. GIVING NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION.] The County Auditor on or before, the first day of June of each year, shall give notice of the expiration of period of redemption as to all tracts of real estate sold to the county, where three or more years have expired from the date of the original, or any subsequent, tax sale certificates issued (or deemed to have been issued) to the county, which has not been redeemed or assigned within three years from the date thereof.

§ 2. EXPIRATION OF PERIOD OF REDEMPTION.] The period of redemption shall expire on the first day of October after the service of the notice of the expiration of the period of redemption prescribed by this Act.

§ 3. AMOUNT OF DELINQUENT TAXES TO BE INCLUDED IN NOTICE.] The County Auditor shall include in the notice of the expiration of the period of redemption, all real estate taxes, where three or more years have expired from the date of the original, or any subsequent tax sale certificate, issued or deemed to have been issued, at the time of the service of such notice, provided that such notice shall separately show the amount of delinquent taxes, with penalties and interest, due for each year, and the total amount which is required to be paid to effect a redemption of the real estate from such tax deed proceedings.

§ 4. SERVICE OF NOTICE BY REGISTERED MAIL.] The County Auditor shall serve the notice of the expiration of the period of redemption (1) Upon the record title owner; (2) Upon all mortgagees, lien holders and other persons interested therein as may appear from the records of the Register of Deeds and the Clerk of Court of said county. That said notice shall be served by registered mail, a registry

and return receipt shall be demanded and filed with proof of service. The expense of such service by registered mail shall be added to the amount required to redeem, and paid by the person making the redemption in addition to the amounts stated in the notice. The Auditor shall make proof of such service by affidavit showing the names and addresses of all parties upon whom such notice was served with the date of mailing and shall attach the registry and return receipts thereto, and file such affidavit and receipts with the original notice of the expiration of the period of redemption. The Register of Deeds and the Clerk of the District Court shall within ten (10) days or immediately thereafter upon request by the County Auditor furnish him with a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lien holders, or otherwise in the real estate sold to the county for taxes upon which the notice of the expiration of the period of redemption must be served.

§ 5. FORM OF NOTICE FOR SERVICE BY REGISTERED MAIL.] The notice of the expiration of the period of redemption which the County Auditor is required to serve by registered mail, shall be in the form as follows:

NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION.

To -----  
-----  
the record title owner of the real estate hereinafter described, and to all mortgagees, lien holders and other persons interested in said real estate:

I, -----County Auditor of-----County, North Dakota, hereby give notice that the real estate hereinafter described was, at the annual tax sale held in the county on the----- of December, 19---, offered for sale for delinquent taxes against it for the year----- and was sold to the county, that subsequent tax sale certificates have been issued to the county for the years hereinafter set forth; that more than three years have expired from the date of each of said tax sale certificates, that no redemption has been made therefrom, and that the same are still the property of such county, and unless redemption is made from each of said tax sale certificates on or before the first day of October, after the date of this notice, tax deeds will be issued to the county, granting to and vesting in it, the absolute title in fee to said real property, and foreclosing all rights of redemption, and all other rights of the owner, 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 from such original and each subsequent tax sale certificates, so issued to the county exclusive of the cost of service of this notice.

Said property is described as follows, to wit: (description of real

estate and amount required for redemption stated separately.)

Given pursuant to authority of law this-----day of-----  
19----

County Auditor of-----County, North Dakota.

§ 6. SERVICE NOTICE BY PUBLICATION.] The County Auditor, on or before the first day of August of each year, shall serve notice of the expiration of the period of redemption by publication, on all tracts of real estate upon which such notice is served by registered mail. Such notice may include any number of parcels of real estate, and only one heading shall be necessary for the entire list. The Auditor shall include a charge of fifty (50¢) cents for each parcel in the amounts stated therein to reimburse the county in part for the publication thereof. Such notice shall be published once before the first day of August of each year, in the official newspaper of the county wherein such real estate is situated.

