

**L A W S**  
**PASSED AT**  
**THE EIGHTEENTH SESSION**  
**OF**  
**Legislative Assembly**  
**OF THE**  
**STATE OF NORTH DAKOTA**

---

**BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID  
STATE, ON TUESDAY, THE SECOND DAY OF  
JANUARY, A. D. 1923, AND CONCLUD-  
ING MARCH SECOND, 1923**

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**By THOMAS HALL**  
**Secretary of State**  
**of the State of North Dakota**



## AUTHENTICATION

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STATE OF NORTH DAKOTA,

Secretary's Office, Bismarck.

I, Thomas Hall, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed at the Eighteenth Session of the Legislative Assembly of the State of North Dakota, beginning January 2nd, 1923, and terminating March 2nd, 1923, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this thirty-first day of August, 1923.

THOMAS HALL,

Secretary of State.

(SEAL)

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# THE LAWS

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## AERONAUTICS

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### CHAPTER 1.

SENATE BILL NO. 64

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#### AERONAUTICS.

An Act Concerning Aeronautics and to make uniform the law with Reference Thereto.

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

Sec. 1. DEFINITION OF TERMS) In this Act, "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water, and while being operated on or immediately above water, shall be governed by the rules regarding water navigation; while being operated through the air otherwise then immediately above water, it shall be treated as an aircraft.

"Aeronaut," includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in an aircraft, but having no part in its operation.

Sec. 2. SOVEREIGNTY IN SPACE.) Sovereignty in the space above the lands and waters of this State is declared to rest in the State, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

Sec. 3. OWNERSHIP OF SPACE.) The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 4.

Sec. 4. LAWFULNESS OF FLIGHT.) Flight in aircraft over the lands and waters of this State is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however,

the owner or lessee of the aircraft or the aeronaut shall be liable, as provided in Section 5.

Sec. 5. DAMAGE ON LAND.) The owner of every aircraft which is operated over the lands or waters of this State is absolutely liable for injuries to persons or property on the land or water beneath, caused by the ascent, descent or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be liable, and they may be sued jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the injured property, shall have a lien on the aircraft causing the injury to the extent of the damage caused by the aircraft or objects falling from it.

Sec. 6. COLLISION OF AIRCRAFT.) The liability of the owner of one aircraft to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air, shall be determined by the rules of law applicable to torts on land.

Sec. 7. JURISDICTION OVER CRIMES AND TORTS.) All crimes, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over this State shall be governed by the laws of this State; and the question whether damage occasioned by or to an aircraft while in flight over this State constitutes a tort, crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this State.

Sec. 8. JURISDICTION OVER CONTRACTS.) All contractual and other legal relations entered into by aeronauts or passengers while in flight over this State shall have the same effect as if entered into on the land or water beneath.

Sec. 9. DANGEROUS FLYING A MISDEMEANOR.) Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this State, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 or imprisonment for not more than one year or both.

Sec. 10. HUNTING FROM AIRCRAFT A MISDEMEANOR.) Any aeronaut or passenger who, while in flight within this State, shall intentionally kill or attempt to kill any birds or animals shall be guilty of a misdemeanor and punishable by a fine of not

more than \$100.00, or by imprisonment for not more than thirty days, or both.

Sec. 11. UNIFORMITY OF INTERPRETATION.) This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it, and to harmonize, as far as possible, with Federal laws and regulations on the subject of aeronautics.

Sec. 12. SHORT TITLE.) This Act may be cited as the Uniform State Law for Aeronautics.

Sec. 13. REPEAL.) All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Approved February 5th, 1923.

# APPROPRIATIONS

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## CHAPTER 2.

(S. B. No. 346—Fleekten and Miklethun.)

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### PROHIBITING THE CREATION OF DEFICITS.

An Act Prohibiting the creation of deficits by state officials, state boards and heads of state institutions, and prescribing a penalty for the violation of this act.

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

Sec. 1. It shall be unlawful for any state official, or state board or the head of any state institution to spend more money than is appropriated by the State Legislature for the biennium, and any debt or deficit created in excess of such appropriation shall be absolutely void; provided, that in case of an emergency any state official, state board or head of any state institution may apply to the State Emergency Board for funds to be transferred to it out of the Contingency Fund.

Sec. 2. Any state official, or member of the state board, or the head of any state institution or state department violating any of the provisions of Section 1 hereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10.00 nor more than \$100.00 or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment in discretion of the court.

Approved March 1st, 1923.

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## CHAPTER 3.

(S. B. No. 102—Committee on Appropriations.)

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### ACTIONS TO RELEASE INSANE.

An Act Making an Appropriation to Provide Funds to pay the Necessary Expenses and Reasonable Compensation to Commissioners Appointed in Actions to Release Insane Patients as Prescribed by Section 2562 of the Compiled Laws of 1913 for North Dakota.

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

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

Approved March 2nd, 1923.

## CHAPTER 4.

(S. B. No. 121—Appropriation Committee)

## ACTIONS TO RELEASE INSANE, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Actions to Release Insane Patients.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$200.00, for the purpose of paying an existing deficit in the Actions to Release Insane Patients Fund.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

## CHAPTER 5.

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

## DEMONSTRATION FARMS, REPEAL.

An Act to Repeal Section 1623 of the Compiled Laws of North Dakota for the year 1913, Relating to Demonstration Farms.

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

Sec. 1. REPEAL.) That Section 1623 of the Compiled Laws of North Dakota for the year 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

## CHAPTER 6.

(S. B. No. 157—Appropriations Committee.)

## AGRICULTURAL COLLEGE.

An Act Making an Appropriation of \$559,044.00 to Pay the General Maintenance, Improvements and Repairs, New Buildings, and Equipment of the Agricultural College, Fargo, for the biennium.

## PARTIAL VETO.

March 10, 1923

To the Honorable Secretary of State:

I file herewith Senate Bill No. 157, being an act making an appropriation of \$559.044.00 to pay the general maintenance,

improvements and repairs, new buildings, and equipment of the AGRICULTURAL COLLEGE, Fargo, for the biennium, with my approval except as to the following items:

Additional instructors, all departments, to care for increased enrollment .....	\$29,525
Publicity .....	8,600
Miscellaneous expense .....	3,200
Improvements and repairs, Chemistry Bldg. ....	2,000

or a total of .....\$43,325

vetoed for the reason that the appropriations of the legislature exceed the available income, and for the further reason that the greater share of the service contemplated by the items thus vetoed can be taken care of out of institutional fees and collections.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$559,044.00, for the biennium, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new buildings and equipment of the Agricultural College, Fargo, as follows:

#### MAINTENANCE, EDUCATIONAL DEPARTMENT

1. School of Agriculture .....	\$128,075
2. School of Science & Literature .....	153,952
3. School of Mechanical Arts .....	90,000
4. School of Education .....	12,400
5. School of Home Economics .....	53,200
6. School of Chemistry .....	45,125
7. School of Pharmacy .....	16,000
8. School of Veterinary Science .....	15,374
9. Dept. of Military and Physical Education .....	30,150
10. Dept. of Music .....	7,045
11. High School .....	3,600
12. Summer School .....	14,000
13. Library .....	21,200
14. Miscellaneous Education Exp. ....	13,200
15. Additional Instructors all departments to care for increased enrollment .....	29,525

Total Maintenance—Educational Dept.....\$632,846



**MAINTENANCE—Administration :**

1. President's Office .....	\$ 20,200
2. Business Office .....	19,500
3. Registrar's Office .....	10,400
4. Telephone and Telegraph .....	8,000
5. Publicity .....	8,600
6. Miscellaneous Expense .....	3,200
<b>Total .....</b>	<b>\$ 69,900</b>

**MAINTENANCE—Physical Plant :**

1. Buildings and Grounds .....	39,160
2. Power Plant (including fuel) .....	74,500
3. Light, Water, Power, Gas .....	21,138
4. Janitor's Supplies .....	6,000
<b>Total Maintenance, Physical Plant .....</b>	<b>140,798</b>
Less charge to experiment, extension & registration divisions .....	41,600
<b>Net Maintenance, Physical Plant .....</b>	<b>99,198</b>
<b>Total Maintenance .....</b>	<b>801,944</b>
Less estimated income from interest and income, Institutional Collec- tions and Federal Aid .....	334,000
<b>Total Net Maintenance .....</b>	<b>467,944</b>

**IMPROVEMENTS AND REPAIRS :**

1. Mechanical Arts Bldg. ....	5,000
2. Chemistry Bldg. ....	2,000
3. Francis Hall .....	2,000
4. Auditorium .....	3,000
5. Replacement Heat Mains .....	1,500
6. Replacement Side Walks .....	1,000
7. Trunk Sewer to River .....	10,000
8. Drainage Athletic Field .....	2,000
9. General Repairs, all buildings.....	6,500
<b>Total Improvements and Repairs .....</b>	<b>\$ 33,000</b>

**NEW BUILDINGS :**

1. Complete Home Economics House .....	6,000
<b>Total New Buildings .....</b>	<b>6,000</b>

**EQUIPMENT :**

1. Agricultural Bldg. ....	2,000
2. Home Economics House .....	2,500
3. Home Economics Laboratory .....	2,000
<b>Total Equipment .....</b>	<b>6,500</b>

## MISCELLANEOUS:

1. Insurance .....	\$ 16,000
2. Interest .....	10,000

Total Insurance .....	26,000
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## PUBLIC SERVICE DEPT.:

1. Salaries, supplies, etc. ....	19,600
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Total Public Service .....	19,600
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## RECAPITULATION

Maintenance, net .....	\$467,944
Improvement and Repairs .....	33,000
New Buildings .....	6,000
Equipment .....	6,500
Miscellaneous .....	26,000
Public Service .....	19,600

Total Net Budget .....	\$559,044
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Approved Except as to items enumerated on attached sheet,  
March 10th, 1923.

## CHAPTER 7.

(S. B. No. 88—Appropriations Committee)

## EXPERIMENT STATION.

An Act Making an Appropriation of \$282,350.00 to pay the General Maintenance, Improvements and Repairs, New Buildings, Equipment and Purchase of Live Stock, for the Experiment Station at the Agricultural College at Fargo, for the biennium.

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

Sec 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$282,350.00 for the biennium or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and the purchase of live stock by the Experiment Station at the Agricultural College, Fargo, North Dakota, as provided for under Section 1619-2911 of the Compiled Laws for 1913, of North Dakota, viz:

## MAINTENANCE

1. Salaries .....	\$ 74,000
2. General Maintenance .....	68,000
3. Demonstration Farms .....	10,000

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4.	Substations .....	40,000
5.	Serum Institute .....	12,000
6.	Cereal Investigations .....	6,000
7.	Entomological Investigations .....	3,000
8.	Cost Accounting .....	10,000
8½	Marketing .....	10,000
9.	Heat, Light, Water, Campus Service....	25,000
10.	Insurance .....	4,400
	Total Maintenance .....	\$262,400

#### IMPROVEMENTS AND REPAIRS

1.	Remodeling Horse Barn .....	500
2.	Sheds, Paddocks and Scales, Willis- ton .....	750
3.	Flumes and Leveling, Williston .....	1,000
4.	General Improvements and Repairs .....	5,000
	Total Improvements .....	\$ 7,250

#### NEW BUILDINGS

1.	Incubator and Brooder House .....	\$ 3,500
2.	Green House (Agronomy) .....	2,500
3.	Dipping Tanks .....	700
	Total New Buildings .....	\$ 6,700

#### EQUIPMENT.

1.	Equipment of mill for macaroni inves- tigation .....	\$ 1,000
	Total Equipment .....	\$ 1,000

#### MISCELLANEOUS

1.	Purchase of live stock .....	\$ 5,000
	Total Miscellaneous .....	\$ 5,000
	Grand Total of all Items .....	\$282,350

Approved March 10th, 1923.