§ 7. FORM OF NOTICE FOR PUBLICATION.] The notice of the expiration of the period of redemption to be served by publication shall be in the form as follows:

I, -----County Auditor, of-----County, North Dakota, do hereby give notice that the real estate hereinafter described was sold at the annual tax sale on December-----, 19----, for delinquent taxes. That subsequent tax sale certificates have been issued to the county; that more than three years have expired from the date of each of said tax sale certificates. That no redemption has been made therefrom and that the same are still the property of this county, and that unless redemption shall be made from such tax sale, on or before the first day of October, from and after the date of this notice, the same will become the absolute property in fee of this county, and the former owner thereof, mortgagees, lien holders, and other persons interested therein will be forever foreclosed and barred from asserting any further rights to such real estate whatsoever. The following is a list of the real estate sold at such tax sale on which the period of redemption will expire on the first day of October. Opposite each description of such real estate appears: (1) The name of the record title owner thereof; (2) The amount which must be paid to redeem from such tax sale, before the period of redemption expires. That said sum includes the amount for which said land was sold, together with subsequent delinquent taxes for -----and prior year, if any, and interest, penalties and cost of service. (List descriptions, names of owners and amount necessary to redeem.)

Given pursuant to authority of law this-----day of-----,  
19----

§ 8. EFFECT OF FAILURE TO REDEEM.] The failure of the owner or any mortgagee or other lien holder, to redeem such lands from tax deed proceedings before the period of redemption expires,

shall operate: (1) To pass all of the right, title and interest of the owner, mortgagee or lien holder in and to said premises, to the county by operation of law; (2) To foreclose all rights and equities of redemption; (3) To waive all error, irregularities or omissions which do not affect the substantial rights of the parties, in tax deed proceedings, except jurisdictional defects.

§ 9. TAX DEEDS: WHEN ISSUED.] That after the expiration of the period of redemption, County Auditors shall issue tax deeds in the usual form, to the county for all real estate which was not redeemed within the time, and in the manner described by this Act. Such tax deed shall pass the absolute property in fee to the county free from all encumbrances whatsoever.

§ 10. CLASSIFICATION OF LAND FOR PURPOSE OF SALE.] That the County Commissioners shall classify all lands, except city and village lots, acquired by the county, according to their suitability for farming, grazing, forage or irrigational purposes. Such classification shall conform as nearly as practical to the classification of such lands adopted by county, State and Federal agencies in connection with the Land Use program and shall be considered in the determination of the market value and the fixation of the minimum sales price for the sale thereof.

§ 11. APPRAISAL FOR ANNUAL SALE.] All real estate acquired through tax deed proceedings shall be appraised by the Board of County Commissioners at least thirty (30) days prior to the annual sale prescribed by this Act. Such appraised price shall be sufficient to cover all general taxes, special assessments, hail indemnity taxes, penalties and costs, which were levied and extended against the property at the time of the service of the notice of the expiration of the period of redemption, provided if the fair market value of such property is less than the total amount of such general taxes, special assessments, hail indemnity, penalties, interest and cost, the Board shall fix a fair and just minimum sales price for such property. Thereafter the Board shall set a date for hearing objections to the minimum sales price so 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 wherein such lands are located, a notice in writing, stating the time when the objections to the minimum sales price fixed by the Board will be heard. At such hearing any member of the governing body of any taxing district, or any representative thereof, shall be heard with reference to the fair market value of such lands and the Board shall thereupon make such changes in the minimum sales price of such property as it shall deem fair and just. The governing body of any taxing district may, if dissatisfied with the determination of the Board, appeal therefrom within ten (10) days to the District Court. Such appeal shall conform to the procedure prescribed by Sections

3298 and 3299 of the Compiled Laws of 1913, and Acts amendatory thereof, except that no bond shall be required to perfect such appeal. All determinations of minimum values shall, on appeal, be heard by the Court without a jury.

The County Auditor shall make such changes, if any, that may be ordered by the Court upon appeal and shall offer such lands for sale at the minimum sales price, determined by the final judgment of the Court.

§ 12. TIME OF ANNUAL SALE.] The annual sale of lands acquired by tax deeds shall be held at the county seat on the third Tuesday of November of each year and shall continue from day to day, until completed.

§ 13. NOTICE OF ANNUAL SALE.] Notice of the annual sale shall be given: (1) By posting a notice of such sale at the front door of the Courthouse at least fifteen (15) days prior to the date of sale. (2) By publishing a notice of such sale in the official newspaper of the county, once, not less than ten (10) days prior to the date of sale. Both such notices shall include a description of all real estate to be sold at such sale, with the minimum sale price thereof.