**CHAPTER 8.**

(H. B. No. 251—Committee on Appropriations.)

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**EXPERIMENT STATIONS, REPEAL.**

An Act to Repeal Section 1631 and 1638 of the Compiled Laws of North Dakota for the year 1913, Relating to Experiment Stations.

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

Sec. 1. REPEAL.) That Sections 1631 and 1638 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

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**CHAPTER 9.**

(H. B. No. 252—Committee on Appropriations.)

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**EXPERIMENT STATION, REPEAL.**

An Act to Repeal Section 1621 of the Compiled Laws of North Dakota for the year 1913, Relating to Experiment Station at Fargo.

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

Sec. 1. REPEAL.) That Section 1621 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby repealed.

Approved February 27th, 1923.

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**CHAPTER 10.**

(S. B. No. 76—Appropriations Committee.)

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**EXTENSION DIVISION WORK.**

An Act Making an Appropriation of \$131,200.00 as an offset for Federal Aid in Extension Division Work of the Agricultural College.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$131,200.00, for the biennium, or so much thereof as may be necessary to carry out the extension division of the Agricultural College and assist in carrying out the provisions of the Smith-Lever Federal Aid Work in the Agricultural Demonstration, as provided for under Chapter 5, Session Laws 1915.

Approved March 8th, 1923.

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CHAPTER 11.

(S. B. No. 111—Appropriations Committee.)

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## PURE SEED.

An Act Making an Appropriation of \$14,000.00 for the Maintenance of the Pure Seed Laboratory and Pure Seed Law enforcement at the Agricultural College, Fargo.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$14,000.00, for the biennium, or so much thereof as may be necessary for the purpose of examining, testing and inspection or examination of seeds, sold, offered or exposed for sale in North Dakota, and for other purposes, as prescribed by Section 2898-2904 of the Compiled Laws of 1913 for North Dakota.

Note: It is recommended by the State Budget Board that a fee be charged commercial seed houses for the services of the seed laboratory.

Approved March 10th, 1923.

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## CHAPTER 12.

(H. B. No. 262—Committee on Appropriations.)

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## SERUM INSTITUTE, REPEAL.

An Act to Repeal Section 1661 of the Compiled Laws of North Dakota for 1913, Relating to Serum Institute.

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

Sec. 1. REPEAL.) That Section 1661 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 13.

(S. B. No. 17—Rusch.)

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## STOKER AT AGRICULTURAL COLLEGE.

An Act to appropriate the sum of Eight Thousand Two Hundred and Fifty Dollars (\$8,250.00) for the purpose of purchasing and installing one complete Stoker Unit under Modern Boiler at the North Dakota Agricultural College, and purchasing and installing necessary equipment and technical instruments to measure the efficiency of such Stoker and Boiler.

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

Sec. 1. There is hereby appropriated to the North Dakota Agricultural College at Fargo, out of any moneys in the State Treasury not otherwise appropriated, the sum of Eight Thousand Two Hundred and Fifty Dollars (\$8,250.00), for the purpose of purchasing and installing one complete Stoker Unit under Modern Boiler at said North Dakota Agricultural College, and for the purpose of purchasing and installing the necessary equipment and technical instruments to measure the efficiency of such Stoker and Boiler.

Sec. 2. EMERGENCY.) An emergency existing in that there is no Stoker with testing devices installed in any of the State Institutions, and it is desirous and necessary that the same be installed immediately for the purpose of permitting the same to be tested and a report thereof made to this Legislature for its guide in further appropriations, therefore an emergency exists and this Act is hereby declared to be necessary for the immediate preservation of the public peace, health and safety, and shall take effect and be in force from and after its passage and approval.

Approved January 17th, 1923.

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## CHAPTER 14.

(H. B. No. 102—Committee on Appropriations.)

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### ANTI-TUBERCULOSIS ASSOCIATION.

An Act to Appropriate Ten Thousand Dollars (\$10,000.00) to Aid in the Educational Work being Carried on by the North Dakota Anti-Tuberculosis Association, and the Prevention of the Spread of Tuberculosis More Definitely Prescribed in Chapter 7 of the Session Laws of North Dakota for 1915 for the Salary and Traveling Expenses.

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

Sec. 1. Appropriation to aid in the educational work by the North Dakota Anti-Tuberculosis Association. Work to be done in connection with Anti-Tuberculosis Association.

There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of ten thousand dollars (\$10,000.00) or so much thereof as may be necessary, to aid in the educational work now being carried on by the Anti-Tuberculosis Association and to aid in the prevention of the spread of Tuberculosis as prescribed by Chapter 7 of the Session Laws of North Dakota for 1915, such work to be done in connection with the Anti-Tuberculosis Association for salary and traveling expenses and this appropriation is made available to that

Association for that purpose for the biennial period from June the 30th, 1923 to July the 1st, 1925, as follows:

Salary .....	\$ 8,000.00
Traveling expenses .....	2,000.00
Total .....	<u>\$10,000</u>

Approved March 7th, 1923.

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## CHAPTER 15.

(S. B. No. 101—Committee on Appropriations.)

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### APPRAISERS OF INHERITANCES.

An Act Making an Appropriation to Provide Funds for the Payment of Expenses and Fees of Appraisers of Inheritances, Devises, Bequests, Legacies, and Gifts, as Provided for in section 8991 of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$50.00, or so much thereof as may be necessary to provide funds for the payment of Appraisers of Inheritances, devices, bequests, legacies and gifts, for which compensation and expenses are named in Section 8991 of the Compiled Laws of 1913 for North Dakota.

Approved March 2nd, 1923.

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## CHAPTER 16.

(S. B. No. 130— Appropriations Committee.)

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### ATTORNEY GENERAL, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit Incurred in the Attorney General's Department.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$81.20 for the purpose of paying an existing deficit in the miscellaneous fund of the Attorney General's Department.

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

## CHAPTER 17.

(S. B. No. 129—Appropriations Committee.)

## STATE AUDITOR, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit incurred in the State Auditor's Office.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$724.95, for the purpose of paying the existing deficit in the accounts of the State Auditor, viz:

Printing (1920 Report) .....	\$224.95
Furniture and Fixtures .....	500.00
Total .....	<u>\$724.95</u>

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

## CHAPTER 18.

(H. B. No. 69—Peters.)

## CHARGING OFF LOSSES DUE TO BANK FAILURES.

An Act to appropriate the Sum of Two Thousand Eight Hundred Eighty-two and 3-100 Dollars (\$2,882.03) for the Purpose of Charging Off Losses Resulting to the State on Account of the Failure in the Year 1909, of the First National Bank of Rugby, Rugby, North Dakota, and the Barton State Bank, Barton, North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of Two thousand eight hundred eighty-two and 3-100 dollars (\$2,882.03) for the following specific purposes, towit;

The sum of two thousand seven hundred twenty-nine and 59-100 dollars (\$2,729.59) to charge off losses on state deposits in the First National Bank of Rugby, Rugby, North Dakota; and the sum of one hundred fifty-two and 44-100 Dollars (\$152.44) to charge off losses on state deposits in the Barton State Bank, Barton, North Dakota.

Approved February 19th, 1923.



## CHAPTER 19.

(S. B. No. 196—Thorson.)

## ERADICATION OF BARBERRY BUSHES.

An Act to Provide an Appropriation for the Eradication of the Barberry Bushes.

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

Sec 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of fifteen thousand (\$15,000.00) dollars, or as much thereof as may be necessary, to defray the expenses of the Commissioner of Agriculture and Labor and his agents, in carrying out the provisions of Chapter 62 of the Session Laws of North Dakota for the year 1917.

Sec. 2. EMERGENCY.) This Act is hereby declared to be an Emergency and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

## CHAPTER 20.

(H. B. No. 191—Appropriations Committee.)

## BIOLOGICAL STATION, REPEAL.

An Act to Repeal Section 1571 of the Compiled Laws of North Dakota for the year 1913, providing an annual appropriation for the Biological Station.

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

Sec. 1. REPEAL.) That Section 1571 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby repealed.

Approved February 27th, 1923.

## CHAPTER 21.

(H. B. No. 124—Ulland-Freeman.)

## BISHOP BRISSMAN &amp; CO.

An Act to appropriate the Sum of Twelve Thousand Sixty-five and 15-100 Dollars (\$12,065.15) for the Payment to Bishop Brissman & Co. of the Sum Due Them for the Audit of the State Bank and State Industries, and for Other Services Rendered.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated,

the sum of twelve thousand sixty-five and 15-100 (\$12,065.15) to pay Bishop Brissman & Co. for the audit of the Bank of North Dakota and of the several State Industries and Projects, prepared and furnished by said Bishop Brissman & Co. and for services rendered by said company and by their representatives and employees, in connection with the investigation conducted by the House of Representatives of the Seventeenth Legislative Assembly by and through the duly authorized and empowered Special House Audit Committee of such body, and services rendered by said Bishop Brissman & Co. in connection with the investigation of the State Bank and other State Industries made by the Senate of the Seventeenth Legislative Assembly; the said audit being so made and furnished at the instance and upon the order of the State Board of Auditors, which said State Board of Auditors was created by the initiated law approved at the General Election of November 2, 1920, and which board was by said law duly authorized and empowered to procure such audit to be made.

Approved March 2nd, 1923.

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## CHAPTER 22.

(H. B. No. 207—Vogel.)

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### BOARD OF AUDITORS.

An Act for an Appropriation to the Board of Auditors as Provided for in Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as Amended and Re-enacted by the Initiated Law Approved November 2nd, 1920.

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

Sec. 1. There is hereby appropriated out of the General Fund of the State Treasury not otherwise appropriated, the sum of \$15,000.00 for the purpose of examining and auditing the accounts, books and vouchers of the State Treasurer, and of all other industrial institutions of this State, and for the purpose of ascertaining the assets and liabilities of the same as provided for in Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by the initiated law approved by the people on November 2nd, 1920.

Approved March 7th, 1923.

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CHAPTER 23.

(H. B. No. 267—Committee on Appropriations.)

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## BOARD OF ADMINISTRATION, REPEAL.

An Act to Repeal Section 11 of Chapter 71 of the Session Laws of 1919 for North Dakota, Relating to Board of Administration.

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

Sec. 1. REPEAL.) That Section '11 of Chapter 71 of the Session Laws of 1919 for North Dakota be and the same is hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 24.

(H. B. No. 113—Committee on Appropriations.)

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## BOVINE TUBERCULOSIS.

An Act Appropriating Funds to Indemnify Owners of Animals Infected with Bovine Tuberculosis.

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

Sec. 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$80,000.00 for the biennium, 1923-1925, or so much thereof as may be necessary for the purpose of indemnifying the owners of animals infected with bovine tuberculosis for the destruction of such animals as provided in Section 2699 to 2710 inclusive of the Compiled Laws of North Dakota, for the year 1913, and amendments thereto.