§ 14. MANNER AND TERMS OF ANNUAL SALE.] Each parcel of land shall be sold to the highest bidder therefor, but not for a sum less than the minimum sales price as fixed by the Board of County Commissioners, prior to the annual sale. Such sale may be made either in cash or one-fourth of the purchase price in cash and the balance in such annual equal installments as the purchaser and Auditor may agree upon, not to exceed a period of ten (10) years. Provided, however, that the purchaser shall have the right to pay any, or all, annual installments with interest, at any time prior to the maturity thereof. If such sale is for cash, the purchaser shall forthwith, pay the amount bid, to the County Treasurer. If the sale is for part cash and the balance in equal annual installments, the purchaser shall pay the amount of the first installment to the County Treasurer and shall be given a contract for deed, setting forth the terms of said sale, which shall be executed by the Chairman of the Board of County Commissioners and County Auditor. Such contract shall be in such form as the State Tax Commissioner may prescribe and shall give the County the right, upon any default of the purchaser, to cancel such contract by resolution, and give due notice thereof to the purchaser. The original contract shall be filed with the County Treasurer who shall endorse thereon all payments made by the purchaser. That the unpaid balance of the purchase price shall draw interest at the rate of four (4%) percent per annum. That upon the payment of the purchase price in cash or upon installments with interest, in full, the county shall execute and deliver to the purchaser a deed conveying all right, title and interest of the county in and to such property, to such purchaser. That upon execution and

delivery of such deed or such contract for deed, the real estate described therein shall be subject to taxation and be placed upon the assessment roll for taxation in the same manner as other private property.

§ 15. FORM OF DEED.] The deed which the county shall execute and deliver to the purchaser shall be in the form as follows:

#### COUNTY DEED.

This indenture made this\_\_\_\_\_day of\_\_\_\_\_between the County of\_\_\_\_\_, North Dakota, party of the first part and\_\_\_\_\_party of the second part, witnesseth:

WHEREAS, the real property hereinafter described was acquired by the county through tax deed proceedings for the non-payment of taxes levied and extended against said property for the years of 19--- to 19--- inclusive with interest and penalties, amounting to the sum of \_\_\_\_\_dollars and

WHEREAS, said real property was duly offered for sale, and sold, pursuant to authority of 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, which has been paid in full,

NOW, THEREFORE, the said county as party of the first part in consideration of the premises and pursuant to authority of law, does hereby grant, bargain, sell and convey to the second party, his heirs and assigns, that certain real property situated in said County of\_\_\_\_\_, North Dakota, described as follows, to wit: To have and to hold the above described real property with all of the appurtenances thereunto belonging to the said party of the second part,\_\_\_\_\_ heirs, and assigns forever.

IN WITNESS WHEREOF\_\_\_\_\_and\_\_\_\_\_ as Chairman of the Board of County Commissioners and Auditor, respectively, of 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 thereto.

\_\_\_\_\_  
COUNTY,  
NORTH DAKOTA.

\_\_\_\_\_  
CHAIRMAN, BOARD OF COUNTY  
COMMISSIONERS.

\_\_\_\_\_  
COUNTY AUDITOR.

STATE OF NORTH DAKOTA  
COUNTY OF\_\_\_\_\_

ON THIS\_\_\_\_\_DAY OF\_\_\_\_\_, 19---, personally appeared before me a Notary Public within the aforesaid county and State\_\_\_\_\_ and\_\_\_\_\_ to me per-



sonally known to be the Chairman of the Board of County Commissioners and the Auditor, respectively of said county and acknowledged to me that they executed the foregoing deed for and on behalf of said county.

-----Notary Public,  
for-----County,  
North Dakota.

My commission expires-----

§ 16. DISTRIBUTION OF PROCEEDS OF ANNUAL SALE.] That the proceeds realized from the sale of such lands shall be apportioned as a regular tax payment as follows:

(1) That the County Treasurer shall issue a regular tax receipt in the name of the County commencing with the oldest year delinquent. Tax receipts shall be written for the original amount of the tax without penalty and interest. If the property was sold for an amount sufficient to cover all taxes including the year in which the county acquired tax title, tax receipts shall be written for all such years including hail insurance taxes and all special assessments and the remainder, if any, shall be credited to the General Fund of the county.

(2) If the property is sold under a contract, the County Treasurer shall issue a tax receipt for the oldest year's taxes without penalty and interest and all subsequent payments made on such contracts shall be applied in a similar manner.

(3) That if the property is sold for less than the total amount of the taxes due, including the year in which a tax deed is issued, the Treasurer shall write receipts beginning with the oldest year and for as many subsequent years as the proceeds realized from such sale will satisfy and the remainder of any unpaid general taxes, special assessments, or hail indemnity taxes, shall be cancelled by the Board of County Commissioners by general resolution at the time prescribed by the terms of this Act.