Approved March 7th, 1923.

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## CHAPTER 25.

(S. B. No. 113—Sperry, by request.)

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## BISMARCK-MANDAN BRIDGE.

An Act to appropriate the sum of \$54,000.00 for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River from Burleigh County to Morton County in the State of North Dakota Under the Provision of Chapter 73 of the Laws passed at the Sixteenth Session of the Legislative Assembly of North Dakota, approved March 5, 1919, in addition to the Sums appropriated by Chapter 4 of the Special Session of the Sixteenth Legislative Assembly, approved December 12, 1919, and Chapter 6 of the Laws passed at the Seventeenth Session of the Legislative Assembly of the State of North Dakota approved March 9, 1921, and that such Appropriation be made from the State Highway Fund.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Highway Fund under paragraph 2-A of Section 11 of Chapter 44 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919 the sum of \$54,000.00 or so much thereof as may be necessary between the date of the passage and approval of this Act and June 30, 1923 inclusive, for the purpose of aid in the construction of the substructure, superstructure and structural approaches to a bridge across the Missouri River from Burleigh County to Morton County within the State of North Dakota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919, the sum of \$54,000.00. This sum shall be in addition to the sums provided by Chapter 4 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919 and Chapter 6 of the laws passed at the Seventeenth Session of the Legislative Assembly of the State of North Dakota approved March 9, 1921.

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

Sec. 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 3rd, 1923.

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## CHAPTER 26.

(H. B. No. 74—Slominski.)

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### OSLO BRIDGE.

An Act to appropriate the Sum of Three Thousand Five Hundred Dollars (\$3,500.00) for the Retirement of Part of the Bonds Issued Against the Present Bridge Across the Red River of the North from a Point in the County of Walsh and State of North Dakota to a Point in the County of Marshall and State of Minnesota at Oslo, and That Such Appropriation be Made from the State Highway Funds.

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

Sec. 1. There is hereby appropriated out of any monies in the State Highway fund, under paragraph 2-A, of Section 11, of Chapter 44 of the Laws of the Special Session of North Dakota for the year 1919, the sum of Three Thousand, Five Hundred Dollars (\$3,500.00) out of any moneys in said Fund not otherwise appropriated for the purpose of retiring part of the bonds issued against that certain bridge across the Red River of the North from a point in the County of Walsh and State of North Dakota to a point in the County of Marshall and State of Minnesota at Oslo.

Sec. 2. This Act is declared to be an emergency measure and shall be in full force and effect upon its passage and approval.

Approved March 7th. 1923.

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## CHAPTER 27.

(S. B. No. 3—Van Camp.)

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### BRIDGE AT PEMBINA.

An Act to Amend and Re-enact Section 1 of Chapter 4 of the Laws passed by the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota in 1919 as amended by Chapter 5 of the Laws of North Dakota for the year 1921, being an act to appropriate out of the State Highway Fund the sum of \$35,000.00 for the construction of a Bridge across the Red River at Pembina, Pembina County, North Dakota, and Kittson County, Minnesota, under the provisions of Chapter 73 of the Laws passed at the Legislative Assembly of North Dakota, approved March 5th, 1919.

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

Sec. 1. AMENDMENT.) Section 1 of Chapter 5 of the Laws passed by the Seventeenth Legislative Assembly of the State of North Dakota for the year 1921, is hereby amended and re-enacted to read as follows:

Sec. 1. There is hereby appropriated out of any moneys in the State Highway Fund under paragraph 2-A of Section 11 of Chapter 44 of the Laws of the Special Session of North Dakota for the year 1919, the sum of \$35,000.00, or so much thereof as may be necessary, for the following specified purposes between the following dates, viz:

December 15th, 1919, to June 30th, 1925, both dates inclusive, to wit:

For the purpose of aiding in the construction of the superstructure, substructure, and structural approaches of a bridge across the Red River, between the City of Pembina, Pembina County, North Dakota and the Town of St. Vincent, Kittson County, Minnesota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

Approved February 27th, 1923.

## CHAPTER 28.

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

## BUDGET.

An Act to Appropriate Money for the Expenses of the Executive Legislative and Judicial Departments of the State Government, and for Public Schools, Specifying the Amount and Time for which Such Appropriations Shall be Available, and Repealing all Acts, or Parts of Acts, Insofar as the Same shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

## PARTIAL VETO.

March 10, 1923.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 86, being an act to appropriate money for the expenses of the executive, legislative and judicial departments of the state government, and for public schools, specifying the amount and time for which such appropriations shall be available, and repealing all acts, or parts of acts, insofar as the same shall relate to appropriations, conflicting herewith, or to appropriations for the same matters or purposes provided for herein, with my approval except as to the following items:

Under subdivision 6, the item of census clerk for 1925..\$	600
Under Subdivision 7, the item of supplement to blue	
book 1919 .....	3,000
Under subdivision 21, the item of stenographer .....	2,400

or a total of .....	\$6,000
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vetoed for the reason that such eliminations have been recommended by the heads of the different departments affected.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATIONS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE STATE GOVERNMENT AND FOR PUBLIC SCHOOLS.) The Sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated from any monies in the State Treasury not otherwise appropriated, for the purposes specified in the following sections of this Act.

Sec. 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several pur-

poses herein set out, during the fiscal period of two years, beginning July 1st, 1923, and ending June 30th, 1925.

Sec. 3. APPROPRIATIONS):

Sub-division 1.

EXECUTIVE OFFICE

Salary, Governor .....	\$10,000.00
Clerkhire:	
Secretary to Governor .....	\$5,600.00
Executive Clerk .....	3,000.00
Total .....	8,600.00
Postage .....	400.00
Office Supplies .....	150.00
Furniture and Fixtures .....	200.00
Printing .....	400.00
Miscellaneous .....	500.00
Contingent Fund .....	1,250.00
Total.....	\$21,500.00

Sub-division 2.

LIEUTENANT GOVERNOR.

Salary, \$1,000 per annum .....	\$2,000.00
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Sub-division 3.

SUPREME COURT.

Salary—	
5 Judges at \$5,500.00 per year .....	\$55,000.00
Clerk of Court at \$2,500.00 per year .....	5,000.00
Stenographer and Deputy Clerk at 125.00 per month .....	3,000.00
Stenographers to Justices .....	10,000.00
Postage, Clerk's Office and Justices' .....	650.00
Office Supplies, Clerk of Court, Justices and Stenographers to Justices .....	400.00
Furniture and Fixtures, Files, Cases, Typewriters, etc....	400.00
Printing, Stationery for Clerk's Office, Justices, Printing Minute Books, Dockets, Court Rules, etc. ....	500.00
Miscellaneous, telephone, telegraph, freight, etc. ....	350.00
Total .....	\$75,300.00

Sub-division 4.

SUPREME COURT REPORTER & STATE LAW LIBRARIAN.

Salary, Librarian .....	\$ 5,000.00
Postage .....	50.00

Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing .....	50.00
Miscellaneous .....	100.00
Books and Reports (Deficit) .....	5,000.00
Repairing books .....	100.00
<b>Total</b> .....	<b>\$10,500.00</b>

## Sub-division 5.

## JUDGES OF DISTRICT COURTS.

Salary, 15 Judges at \$4,000 per annum .....	\$120,000.00
Miscellaneous Expenses while holding Court outside the County in which the Judges reside .....	15,000.00
Expenses while serving on the Supreme Bench .....	100.00
<b>Total</b> .....	<b>\$135,100.00</b>

## Sub-division 6.

## SECRETARY OF STATE.

Salary .....	\$ 6,000.00
Clerkhire: Deputy at \$2,500 per annum .....	5,000.00
Chief Clerk and Bookkeeper at \$1,800 per annum .....	3,600.00
Stenographers .....	5,640.00
Recording Clerk .....	2,640.00
Recording Clerks at \$1,200 each .....	4,800.00
Census Clerk for 1925 .....	600.00
Clerkhire during elections and Legislative Assemblies ....	1,000.00
Postage .....	4,000.00
Office Supplies .....	1,000.00
Furniture and Fixtures .....	600.00
Printing .....	3,600.00
Miscellaneous	
Record Books .....	600.00
Freight and Drayage .....	200.00
Telephone and Telegrams .....	800.00
Express .....	400.00
Traveling Expense .....	300.00
Traveling Expense for attending National Association of Secretaries of State and National Securities Com- mission, also State membership fees .....	200.00
<b>Total</b> .....	<b>\$40,980.00</b>

## Sub-division 7.

## SECRETARY OF STATE—PUBLIC PRINTING.

Legal Notices .....	\$ 400.00
Presidential Primary Election and other notices .....	600.00
Presidential primary ballots .....	4,000.00



Publishing abstracts of votes, three elections .....	1,500.00
Publicity Pamphlet .....	20,000.00
Postage for Publicity Pamphlet .....	6,500.00
Supplement to Blue Book 1919 .....	3,000.00
Authenticated Edition Session Laws 1923 .....	3,000.00
Popular Edition Session Laws 1923 .....	1,000.00

Total .....\$40,000.00  
 Sub-division 8.

## OFFICE OF STATE AUDITOR.

Salary of State Auditor at \$3,000 per annum .....\$ 6000.00

## Clerkhire:

Deputy Auditor at .....	\$2,800	per annum
Bookkeeper at .....	2,000	per annum
Bookkeeper at .....	1,800	per annum
Bookkeeper at .....	1,800	per annum
Audit Clerk at .....	1,800	per annum
Warrant Writer .....	1,500	per annum
Warrant Writer .....	1,500	per annum

Total .....	\$26,400.00
Postage .....	1,000.00
Office Supplies .....	600.00
Furniture and Fixtures .....	1,600.00
Printing .....	1,400.00
Miscellaneous .....	400.00
Traveling Expense .....	400.00
Supplies, Depts. & Counties .....	\$1,000
Expenses, New taxable lands .....	500
Total .....	1,500.00

Total of All Items .....\$39,300.00  
 Sub-division 9.

## STATE TREASURER.

Salary of State Treasurer .....	6,000.00
Clerkhire: .....	Per annum
Deputy .....	\$2,800 5,600.00
Chief Clerk .....	2,000 4,000.00
Cashier .....	1,800 3,600.00
Bookkeeper .....	1,800 3,600.00
Bookkeeper .....	1,800 3,600.00
Receipt & Check Clerk .....	1,500 3,000.00
Investment Clerk .....	1,500 3,000.00
Stenographer .....	1,320 2,640.00
Postage .....	4,000.00
Office Supplies .....	500.00

Furniture and Fixtures .....	1,000.00
Printing .....	3,000.00
Miscellaneous .....	500.00
Traveling Expense .....	500.00

Total .....	\$44,540.00
Sub-division 10.	

## INSURANCE DEPARTMENT.

Salary, Commissioner of Insurance, \$3,000 per annum ...\$ 6,000.00

Clerkhire:	Per annum	
Deputy .....	\$2,500	5,000.00
Actuary-Examiner .....	3,000	6,000.00
Bookkeeper .....	1,200	2,400.00
Stenographer .....	1,200	2,400.00
Postage .....		800.00
Office Supplies .....		800.00
Furniture and Fixtures .....		300.00
Printing .....		4,400.00
Miscellaneous:		
Telegrams, telephone, freight, express, Insurance, etc.		500.00
Traveling Expense .....		400.00

Total .....	\$29,000.00
Sub-division 11.	

## STATE FIRE MARSHAL DEPARTMENT.

	Per annum	
Salary, Fire Marshal .....	\$2,500	\$5,000.00
Chief Assistant .....	1,800	3,600.00
Deputy .....	1,500	3,000.00
Postage .....		400.00
Office Supplies .....		150.00
Furniture and Fixtures .....		150.00
Printing .....		300.00
Miscellaneous .....		600.00
Traveling Expense .....		5,000.00
Investigations of suspicious fires .....		500.00
Fees to fire chiefs .....		1,000.00

Total .....	\$19,700.00
Sub-division 12.	

## ATTORNEY GENERAL

Salary, attorney general \$3,600 per annum .....	\$ 7,200.00
Four assistant attorneys general .....	26,000.00
Special Assistants .....	20,000.00
Postage .....	1,400.00
Clerkhire .....	13,000.00
Office Supplies .....	600.00

Furniture and Fixtures .....	700.00
Printing .....	2,400.00
Miscellaneous .....	1,800.00
Traveling expense .....	4,000.00
Minnesota Damage and other cases .....	10,000.00
Miscellaneous fees connected with court cases .....	500.00
<b>Total .....</b>	<b>\$87,600.00</b>

## Sub-division 13.

## DEPARTMENT OF PUBLIC INSTRUCTION.

Salary, Supt. of Public Instruction .....	6,000.00
Deputy Supt. of Public Instruction .....	5,600.00
Asst. Supt. of Public Instruction .....	5,000.00
Clerkhire:	
Chief Clerk .....	3,000.00
Stenographers & other help .....	8,000.00
Postage .....	2,500.00
Office Supplies .....	500.00
Furniture and Fixtures .....	500.00
Printing: School laws, courses of study, etc. ....	15,000.00
Miscellaneous: Telephone, telegraph, express, etc. ....	800.00
Traveling Expense .....	3,600.00
Americanization work .....	3,000.00
<b>Total .....</b>	<b>\$53,500.00</b>

## Sub-division 14.

## STATE AID AND EXAMINATION.

Salary: One High School Inspector .....	5,000.00
Clerkhire:	
One stenographer .....	2,400.00
One Asst. High School Examiner .....	3,000.00
Three Rural Graded & Consolidated School Inspectors	13,200.00
Traveling Expense:	
One High School Inspector .....	2,400.00
Three Rural Graded & Consolidated School Inspectors	7,200.00
State Aid:	
For County Agricultural Schools .....	20,000.00
For Five Agricultural High Schools .....	25,000.00
For High Schools .....	150,000.00
For Rural Graded and Consolidated Schools.....	450,000.00
For Evening Schools .....	7,000.00
For teachers institutes .....	10,600.00
Expense necessary in conducting high school and eighth grade examinations .....	4,000.00
<b>Total .....</b>	<b>\$699,800.00</b>

## Sub-division 15.

## DEPARTMENT OF AGRICULTURE AND LABOR.

Salary .....	6,000.00
Clerkhire:	
Deputy Commissioner and chief clerk .....	5,000.00
Office deputy .....	4,000.00
Stenographers .....	4,800.00
Postage .....	1,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	300.00
Printing .....	2,800.00
Miscellaneous .....	500.00
Traveling expense .....	1,600.00
Maps .....	600.00
Total .....	<u>\$27,100.00</u>

## Sub-division 16.

DEPARTMENT OF AGRICULTURE AND LABOR—DAIRY  
DIVISION.

Salary, Dairy Commissioner .....	5,600.00
Clerkhire:	
1 Ass't. Dairy Commissioner .....	4,000.00
1 Ass't Dairy Commissioner .....	3,600.00
1 Secretary .....	3,000.00
Official Testor .....	3,240.00
Stenographer .....	2,640.00
Postage .....	1,600.00
Office Supplies .....	400.00
Furniture and Fixtures .....	400.00
Printing .....	1,600.00
Miscellaneous .....	1,000.00
Traveling Expense .....	8,000.00
Total .....	<u>\$35,080.00</u>

## Sub-division 17.

## BOARD OF RAILROAD COMMISSIONERS.

Salary: Three Commissioners at \$3,000 each per annum..	\$18,000.00
Clerkhire:	
Secretary .....	5,000.00
Chief Clerk .....	3,000.00
Traffic Expert .....	7,200.00
Chief Engineer .....	7,200.00
Asst. Engineer .....	3,600.00
Accountant .....	4,800.00
Stenographers .....	14,000.00
Reporter .....	6,000.00

Postage .....	2,400.00
Office Supplies .....	1,000.00
Furniture and Fixtures—laboratory equipment .....	3,000.00
Printing .....	2,400.00
Miscellaneous: Telegrams, telephone, express, etc .....	1,500.00
Traveling expense .....	12,000.00
Handling interstate commerce commission cases .....	4,000.00
Expenses incurred as members of national association of railway and utilities commission .....	2,000.00
<b>Total .....</b>	<b>\$97,100.00</b>
Sub-division 18.	

## LAND COMMISSIONERS.

Salary .....	\$ 6,000.00
Clerkhire:	
Deputy .....	5,000.00
Bond & mortgage clerk .....	3,600.00
Lease and site clerk .....	3,000.00
Field agent .....	4,000.00
2 stenographers .....	5,280.00
Patent clerk .....	3,000.00
Postage .....	2,400.00
Office Supplies .....	400.00
Furniture and Fixtures .....	400.00
Printing .....	2,000.00
Miscellaneous .....	240.00
Premiums on bonds .....	150.00
Traveling expense .....	3,000.00
Filing selection lists .....	100.00
Expense leasing unsold lands .....	2,000.00
<b>Total .....</b>	<b>\$40,570.00</b>

Sub-division 19.

## STATE EXAMINER.

Salary State Examiner .....	\$ 6,000.00
Clerkhire:	
Chief Deputy .....	5,600.00
Office deputy (Security Commission) .....	4,800.00
9 road deputies .....	36,000.00
6 city, county and institutional examiners .....	24,000.00
Chief Clerk .....	3,600.00
Assistant Clerk .....	3,000.00
Stenographer hire .....	5,280.00
Postage .....	3,000.00
Office Supplies .....	700.00
Furniture and Fixtures .....	400.00
Printing .....	2,000.00

Miscellaneous: telephone and tolls .....	600.00
Telegrams .....	500.00
Express, freight, etc. ....	150.00
Bonds for examiners .....	1,400.00
Traveling expense for 18 examiners including state examiner .....	45,000.00
5 extra examiners .....	10,000.00
(The above to be appropriated from the supervision of investment companies fund.)	
Expenses of investigating and examining under this department .....	1,000.00
Total .....	\$153,030.00

## Sub-division 20

## STATE TAX COMMISSIONER.

Salary .....	\$ 8,000.00
Salary: Deputy commissioner .....	6,500.00
Clerkhire:	
Tax attorney .....	4,800.00
Tax deputy .....	4,200.00
Accountant .....	3,600.00
Inheritance tax deputy .....	3,600.00
Statistical clerk ..	3,000.00
Abatement clerk .....	3,000.00
Corporation clerk .....	3,000.00
1 stenographer .....	2,640.00
1 filing clerk .....	2,640.00
Income tax clerks .....	2,640.00
Postage .....	2,000.00
Office Supplies .....	1,400.00
Furniture and Fixtures .....	600.00
Printing .....	4,000.00
Miscellaneous .....	800.00
Traveling expenses .....	3,000.00
Total .....	\$59,920.00

## Sub-division 21.

## BOARD OF ADMINISTRATION.

Salary, 3 board members at \$3,000 per annum .....	\$18,000.00
Clerkhire:	
Executive Secretary .....	6,000.00
Chief Clerk .....	3,600.00
Stenographer .....	3,000.00
Auditor and Accountant .....	4,800.00
Bookkeeper .....	4,200.00
Stenographer and Bookkeeper .....	3,000.00
Purchasing Agent .....	4,800.00

Stenographer .....	2,400.00
Voucher Clerk .....	3,000.00
Supply clerk .....	2,400.00
Postage .....	1,500.00
Office Supplies .....	1,200.00
Furniture and Fixtures .....	1,000.00
Printing .....	2,000.00
Miscellaneous .....	2,650.00
Traveling Expense .....	12,000.00
Supply department revolving fund .....	2,000.00
<b>Total .....</b>	<b>\$77,550.00</b>

## Sub-division 22.

## STATE TRANSPORTATION OFFICER.

Salary at \$2,000 per annum .....	4,000.00
Miscellaneous: Telephone, telegraph, postage premium on insurance Workmen's Compensation Bureau .....	400.00
Traveling expense .....	20,000.00
<b>Total .....</b>	<b>\$24,400.00</b>

## Sub-division 23.

## STATE LIBRARY COMMISSION

Salary: Librarian and director .....	4,500.00
Clerkhire:	
Cataloger .....	3,000.00
Chief of traveling library dept. ....	3,000.00
Stenographers and general assistant .....	2,640.00
Postage .....	700.00
Office Supplies .....	500.00
Furniture and Fixtures .....	200.00
Printing .....	500.00
Miscellaneous .....	500.00
Traveling expense .....	1,000.00
Traveling Library cases .....	200.00
Aids to Libraries .....	200.00
Books .....	2,000.00
Preparation of books .....	200.00
Binding .....	600.00
<b>Total .....</b>	<b>\$19,140.00</b>

## Sub-division 24.

## STATE ENGINEER.

Salary .....	5,000.00
Clerkhire:	
Asst. State engineer .....	5,000.00
Stenographer and bookkeeper .....	3,000.00

Postage .....	300.00
Office Supplies .....	400.00
Furniture and Fixtures .....	600.00
Printing .....	700.00
Miscellaneous .....	200.00
Traveling expense .....	2,000.00
Hydrographic work .....	1,000.00
Total .....	<u>\$18,200.00</u>

## Sub-division 25.

## ADJUTANT GENERAL.

Salary .....	\$ 6,000.00
U. S. Property and disbursing officer .....	4,800.00
Clerkhire .....	3,000.00
Postage .....	200.00
Office Supplies .....	100.00
Furniture and Fixtures .....	800.00
Printing .....	400.00
Traveling Expense .....	600.00
Total .....	<u>\$15,900.00</u>

## Sub-division 26.

## ADJUTANT GENERAL— RETURNED SOLDIERS' FUND.

## Clerkhire:

Chief Clerk .....	\$ 5,000.00
Clerical Assistants .....	7,920.00
Postage .....	700.00
Office Supplies .....	400.00
Furniture and Fixtures .....	400.00
Printing .....	300.00
Miscellaneous .....	50.00
Total .....	<u>\$14,770.00</u>

## Sub-divison 27.

## STATE PRINTER.

Salary .....	\$ 5,000.00
Stenographer .....	2,640.00
Postage .....	400.00
Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing .....	200.00
Miscellaneous: Telephone, telegraph, freight, and express .....	300.00
Traveling expense .....	300.00
Total .....	<u>\$ 9,040.00</u>



## Sub-division 28.

## INDUSTRIAL COMMISSION

Salary, Secretary .....	\$ 6,000.00
Clerkhire: Stenographer .....	2,640.00
Postage .....	800.00
Office Supplies .....	200.00
Furniture and Fixtures .....	50.00
Printing .....	1,600.00
Miscellaneous .....	400.00
Traveling Expense .....	900.00
Audit Expenses .....	300.00
Total .....	<u>\$12,890.00</u>

## Sub-division 29.

## NINETEENTH LEGISLATIVE ASSEMBLY

Mileage and per diem, members .....	\$ 55,000.00
Per diem, officers and employees .....	20,000.00
Printing .....	20,000.00
Miscellaneous expenses and supplies .....	7,000.00
Total .....	<u>\$102,000.00</u>

Sec. 4. INTENT, REPEAL, PURPOSE, AND CONSTRUCTION.) Sections 1416, 1418 and 1419 of the Compiled Laws of 1913, as amended by Chapter 34 of the Session Laws of 1915, are hereby repealed, and all acts and parts of acts that may be in conflict herewith, for the periods of the time herein specified and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items or appropriation herein or purposes provided for herein.