§ 17. PRIVATE SALE.] That all parcels of real estate not sold at the annual November sale, may be sold by the County Auditor at private sale at any time before the next annual November sale, provided that no such sale shall be made by the County Auditor at a price less than the minimum sales price fixed by the Board of County Commissioners prior to the annual November sale.

§ 18. TERMS OF PRIVATE SALE AND DISTRIBUTION OF PROCEEDS.] All private sales of real property made between the annual November sales, shall be made upon the same terms and conditions as sales are authorized to be made at the annual November sale, provided, however, that if such property is sold at private sale to any other person than the original owner or his successor in interest, such sale shall be held in abeyance for a period of thirty (30) days from the date of notice to the owner or his successor in interest given

by registered mail by the county auditor, during which time the original owner or his successor in interest may make redemption by payment in full of delinquent taxes, penalty and interest charged against such real estate. Provided, further, that if no redemption is made by the original owner or his successor in interest during said period of thirty (30) days, then the sale shall be final and the purchaser shall be entitled to a deed as provided herein, and the proceeds realized therefrom shall be apportioned in the same manner as the proceeds of the annual November sale are distributed.

§ 19. RIGHT OF OWNER TO REPURCHASE.] The owner, or his successor in interest, shall have the right to repurchase all real estate heretofore or hereafter, forfeited to the county under tax deed proceedings, so long as the tax title thereto remains in the county. Such purchase may be for cash or upon contract for deed made by and between the Board of County Commissioners and the owner, or his successor in interest. The consideration of such contract shall include: (1) The total amount required to be paid in the notice to effect a redemption. (2) The total amount of all subsequent taxes with interest, penalties and costs. Provided that if the fair market value of such property at the time of the repurchase thereof, is less than the total amount to be paid to effect a redemption, together with all subsequent taxes, interest, penalties and costs, the Board shall fix a fair and just sales price for such property, and shall require the owner to pay at least twenty-five (25%) percent of the total contract in cash and the remainder shall be payable in not to exceed ten (10) annual equal installments as the Board of County Commissioners may determine, which installments shall bear interest at four (4%) percent per annum until paid in full. Such contract shall further provide that if the vendee or his successor in interest, fails to pay one or more of the installments, when due with interest, the Board of County Commissioners may cancel such contract and thereupon all payments and improvements made by the vendee or his successor in interest, shall be forfeited to the county as liquidated damages for breach of contract unless otherwise expressly provided. That upon the full performance of such contract, the county shall execute and deliver a deed to the purchaser which shall be executed in the same manner as tax deeds and shall have the same legal effect as prescribed by the terms of this Act.

§ 20. CANCELLATION OF TAXES.] That after any real estate has been sold for cash or upon contract for deed, which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the County Commissioners shall, by general resolution, provide for the cancellation of all general taxes, hail indemnity taxes, and special assessments remaining of record, against the premises sold at the date of such sale, provided however, that 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 special assessments.

§ 21. TENDER OF TAXES.] That whenever any action at law or in equity is brought to test the validity of any deed issued and delivered by the county to the purchaser of lands acquired through tax deed proceedings, the Court shall not proceed with the trial of such action until the party assailing the validity of such deed, shall, within the time required by the Court, deposit with the Clerk thereof, for the benefit of the party claiming title under such deed, an amount equal to the sum paid by such party to the county for the purchase of the property covered by such deed, together with an amount sufficient to pay the defendants statutory costs of the action, to be determined by the order of the Court.

§ 22. SAVINGS CLAUSE.] This Act shall not be construed so as to apply to or affect the validity of any tax deed proceedings had, or contracts for sale of public lands made prior to its effective date, but shall be liberally construed to carry out the purposes hereof.

§ 23. REPEAL.] That all of Chapters 235 and 238 of the Session Laws of 1939 are hereby expressly repealed.

§ 24. EMERGENCY.] This Act is hereby declared an emergency measure and shall be in full force and effect from its passage and approval.

Approved March 15, 1941.

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## CHAPTER 287

H. B. No. 120—(Committee on Tax and Tax Laws)

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### TAX DEED PROPERTY LEASING

An Act to Amend and Re-enact Section 4 of Chapter 237 of the Session Laws of 1939 relating to the Authority of 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 Co-operative 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, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 237 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 4. All the net revenue derived from said leases including all Federal payments made in connection therewith, in an amount not

less than 90% 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 revenues, so paid into the State, county treasury, to the (State), county, city, village, school district, township or other taxing districts, in the same proportions that current general fund levies in the taxing districts wherein said lands are located, bear to the total net revenue so collected.

SUB-SECTION A. 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, 1941.