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

Approved March 10th, 1923.

Except as to items enumerated on attached sheet.

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**CHAPTER 29.**

(S. B. No. 77—Committee on Appropriations.)

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**BUDGET BOARD.**

**An Act Making an Appropriation for Per Diem and Expenses of the State Budget Board as Prescribed by Chapter 61 of the Session Laws of North Dakota for 1915.**

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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$2,000.00, for the biennial period, or so much thereof as may be necessary to pay the traveling expenses and per diem of the members of the State Budget Board as provided by Chapter 61 of the Session Laws of 1915.

Approved March 2nd, 1923.

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**CHAPTER 30.**

(S. B. No. 135—Appropriation Committee.)

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**BURIAL INMATES PENAL INSTITUTIONS.**

**An Act Making an appropriation to pay the Burial Expenses of Inmates of the Penitentiary and State Training School as provided for under Section 11302 of the Compiled Laws of 1913 for North Dakota.**

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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$300.00, for the biennium, or so much thereof as may be necessary to pay the costs of burial of inmates of the Penitentiary and State Training School as provided for under Section 11302 of the Compiled Laws of North Dakota for the year 1913.

Approved March 2nd, 1923.

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**CHAPTER 31.**

(S. B. No. 139—Committee on Appropriations.)

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**BURIAL OF SAILORS AND SOLDIERS.**

**An Act to Provide \$300.00 for the Burial Expense of Honorably Discharged Sailors, Soldiers and Marines of the United States War of the Rebellion and Erection of Headstones Therefor, as Authorized by Sections 3181, 3182, 3183 and 3184 of the Compiled Laws of North Dakota for 1913.**

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$300.00, for the biennium, or so much thereof as may be necessary to pay for the burial of honorably discharged sailors, soldiers, and marines of the United States War of Rebellion, And The Erection of Headstones therefor, as authorized under sections 3181, 3182, 3183, and 3184 of the Compiled Laws of North Dakota for 1913.

Approved March 2nd, 1923.

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## CHAPTER 32.

(S. B. No. 138—Committee on Appropriations.)

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### STATE CANVASSING BOARD.

An Act Making an Appropriation of the Sum of \$250.00 for the Biennium, to Defray the Expenses of the State Canvassing Board.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds not otherwise appropriated in the State Treasury, the sum of \$250.00 for the biennium, or so much thereof as shall be necessary to defray the expenses of the State Canvassing Board.

Approved March 2nd, 1923.

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## CHAPTER 33.

(S. B. No. 95—Appropriation Committee.)

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### STATE CANVASSING BOARD, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit by Members of the State Canvassing Board.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$150.00, for the purpose of paying the existing deficit in the expenses of members of the State Canvassing Board as provided for under Section 876 of the Compiled Laws of 1913, for North Dakota.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

## CHAPTER 34.

(H. B. No. 81—Committee on Appropriations.)

## STATE CAPITOL.

An Act Making an Appropriation for the Maintenance of the State Capitol and for Improvements, Repairs and Equipment thereof.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of One Hundred Fourteen Thousand Dollars or so much thereof as may be necessary for the maintenance, improvements, repairs and equipment of the State Capitol Building as follows:

## MAINTENANCE.

1. Maintenance .....	\$72,000
Total .....	\$72,000

## IMPROVEMENTS AND REPAIRS.

2. Improvements & Repairs .....	\$18,000
Total .....	\$18,000

## MISCELLANEOUS.

3. Rent on downtown offices .....	\$12,000
Contingent .....	10,000
Grading grounds and roads and planting trees as per landscape plans of Morell & Nichols ....	2,000
Total .....	\$24,000

Total for All Purposes .....	\$114,000
Approved March 8th, 1923.	

## CHAPTER 35.

(S. B. No. 199—Baird and Baker.)

## CHILD WELFARE.

An Act Making an Appropriation for the use of the Board of Administration in Administering Child Welfare Laws.

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

Sec 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of Ten Thousand (\$10,000.00) Dollars, or so much thereof as may be necessary, for use by the Board of Administration in performing

the duties imposed upon it by law in connection with the administration of the child welfare laws of this state.

Approved March 7th, 1923.

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## CHAPTER 36.

(S. B. No. 158—Appropriations Committee.)

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### MINE INSPECTION.

An Act Making an Appropriation of \$9,900.00 for the Purpose of Paying the General Expenses of Carrying out the Provisions of Chapter 168 of the Session Laws of 1919, relating to Mine Inspection.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$9,900.00 for the biennium, or so much thereof as may be necessary to pay the expenses and per diem in carrying out the provisions of Chapter 168 of the Session Laws of 1919, relative to Mine Inspection, viz:

1. Salary .....	\$5,000.00
2. Expenses, Examining Board .....	300.00
3. Clerkhire .....	2,000.00
4. Postage .....	100.00
5. Office Supplies .....	100.00
6. Furniture & Fixtures .....	100.00
7. Printing .....	200.00
8. Miscellaneous .....	100.00
9. Traveling Expenses .....	2,000.00

Total .....	\$9,900.00
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Approved March 8th, 1923.

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## CHAPTER 37.

(S. B. No. 136—Committee on Appropriation.)

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### STATE CONTINGENCY FUND

An Act to Provide a State Contingency Fund to be Placed at the Disposal of the State Emergency Commission to be used as Provided by Chapter 26 and 152 of the Session Laws of North Dakota for 1915; and Making an Appropriation of \$40,000.00 which Shall be Known as the State Contingency Fund.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$40,000.00, for the biennium, or so much thereof as may be necessary which shall be known as the State Contingency

**Fund.** The State Contingency Fund shall be placed at the disposal of the State Emergency Commission for the purposes authorized under Chapters 26 and 152 of the Session Laws of 1915 for North Dakota.

Approved March 2nd, 1923.

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## CHAPTER 38.

(H. B. No. 115—Committee on Appropriations.)

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### DAIRYMEN'S ASSOCIATION

**An Act Appropriating money for the benefit of the North Dakota Dairymen's Association, for the purpose of promoting and encouraging the Dairying Interests of the State.**

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

**Sec. 1. APPROPRIATION.)** The sum of one thousand dollars (\$1,000.00) is hereby appropriated for the biennium out of any moneys in the State Treasury not otherwise appropriated, for the use and benefit of the North Dakota Dairymen's Association.

Approved February 27th, 1923.

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## CHAPTER 39.

(H. B. No. 266—Committee on Appropriations.)

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### DAIRYMEN'S ASSOCIATION, REPEAL.

**An Act to Repeal Chapter 38 of the Session Laws of North Dakota for the Year 1917, Relating to North Dakota Dairymen's Association.**

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

**Sec. 1. REPEAL.)** That Chapter 38 of the Session Laws of North Dakota for the Year 1917 be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 40.

(H. B. No. 261—Committee on Appropriations.)

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### DAIRY COMMISSIONER, REPEAL.

**An Act to Repeal Section 11 of Chapter 31 of the Session Laws of Special Session of 1919, Relating to Appropriation to State Dairy Commissioner.**

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

**Sec 1. REPEAL.)** That Section 11 of Chapter 31 of Session Laws of the Special Session of 1919 be and the same is hereby repealed.

Approved February 27th, 1923.

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CHAPTER 41.

(H. B. No. 269—Committee on Appropriations.)

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## TESTING DAIRY PRODUCTS, REPEAL.

An Act to Repeal Chapter 16 of the Session Laws of North Dakota for the Special Session of 1919, Relating to Testing Dairy Products.

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

Sec. 1. REPEAL.) That Chapter 16 of the Session Laws of the Special Session of 1919 of North Dakota, be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 42.

(S. B. No. 110—Committee on Appropriations.)

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## DELEGATES TO NATIONAL CONVENTIONS.

An Act Making an Appropriation to Defray the Expenses of the Delegates to National Political Conventions as Prescribed by Section 916 of the Compiled Laws of North Dakota for the Year 1913.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$4,000.00, for the biennium, or so much thereof as may be necessary to pay the traveling expenses of delegates to National Nominative Political Conventions as prescribed by Section 916 of the Compiled Laws of North Dakota for the year 1913.

Approved March 7th, 1923.

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## CHAPTER 43.

(S. B. No. 105—Appropriations Committee.)

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## DEPOSITORS GUARANTY FUND COMMISSION

An Act Making an Appropriation of \$18,800.00 for the purpose of paying per diem, clerk hire, traveling expense, etc. in carrying out the Provisions of Chapter 126 of the Session Laws of 1917 and amendments thereto relative to the Depositors Guaranty Fund Commission.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$18,800.00, or so much thereof as may be necessary for the biennium expense in carrying out the provisions of Chap-

ter 126 of the Session Laws of 1917 and amendments thereto relative to the Depositors Guaranty Fund Commission, viz:

1. Commissioners at \$5.00 per day .....	\$ 1,500.00
3. Clerk .....	3,000.00
4. Supervisor or Inspectors .....	4,000.00
5. Postage .....	1,500.00
6. Office Supplies .....	500.00
7. Furniture & Fixtures .....	400.00
8. Printing .....	1,000.00
9. Telegrams and Telephone .....	450.00
10. Express & Freight .....	50.00
11. Bonds for Commissioners .....	400.00
13. Traveling Expense, Commissioners .....	2,000.00
14. Traveling Expense, Supervisor or Inspectors .....	4,000.00
<b>Total .....</b>	<b>\$18,800.00</b>

Approved March 10th, 1923.

#### CHAPTER 44.

(H. B. No. 268—Committee on Appropriations.)

##### DISBARMENT PROCEEDINGS, REPEAL.

An Act to Repeal Section 813 of the Compiled Laws of 1913 for the State of North Dakota, Relating to Disbarment Proceedings.

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

Sec 1. REPEAL.) That Section 813 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

#### CHAPTER 45.

(S. B. No. 99—Appropriations Committee.)

##### DISTRICT JUDGES, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit by the District Judges.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$21,898.78, for the purpose of paying the existing deficit to District Judges; it appearing by subdivision 4, Chapter 16 of the Session Laws of 1919 that salaries were appropriated



for twelve district judges, while Chapter 167 of the Session Laws of 1919 increased the number of such judges to fifteen.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

## CHAPTER 46.

(H. B. No. 96—Committee on Appropriations.)

### FREE EMPLOYMENT SERVICE.

An Act Making an Appropriation of \$10,000.00 for the Current and Contingent Expenses of the State Free Employment Service under Chapter 117, Session Laws of 1921.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary for the current and contingent expenses of the State Free Employment Service for the biennial period according to the provisions of Chapter 117 of the Session Laws of 1921.

Approved March 8th, 1923.

## CHAPTER 47.

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

### EXECUTIVE DEPARTMENT, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of a Deficit Incurred in the State Executive Department.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$1,200.00 for the purpose of paying the deficit in the accounts of the State Executive Department, viz:

Contingent .....	\$600.00
Miscellaneous .....	300.00
Printing .....	200.00
Office Supplies .....	100.00

Total .....	\$1,200.00
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Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

**CHAPTER 48.**

(H. B. No. 111—Committee on Appropriations.)

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**FARGO FAIR.**

An Act Making an Appropriation of Ten Thousand Dollars for the Biennium to the State Fair at Fargo for the year 1924, as Provided for in Sections 1847 to 1859 of the Compiled Laws of North Dakota for the year 1913.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$10,000.00 to provide general maintenance and funds for the payment of premiums at the North Dakota State Fair at Fargo for the year 1924 as provided for in Section 1847 to 1859 of the Compiled Laws of 1913 for North Dakota.

Approved March 7th 1923.

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**CHAPTER 49.**

(H. B. No. 104—Committee on Appropriations.)

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**GRAND FORKS FAIR.**

An Act Making an Appropriation of Ten Thousand Dollars for the Biennium to the State Fair at Grand Forks for the Year 1923, as Provided for in Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$10,000.00 to provide general maintenance and funds for the payment of premiums at the North Dakota State Fair at Grand Forks for the year 1923, as provided for in Section 1847 to 1859 of the Compiled Laws of 1913 for North Dakota.

Approved March 7th, 1923.

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**CHAPTER 50.**

(H. B. No. 114—Committee on Appropriations.)

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**MISSOURI SLOPE AGRICULTURAL AND FAIR ASSOCIATION.**

An Act to appropriate \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1923 and 1924, as Authorized by Sections 1860 to 1866, both inclusive, of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated the sum of \$6,000.00, out of any not otherwise appropriated funds in the State Treasury, for the Missouri Slope Agricultural and Fair Association at Mandan; of this appropriation \$3,000.00 shall be available for a fair to be held in 1924, as authorized by Sections 1860 to 1866, both inclusive, of the Compiled Laws of 1913 for North Dakota.

Approved March 7th, 1923.

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## CHAPTER 51.

(H. B. No. 97—Committee on Appropriations.)

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### FARMER'S INSTITUTES

An Act Making an Appropriation of the sum of \$10,000.00 for the Purpose of Carrying out the Provisions of Chapter 119 of the Session Laws of North Dakota for the Year 1917, relating to Farmers' Institutes.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies, in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary for the purpose of carrying out the provisions of Chapter 119 of the Session Laws of North Dakota, 1917, relating to the holding of Farmers' Institutes, for the biennial period from June 30th, 1923, to July 1st, 1925.

Approved March 8th, 1923.

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## CHAPTER 52.

(H. B. No. 79—Committee on Appropriation)

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### INSURANCE TAX TO FIRE DEPARTMENTS.

An Act Making an Appropriation for the Purpose of Paying Insurance Tax to the Various Fire Departments of the State.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of one hundred thousand dollars (\$100,000.00), or so much thereof as may be necessary to comply with the provisions of Section 3993 and 3998, inclusive, of the Compiled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various fire departments.

Approved February 19th, 1923.

## CHAPTER 53.

(H. B. No. 279—Peters)

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## FIRE MARSHAL, DEFICIT.

An Act Making an Appropriation to provide for the Payment of a Deficit Incurred in the State Fire Marshal's Department.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of \$500.00 for the purpose of paying the deficit in the accounts of the State Fire Marshal's Department, viz:  
Traveling Fund .....\$500.00

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 7th, 1923.

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## CHAPTER 54.

(H. B. No. 109—Committee on Appropriations)

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## FIREMEN'S ASSOCIATION.

An Act Making an appropriation for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different Departments, and the holding of an Annual Tournament, according to the Rules and Regulations of Such Associations.

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

Sec. 1. APPROPRIATION.) That there is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of Three Thousand Dollars, or so much thereof as may be necessary for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different departments, and for the holding of an annual tournament, according to the rules and regulations of such association, as provided by Section 1839 and 1842 inclusive of the Compiled Laws of North Dakota for the year 1913.

Approved February 27th, 1923.

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CHAPTER 55.

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

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## FIREMEN'S ASSOCIATION, REPEAL.

An Act to Repeal Section 1839 of the Compiled Laws of 1913 of North Dakota, Relating to North Dakota Firemen's Association.

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

Sec. 1. REPEAL.) That Section 1839 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 56.

(H. B. No. 95—Committee on Appropriations.)

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## FLORENCE CRITTENDON HOME.

An Act Making an Appropriation for the Florence Crittendon Home at Fargo, North Dakota.

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

Sec. 1. APPROPRIATION.) That there is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of ten thousand dollars (\$10,000.00), or so much thereof as may be necessary to the Florence Crittendon Home, a Corporation, of Fargo, North Dakota, provided that the money hereby appropriated shall be payable to such home at the rate of \$15.00 per month, or major fraction thereof, for the care, support and maintenance of each poor and indigent girl and each poor and indigent infant and inmate of such Home, and who is a resident of this State; such sums to be payable out of the State Treasury upon monthly vouchers duly verified by the Superintendent of such Home, provided, further that such Home shall make to the State Auditor an annual statement showing the disposition of such funds in detail and such further facts as the Auditor may require, and such Home shall be subject to inspection by the Board of Administration.

Approved February 27th, 1923.

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## CHAPTER 57.

(S. B. No. 170—Kretschmar.)

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## FLOOD CONTROL COMMISSION, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit Incurred by the Flood Control Commission.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated,

the sum of \$3,000.00, for the purpose of paying an existing deficit incurred by the flood control commission.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

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## CHAPTER 58

(H. B. No. 83—Committee on Appropriations.)

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### FORESTRY STATE NORMAL SCHOOL.

An Act Making an Appropriation for the current and contingent expenses of the Forestry State Normal School, at Bottineau, and Making Permanent Improvements and Additions thereto.

### PARTIAL VETO.

March 3, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 83, being an act making an appropriation for the current and contingent expenses of the Forestry State Normal School at Bottineau, and making permanent improvements and additions thereto, with my approval as to three items only, to-wit:

Maintenance of grounds—\$150 in subdivision one (1).

General repairs—\$400 in subdivision two (2).

Dormitory maintenance—\$400 in subdivision four (4), or an approval of the total amount of nine hundred and fifty dollars (\$950.00), and that my approval is withheld on the balance of the appropriation and all of the items thereof, the total amount of which so disapproved is seventy-two thousand, three hundred and fifty dollars (\$72,350.00) for the reason that the appropriations of the legislature exceed the available income and that the school at Bottineau was established as a School of Forestry which it has ceased to be, and I do not feel that in view of the financial conditions of our state that we are warranted in maintaining the institution as a normal school, and for that reason I withhold my approval of all of the appropriation save and except the three items aggregating nine hundred and fifty dollars (\$950.00), being the only items that could be made available for taking care of the property of the institution after the institution is closed.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated

the sum of \$73,300.00, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the Forestry State Normal School at Bottineau and making permanent improvements and additions thereto:

**1—MAINTENANCE.**

Faculty Salaries .....	\$42,240.00
Employees Salaries .....	10,000.00
Fuel (including freight) .....	4,400.00
Light, Power & Water .....	520.00
Printing, Stationery, etc. ....	600.00
Postage, Telephone, Telegraph, etc. ....	500.00
Traveling expense .....	300.00
Janitor's supplies .....	1,500.00
Educational supplies .....	1,000.00
Supplies, Short Courses .....	150.00
Supplies, Laboratory .....	1,000.00
Students Welfare .....	200.00
Maintenance of Grounds .....	150.00
Upkeep, Ford Truck .....	100.00
Total .....	<u>\$62,660.00</u>

**2—IMPROVEMENTS & REPAIRS.**

Covering return Pipes .....	\$ 200.00
Repairing Heating Plants .....	700.00
General Repairs .....	400.00
Total .....	<u>1,300.00</u>

**3—EQUIPMENT.**

School Equipment .....	\$ 1,800.00
Machinery, Gardens & Grounds .....	150.00
Dormitory Furniture .....	700.00
Library, Books, Periodicals, etc. ....	1,000.00
Woodwork Benches .....	200.00
Blau Gas Equipment .....	450.00
Total .....	<u>4,300.00</u>

**4—MISCELLANEOUS.**

Dormitory Maintenance .....	\$ 400.00
Insurance, Bonds, etc. ....	3,640.00
Interest .....	1,000.00
Total .....	<u>5,040.00</u>

**GRAND TOTAL .....** **\$73,300.00**

(Partial Veto.) March 3, 1923.

## CHAPTER 59.

(S. B. No. 104—Committee on Appropriations.)

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## FUGITIVES FROM JUSTICE.

An Act Making an Appropriation of the Sum of \$5,000.00, for the Biennium, to Pay the Expenses and Per Diem of Agents in the Arrest and Return of Fugitives from Justice as prescribed by Section 11162 of the Compiled Laws of 1913 of North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, for the biennium, the sum of \$5,000.00, or so much thereof as may be necessary to pay the expenses and per diem of agents in the arrest and return of fugitives from justice as provided for under Section 11162 of the Compiled Laws of 1913 for North Dakota.

Approved: March 2nd, 1923.

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## CHAPTER 60.

(S. B. No. 126—Appropriations Committee.)

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## FUGITIVES FROM JUSTICE, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Arrest and Return of Fugitives from Justice Fund.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of \$2,100.00 for the purpose of paying the existing deficit in the Arrest and Return of Fugitives from Justice Fund.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

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## CHAPTER 61.

(H. B. No. 80—Committee on Appropriations.)

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## GAME AND FISH BOARD.

An Act to Make Appropriation for Postage, Office Supplies, Furniture and Fixtures, Printing, Miscellaneous Expenses, Traveling Expense, Maintenance of Game Farms, Salary and Expenses of Fish Commissioner and Deputy Fish Commissioner, and Expenses and Maintenance of Fish Hatchery.



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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of any monies in the State Treasury credited to the Game and Fish Fund, not otherwise appropriated, the sums herein specified or so much thereof as may be necessary for salaries, per diem, office rent, printing, traveling expenses, and general maintenance of Game Farm, Fish Hatchery, and Game and Fish Board, for the biennial period from June 30th, 1923, to July 1st, 1925, as follows:

1. Salary of Wardens .....	\$21,500.00
Salary Sec. of Game Board .....	2,400.00
Clerkhire for Wardens and Secretary of Game Board at .....	2,500.00
Salary of Fish Commissioner & Deputy....	6,000.00
2. Postage .....	600.00
3. Office Supplies .....	300.00
4. Furniture & Fixtures .....	400.00
5. Printing .....	1,500.00
6. Miscellaneous .....	1,500.00
7. Traveling Expense — Wardens, Secre- tary, President & Vice President .....	26,000.00
Traveling Expense Fish Commissioner & Deputy Fish Commissioner .....	2,400.00
8. Per Diem for President & Vice President	1,200.00
9. Office rent for two chief wardens and secretary .....	1,000.00
10. Care and propagation of game and fish	5,000.00
11. Maintenance of Game Fowls and Farms	3,000.00
12. Maintenance of Fish Hatcheries .....	5,000.00
13. Rewards for Convictions .....	3,000.00
Auditing books of Game and Fish Board once a year by State Auditing Board....	600.00
<b>Total .....</b>	<b>\$83,900.00</b>

Provided that any surplus money accumulating to the credit of the Game and Fish Commission fund may be used for the propagation of game and fish.