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## CHAPTER 288

S. B. No. 79—(Committee on Taxes & Tax Laws)

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### TAX LEVIES, COUNTY PURPOSES

An Act to amend and re-enact subdivisions (a), (b) and (c) of Section 4 and Section 10 of Chapter 235 of the Session Laws of 1929 relating to limitations upon the rate of tax levies for general and special county purposes; Providing for exceptions to such levies; Authorizing the levy of taxes for emergency purposes and limiting the use thereof.

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

§ I. AMENDMENT.] That subdivision (a), (b) and (c) of Section 4 of Chapter 235 of the Session Laws of 1929 be amended and re-enacted to read as follows:

(a) That the county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of ten mills on the dollar of its net taxable valuation.

(b) That the county commissioners shall annually levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of net taxable valuation, such levy shall be within the amount produced by the ten mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies.

(c) That the ten mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county

purposes, including taxes levied for road and bridge purposes. Provided that the mill limitation shall not apply :

(1) To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.

(2) To tax levies made to pay the county tuition provided for by Section 1224 of the Supplement of the Compiled Laws for 1913.

(3) To taxes levied for the purpose of combating the grasshopper pest, pursuant to Section 2868a1 of the Supplement to the Compiled Laws for 1913.

(4) To taxes levied for the purpose of combating gophers pursuant to Section 2661 of the Compiled Laws for 1913.

(5) To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the ten mill limitation for general and special county purposes.

§ 2. AMENDMENT.] That Section 10 of Chapter 235 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows :

That the governing body of any taxing district may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of one mill on the dollar of its net taxable valuation.

Each taxing district is authorized to create a "General Reserve Fund", and that all taxes levied for emergency purposes by any taxing district, when collected, shall be covered into such, "General Reserve Fund" and shall be used only for such emergency purposes as the governing body of the taxing district shall, by resolution, determine, to meet the mandatory obligations of the taxing district.

That any unexpended balance, remaining in such "General Reserve Fund," at the end of any fiscal year, shall be kept in such fund and that whenever the amount in such fund is, in the judgment of the governing body of the taxing district, sufficient to meet its emergency requirements, then such annual tax levies for emergency purposes shall be discontinued.

That the levy of a tax for emergency purposes of one mill, authorized herein, shall be subject to the ten mill limitation prescribed by this Act.

Approved March 17, 1941.

## CHAPTER 289

H. B. No. 263—(Smart)

**WARRANTS FOR CURRENT EXPENSES, TAXING DISTRICTS**

An Act to amend and Re-enact Section 2079b13, Supplement to the 1913 Compiled Laws, as Amended by Chapter 247 of the Session Laws of 1933, and by Chapter 283 of the Laws of 1935; Repealing all Acts; and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 2079b13, Supplement to the 1913 Compiled Laws, as amended by Chapter 247 of the Session Laws of 1933, and by Chapter 283 of the Laws of 1935, is hereby amended and re-enacted to read as follows:

§ 2079b13. WARRANTS FOR CURRENT EXPENSES.] In case any taxing district is unable to sell its certificates of indebtedness, it may issue warrants in payment of current expenses, in excess of cash on hand, but not in excess of 85% of taxes levied for such fiscal year but uncollected, and not otherwise encumbered plus 50% of the uncollected and not otherwise encumbered taxes of the four proceeding (preceding) years and the funds derived from the collection thereof shall constitute a special fund and the exclusive source of revenue for the payment of warrants issued during the fiscal year for which such taxes were levied. If warrants be issued in excess of 85% of such taxes levied, such warrants shall possess no validity as against the taxing district but the officials knowingly and willfully issuing the same shall be personally liable for the payment thereof. Provided, however, that the governing board of any political sub-division may, in the event that there has not been sufficient funds in the treasury of such subdivision to pay the salaries and wages of the officials and employees, including publication fees for official printing by the county official newspaper of such sub-divisions in full for a period of six months, by resolution authorize the issuance of warrants to such officials, employees and the county official newspaper for salary, wages and official publication fees, whereby one-half of such salaries, wages and official publication fees shall be paid in cash by the Treasurer of such political sub-division to such officials, employees and the county official newspaper, and a warrant issued for the balance thereof, which shall be registered and paid as other warrants are registered and paid; provided further, that this act shall be construed to relieve the treasurer of such political sub-divisions of liability to other warrant holders because of the payment of salaries, wages and official publication fees as provided in this act.

§ 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 14, 1941.