Approved March 10th, 1923.

## CHAPTER 62.

(S. B. No. 87—Kretschmar.)

### GAME AND FISH BOARD, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit Incurred in the Traveling Expenses and Propagation of Game Departments of the State Game and Fish Board.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury belonging to the State Game and Fish Fund, not otherwise appropriated, the sum of \$10,000.00, for the purpose of paying an existing deficit in the following departments of the State Game and Fish Board, viz:

Traveling Expenses .....	\$ 7,500.00
Propagation of Game .....	2,500.00

Total .....	\$10,000.00
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Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 10th, 1923.

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## CHAPTER 63.

(H. B. No. 260—Committee on Appropriations.)

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### FISH HATCHERY, REPEAL.

An Act to Repeal Chapter 27 of the Session Laws of 1915, Relating to State Fish Hatchery.

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

Sec. 1. REPEAL.) That Chapter 27 of the Session Laws of 1915 be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 64.

(H. B. No. 189—Appropriations Committee.)

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### GEOLOGICAL SURVEY, REPEAL.

An Act to Repeal Section 1574 of the Compiled Laws of North Dakota for the year 1913, providing an annual appropriation for the State Geological Survey.

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

Sec. 1. REPEAL.) That Section 1574 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby repealed.

Approved: February 27th, 1923.

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CHAPTER 65.

(H. B. No. 103—Committee on Appropriations.)

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## GLANDERS AND DOURINE.

An Act Making an Appropriation for the Glanders and Dourine Indemnity Fund.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary to indemnify the owners of animals afflicted with the disease known as Glanders and Dourine.

Approved March 8th, 1923.

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## CHAPTER 66.

(S. B. No. 198—Hamilton.)

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## SUPERVISOR OF GRADES, WEIGHTS AND MEASURES.

An Act Making an Appropriation for the Supervisor of Grades, Weights and Measures, for the Purpose of Carrying Out, Maintaining, General Supervision and Regulation of Grain Grading, Elevator Accounting and Inspection of Elevators, Warehouses and Flour Mills in Handling of all Agricultural Products.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Grain Grading Fund, the sum of \$50,000.00, to the Supervisor of Grades, Weights and Measures, for the biennium, or so much thereof as may be necessary for the purpose of maintaining, carrying out and the general supervision and regulation of grain grading, elevator accounting, bonding and inspection of elevators, warehouses and flour mills, potato inspection and handling of all other agricultural products and for the expenses incurred in co-operating with the United States Department of Agriculture in the shipping-point inspection of potatoes and other perishable agricultural products.

Approved March 10th, 1923.

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## CHAPTER 67.

(S. B. No. 15—Baird.)

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## HAIL INSURANCE DEPARTMENT.

An Act to appropriate and transfer money from the Hail Insurance Fund to the Hail Insurance Operating Fund for the purpose of paying the unpaid bills incurred by the Hail Insurance Department during the year beginning January 1, 1922, and ending December 31, 1922.

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

Sec. 1. TRANSFER PROVIDED.) There is, hereby, appropriated and transferred the sum of \$21,286.61 or as much thereof as is needed, out of any moneys in the Hail Insurance Fund to the Hail Insurance Operating Fund for the purpose of paying the unpaid bills incurred by the Hail Insurance Department during the year beginning January 1, 1922, and ending December 31, 1922.

Sec. 2. EMERGENCY.) This is hereby declared to be an emergency measure and shall be in force from and after its passage and approval.

Approved March 2nd, 1923.

## CHAPTER 68.

(S. B. No. 112—Appropriations Committee.)

### HISTORICAL SOCIETY.

An Act Making an Appropriation of \$20,710.00 for the purpose of Paying Salary, Clerkhire and General Expense of the State Historical Society.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the biennium, the sum of \$20,710.00, or so much thereof as may be necessary to pay the general expense of the State Historical Society, as follows:

1. Salary:

Curator .....	\$ 5,000.00
Librarian & Cataloguer .....	3,600.00
Total .....	\$ 8,600.00

2. Clerkhire:

Assistant in Museum and Library ....	\$ 2,400.00
Stenographer and Newspaper Clerk ....	1,800.00
Ass't in Office of Sec'y .....	300.00
Editor of Collections .....	230.00
Total .....	\$ 4,730.00

3. Postage .....

\$ 300.00

Total .....\$ 300.00

4. Office Supplies .....

\$ 250.00

Total .....\$ 250.00

5. Furniture & Fixtures.....	\$ 380.00
Total .....	\$ 380.00
6. Printing & Binding .....	\$ 1,000.00
Total .....	\$ 1,000.00
7. Miscellaneous .....	\$ 350.00
Total .....	\$ 350.00
8. Traveling Expense .....	\$ 1,000.00
Total .....	\$ 1,000.00
9. Contingent Fund .....	\$ 500.00
Total .....	\$ 500.00
10. Items Not Included in above:	
Field Work .....	\$ 600.00
Museum .....	1,000.00
Books .....	1,000.00
Binding Pamphlets and Newspapers ....	1,000.00
Total .....	\$ 3,600.00
Grand Total of All Items .....	\$20,710.00
Approved March 10th, 1923.	

## CHAPTER 69.

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

## HOSPITAL FOR INSANE.

An Act Making an Appropriation for Improvements and Repairs, New Buildings, Equipment and Miscellaneous for the State Hospital for the Insane at Jamestown, North Dakota.

## PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 86, being an act making an appropriation for improvements and repairs, new buildings, equipment and miscellaneous for the state hospital for the insane at Jamestown, North Dakota, with my approval except as to the item of:

Repairs and upkeep of buildings .....\$15,000.00  
for the reason that the appropriations exceed the available income and that I am informed that arrangements can be made

for taking care of the most necessary portion of the contemplated repairs.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of One Hundred Sixty Thousand Dollars or so much thereof as may be necessary for the improvements and repairs, new building, equipment and miscellaneous, as follows:

1—IMPROVEMENTS AND REPAIRS.

Enlarging dining room .....	\$25,000.00
Rebuilding power house .....	64,000.00
Corridor and tunnel extension .....	20,000.00
Repairs and upkeep of buildings .....	15,000.00
Sewer and water mains .....	4,000.00
Total .....	\$128,000.00

2—NEW BUILDINGS.

Completing men's ward building .....	\$10,000.00
Total .....	10,000.00

3—EQUIPMENT.

Furniture and equipment for men's ward building .....	\$ 8,000.00
Total .....	8,000.00

4—MISCELLANEOUS.

Insurance .....	\$14,000.00
Total .....	14,000.00
Total for all Purposes .....	\$160,000.00

Approved except as to items enumerated on attached sheet,  
March 10th, 1923.

CHAPTER 70.

(S. B. No. 132—Appropriations Committee.

HOTEL INSPECTION.

An Act Making an Appropriation for the General Expense of the Hotel Inspection Department.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the Hotel Inspection Fund, not otherwise appropriated, the sum of \$6,000.00, for the biennium, or so much thereof as may be necessary to pay the general expenses of the Hotel Inspection Department, as follows:

1. Clerk Hire: Chief Deputy and two inspectors .....	\$4,600.00
2. Postage .....	200.00
3. Office Supplies .....	100.00
4. Printing .....	200.00
5. Miscellaneous .....	100.00
6. Traveling Expense .....	800.00
Total .....	\$6,000.00

Approved March 10th, 1923.

CHAPTER 71.

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

HUMANE SOCIETY.

An Act to appropriate \$1,000.00 for the Biennium, to the Humane Society for Office Supplies, Printing, Office Phone, and Traveling Expenses.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$1,000.00, for the biennium, or so much thereof as may be necessary to pay the expenses of the Humane Society, viz:

1—Office Supplies .....	\$ 10.00
2—Printing .....	40.00
3—Miscellaneous (phone) .....	500.00
4—Traveling Expense .....	450.00

Total .....\$1,000.00

Approved March 2nd, 1923.

## CHAPTER 72.

(H. B. No. 258—Committee on Appropriations.)

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## HUMANE OFFICER, REPEAL.

An Act to Amend and Re-enact Section 2671 of the Compiled Laws of North Dakota for 1913, Relating to Cruelty to Animals.

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

Sec. 1. Section 2671 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

Sec. 2671. EXPENSES.) The person so appointed shall act without compensation further than the payment of his actual expenses incurred. The State Auditor shall issue warrants for such expenses upon presentation of itemized and verified accounts therefor.

Approved February 27th, 1923.

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## CHAPTER 73.

(H. B. No. 119—Appropriations Committee.)

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## CARE OF INSANE.

An Act Making an Appropriation of \$63,000.00 for the Care of Insane Patients Whose Residence Can Not Be Determined and Whose Care Must Be Borne by the State.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of \$63,000.00, or so much thereof as is necessary, to care for the insane patients whose residence can not be determined and whose care must be borne by the State.

Approved February 27th, 1923.

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## CHAPTER 74.

(S. B. No. 60—Garberg.)

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## DEPARTMENT OF INSURANCE, DEFICIT.

An Act Appropriating Eight Hundred Fifty-three Dollars and Sixty-one Cents (\$853.61) to take care of deficit in biennial appropriation of Department of Insurance.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of Eight Hundred Fifty-three Dollars and Sixty-one



Cents (\$853.61) to pay the balance of bill incurred for printing the Nineteenth Annual Report of the Department of Insurance.

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

Approved February 19th, 1923.

## CHAPTER 75.

(H. B. No. 88—Appropriations Committee.)

### INSTITUTION FOR FEEBLE-MINDED.

An Act Making an Appropriation for Maintenance, Improvements, and Repairs, and Equipment for the Institution of the Feeble-Minded at Grafton.

March 10th, 1923.

### PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 88, being an act making an appropriation for maintenance, improvements, and repairs, and equipment for the institution of the feeble-minded at Grafton, with my approval except as to the following items:

Paints and painting .....	\$1,000.00
Building repairs and remodeling .....	5,000.00
or a total of .....	\$6,000.00

vetoed for the reason that the appropriations made by the legislature exceed the available income, and for the further reason that the service contemplated under the two items vetoed can be taken care of thru other channels.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) For maintenance, improvements and repairs, and equipment for the Institution of the Feeble-Minded at Grafton, for the period covering from July 1st, 1923, to July 1st, 1925, the following sums of money, or so much thereof as may be necessary are hereby appropriated from any funds in the State Treasury, not otherwise appropriated, viz:

### MAINTENANCE.

General Maintenance .....	\$ 90,000.00
Fuel, (Including freight .....	44,000.00

**IMPROVEMENTS AND REPAIRS.**

Paints & Painting .....	1,000.00
Building Repairs & Remodeling .....	5,000.00
Power House .....	2,000.00
Heating & Plumbing .....	1,000.00
Floor for cow barn .....	150.00
Antiseptic Tank .....	5,000.00
Root Cellar .....	2,000.00

**EQUIPMENT**

Furniture for Dormitory B. ....	7,500.00
Laundry equipment .....	5,000.00
Milk House .....	500.00
Farm Machinery .....	250.00
Engine & Generator .....	7,500.00
Beds & Furniture .....	3,000.00

**MISCELLANEOUS.**

Insurance, Bonds Etc. ....	6,000.00
Interest .....	1,000.00
Deficit to Dormitory B. ....	7,500.00

Total .....\$188,400.00

Approved Except as to items enumerated on attached sheet,  
March 10th, 1923.