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## CHAPTER 290

H. B. No. 250—(Schwartz)

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### WHOLESALE LIQUOR TRANSACTION TAX

An Act to Amend and Re-enact Section 1, Section 3 and Section 9 of Chapter 242 of the 1939 Session Laws of North Dakota, Relating to the Wholesale Liquor Transaction Tax, and Making a Savings Clause, providing for Distribution of the Same, and providing for Violations and Penalties therefor, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 242 of the 1939 Session Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 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 11% of the sale price.

(b) On all sales of alcoholic beverages containing not more than 50% but not less than 24% of alcohol by weight, a tax equal to 12½% of 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.

All proceeds from sales under subdivision A to the extent of four per cent of the sales price, and under subdivision B to the extent of four and one-half per cent of the sales price shall be placed in a fund to be known as the Charitable Institutions Revolving Fund. The State Treasurer shall cover into said Fund monthly, all revenues collected under the provisions of this Act, not otherwise appropriated for administrative expenses, for the benefit of the State Hos-

pital for the Insane, The Grafton State School and the State Tuberculosis Sanatorium. There is hereby appropriated to the Board of Administration all of the moneys so collected and covered by the State Treasurer into the Charitable Institutions Revolving Fund during each biennium to pay the expenses of maintenance and operation of the State Hospital for the Insane, the Grafton State School and the Tuberculosis Sanatorium. The Board of Administration shall allocate from such fund and credit to each county the proportion that the total quarterly charges against said county for institutional care bears to the total quarterly charges against all counties for such institutional care; and shall allocate to each of said institutions its portion of the amounts so credited to all counties.

§ 2. AMENDMENT.] That Section 3 of Chapter 242 of the 1939 Session Laws is hereby amended and re-enacted to read as follows:

§ 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. Thereafter such list shall be filed quarterly on April 1, July 1, October 1 and January 1, and such list shall be the same as the price list furnished by such licensed wholesale liquor dealer to licensed retail liquor dealers. It shall be unlawful for any licensed wholesale liquor dealer to sell or to offer for sale any brands of alcohol, spirituous liquors or wines except such brands as are shown in the price list on file with the State Treasurer. Prices shown on such price lists shall be the prices at which such merchandise is to be invoiced until the price list on file with the State Treasurer is superceded by the filing at a succeeding quarterly date of another price list as herein specified. Provided, however, that such sale price may be increased by the amount of any additional Federal taxes which may be imposed on such merchandise.

Within thirty days after the passage and approval of this Act, every liquor distiller and rectifier doing business in the State of North Dakota, must file with the State Treasurer a list of all their wholesale dealer accounts, together with a description, including the boundary lines, of their wholesale dealer's territories, which give the wholesale dealer sole right of sale of distilleries and rectifiers brands, consisting of spirituous liquors and wines containing more than four per cent (4%) of alcohol by weight, within said territories.

§ 3. AMENDMENT.] That Section 9 of Chapter 242 of the 1939 Session Laws is hereby amended and re-enacted to read as follows:

§ 9. Any person violating any of the provisions of this Act



shall upon conviction, as a first offense, be fined not more than Five Hundred Dollars (\$500.00) or imprisonment in the County jail for not more than ninety days, or by both such fine and imprisonment. Any subsequent offense shall be punishable by not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

§ 4. EMERGENCY.] This Act is hereby declared to be an Emergency Measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1941.

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## UNFAIR TRADE ACT

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### CHAPTER 291

S. B. No. 172—(Braun, Bridston, Blank and Topp)

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#### NORTH DAKOTA UNFAIR TRADE PRACTICES ACT

An Act Defining and prohibiting unfair sales and unfair trade practices, prohibiting the advertising or offering for sale or selling merchandise below actual cost for the purpose or having the effect of injuring competitors or destroying competition, and providing penalties for the violation and remedies for the enforcement of the provisions thereof.

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

§ 1. This Act shall be known and designated as the "North Dakota Unfair Trade Practices Act."

§ 2. (1) When used in this act, the term "cost" shall mean the actual invoice cost of the merchandise or the replacement cost of the merchandise whichever is lower; less all trade discounts, advertising allowances, including customary discounts for cash, to which shall be added (a) transportation including cartage cost, not otherwise included in the invoice cost or the replacement cost of the merchandise; provided, that where a manufacturer publishes a list price, proof of such list price, less all discounts, shall be prima facie evidence of "cost."

(2.) When used in this Act the term "replacement cost" shall mean the cost per unit at which the merchandise sold or offered for sale could have been bought by the seller at any time prior to the