**CHAPTER 76.**

(S. B. No. 97—Committee on Appropriations.)

**INSTITUTION FOR FEEBLE MINDED, DEFICIT.**

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Maintenance Fund of the Institute for the Feeble Minded.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$14,486.73 for the purpose of paying an existing deficit in the general maintenance fund of the Institution for the Feeble Minded at Grafton, N Dak.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

CHAPTER 77.

(H. B. No. 118—Freeman and Ulland.)

HOUSE INVESTIGATION.

An Act to appropriate the Sum of Ten Thousand Nine Hundred and Fifty-three Dollars and 65-100 (\$10,953.65) or so much thereof as may be needed, for the Purpose of Paying the Per Diem and Expenses of Employees, the Per Diem and Mileage of Witnesses and Expenses for Printing and Supplies, Incurred by the Special Audit Committee Appointed by the House of Representatives of the Seventeenth Legislative Assembly of the State of North Dakota, in Considering the Audit of and Investigating the State Bank and State Industries as Authorized and Directed by Said House of Representatives.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Ten Thousand Nine Hundred and Fifty-three Dollars and 65-100 (\$10,953.65), or so much thereof as may be necessary to pay the per diem and expenses of employees, per diem and mileage of witnesses, and expenses for printing and supplies incurred by the Special Audit Committee appointed by the House of Representatives of the Seventeenth Legislative Assembly of the State of North Dakota, in considering the Audit of and investigating the State Bank and State Industries as authorized and directed by the said House of Representatives, said sum to be paid to the particular individuals in the specific amounts as hereinafter named, designated and specified, to-wit:

Supplies:

Harris & Company, Bismarck, N. D. ....	\$ 19.50
Hoskins, Bismarck, N. D. ....	88.20
The Quick Print Inc. ....	115.00

Stenographers:

Helen Breen, Bismarck, N. D. ....	162.50
Dorothy Schnecker, Bismarck, N. D. ....	20.00
Irene Pilmoor, Bismarck, N. D. ....	20.00
Margaret Engelman, Bismarck, N. D. ....	20.00
Elizabeth Walery, Bismarck, N. D. ....	70.00
Helen Sayler, Underwood, N. D. ....	35.00
Dorothy C. Reynolds, Minot, N. D. ....	200.00
Lorraine Drews, Ashley, N. D. ....	105.00
Margaret Wynkoop, Bismarck, N. D. ....	5.00
Catherine Morris, Bismarck, N. D. ....	5.00
Mrs. W. C. Paulson, Bismarck, N. D. ....	5.00
Chrissie E. Budge, Grand Forks, N. D. ....	390.00
Chas. Wattam, reporter, Bismark, N. D. ....	1,160.00

## Other Employees:

E. B. McCutcheon, investigator, Minot, N.	
D., per diem and expenses .....	1,000.00
Staale Hendrickson, Marshall, Coteau, N.	
D., per diem and expenses serving sub- poenas .....	518.52
Herbert M. Temple, consulting accountant, St. Paul, Minn., per diem and expenses ....	1,200.00

## Counsel:

Francis Murphy, Minot, N. D., services .....	2,500.00
John F. Sullivan, Mandan, N. D., services....	2,500.00

## Witnesses: Mileage and per diem.

J. G. Johnson, Bowbells, N. D. ....	31.20
Allen McManus, Grand Forks, N. D. ....	36.50
B. H. Stary, Conway, N. D. ....	44.00
G. A. Ebbert, Minot, N. D. ....	28.00
John Staub, Valley City, N. D. ....	16.60
S. P. Ellis, Valley City, N. D. ....	16.60
Lee Cowell, Valley City, N. D. ....	16.60
Geo. Rasmusson, Dazey, N. D. ....	16.60
Max O'Connell, Bismarck, N. D. ....	3.20
T. Ostbye, Fargo, N. D. ....	31.60
Wm. Wallgren, Fargo, N. D. ....	31.60
K. S. Erdall, Fargo, N. D. ....	31.60
A. E. Champlin, Fargo, N. D. ....	31.60
L. E. Corell, Casselton, N. D. ....	20.00
J. W. Brinton, St. Paul, Minn.....	166.60
J. R. Waters, Beach, N. D. ....	96.00
E. L. Faoulks, Valley City, N. D. ....	19.60
R. E. Swendseid, Stanley, N. D. and John A. Johnson, Parshall, N. D. ....	60.00
Grand Pacific Hotel .....	117.75

Total .....\$10,953.65

Approved March 7th, 1923.

## CHAPTER 78.

(S. B. No. 161—Ployhar.)

## SENATE INVESTIGATION.

An Act to appropriate the sum of One Hundred Dollars (\$100.00) or so much thereof as may be necessary for the Purpose of Paying the Per Diem and Mileage of witnesses incurred by the Special Investigating Committee of the Senate, in considering the Audit of the State Bank and State Industries, during the Seventeenth Legislative Assembly.

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

Sec. 1. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of One

Hundred Dollars (\$100.00) or so much thereof as may be necessary to pay the per diem and mileage of witnesses subpoenaed to appear before the Senate Investigating Committee in the Investigation of the Audit of the State Industries.

Approved March 2nd, 1923.

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## CHAPTER 79.

(H. B. No. 123—Harrington.)

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### LIBERTY MEMORIAL BUILDING

An Act Making an Appropriation for the Completion and Furnishing of the Liberty Memorial Building.

March 10th, 1923

### PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 123, being an act making an appropriation for the completion and furnishing of the Liberty Memorial Building, with my approval except as to the item of:

Furniture and fittings .....\$15,000

which item is vetoed for the reason that the appropriations made by the legislature exceed the available income.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. There is hereby appropriated out of the Capitol Building fund the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) to complete and furnish the Liberty Memorial Building, as follows:

For the completion of building .....\$65,000.00

For book stacks ..... 50,000.00

For furniture and fittings ..... 15,000.00

Approved except as to items enumerated on attached sheet,  
March 10th, 1923.

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## CHAPTER 80.

(H. B. No. 107—Committee on Appropriations.)

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### LIVE STOCK ASSOCIATION.

An Act to appropriate \$1,000.00 for the Payment of the Expenses to be Incurred by the North Dakota Live Stock Association as Prescribed by Section 2786 of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury,

the sum of \$1,000.00 or so much thereof as may be necessary to pay the expenses of the North Dakota Live Stock Association authorized under Section 2786 of the Compiled Laws of 1913 for North Dakota.

Approved February 27, 1923.

## CHAPTER 81.

(H. B. No. 264—Committee on Appropriations.)

### LIVE STOCK ASSOCIATION, REPEAL.

An Act to Repeal Section 2786 of the Compiled Laws of North Dakota for 1913, Relating to North Dakota Live Stock Association.

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

Sec. 1. REPEAL.) That Section 2786 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

## CHAPTER 82.

(S. B. No. 133—Appropriations Committee)

### LIVE STOCK SANITARY BOARD.

An Act Making an Appropriation for the General Expense of the State Live Stock Sanitary Board.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$29,750.00, for the biennium, or so much thereof as may be necessary to pay the general expenses of the State Live Stock Sanitary Board, as follows:

1. Salary:		
Executive Officer and State Veterinarian .....	6,600.00	
2. Clerkhire:		
One Stenographer and Clerk .....	3,000.00	
Total .....		3,000.00
3. Postage .....		400.00
4. Office Supplies .....		150.00
5. Furniture & Fixtures .....		150.00
6. Printing .....		700.00
7. Miscellaneous:		
Telephones .....	200.00	
Telegrams .....	100.00	
Total .....		300.00

**8. Traveling Expense:**

For services and expenses of agents of live stock sanitary board .....	18,000.00
For Insurance Premium in Workmens Compensa- tion Bureau for Employees .....	450.00
Grand Total for all Items .....	\$29,750.00

Approved March 10th, 1923.

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**CHAPTER 83.**

(H. B. No. 254—Committee on Appropriations.)

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**LIVE STOCK SANITARY BOARD, REPEAL.**

An Act to Repeal Section 2696 of the Compiled Laws of North Dakota for the Year 1913, Relating to Live Stock Sanitary Board.

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

Sec. 1. REPEAL.) That Section 2696 of the Compiled Laws of North Dakota for the Year 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

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**CHAPTER 84.**

(H. B. No. 108—Committee on Appropriation.)

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**LIVE STOCK SANITARY BOARD.**

An Act Making an Appropriation to Provide for Compensation and Expenses of the Board of Trustees of the State Live Stock Sanitary Board.

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

Sec. 1. APPROPRIATION.) That there is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of \$1200.00, or so much thereof as may be necessary to provide for the compensation and expenses of the members of the Board of Trustees of the Live Stock Sanitary Board as provided in Section 2681 of the Compiled Laws of North Dakota for the year 1913.

Approved February 27th, 1923.

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CHAPTER 85.

(H. B. No. 250—Committee on Appropriations.)

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## MILITIA GROUNDS, REPEAL.

An Act to Repeal Chapter 35 of the Session Laws of North Dakota for 1915, Relating to Militia Grounds.

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

Sec. 1. REPEAL.) That Chapter 35 of the Session Laws of North Dakota for the year 1915 be and the same is hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 86.

(H. B. No. 110—Committee on Appropriations.)

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## NATIONAL GUARD.

An Act to appropriate Sixty Thousand Dollars (\$60,000.00) to provide Funds for the Maintenance of the North Dakota National Guard, or State Militia, as Provided for Under Chapter 35 of the Compiled Laws of 1913 for North Dakota, and to Meet Other Requirements Prescribed by the Federal Statutes.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$60,000.00 or so much thereof as may be necessary to provide proper maintenance for the North Dakota National Guard or State Militia, as prescribed in Chapter 35 of the compiled laws of 1913 for North Dakota, and to meet other requirements prescribed by the Federal Statutes.

Approved February 27th, 1923.

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## CHAPTER 87.

(H. B. No. 94—Committee on Appropriations.)

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## MINIMUM WAGE DEPARTMENT.

An Act Making an Appropriation for the Current and Contingent Expenses of the Minimum Wage, Health and Morals of Women Workers, for Salary, Postage, Office Supplies, Printing, Traveling Expenses, Hearings, Conferences, Witness Fees, Legal Fees and Office Rent.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated,



the sum of \$9,100.00 or so much thereof as may be necessary for the current and contingent expenses of the Minimum Wage, Health and Morals of Women Workers for the biennium as follows:

1. Salary of Secretary .....	\$3,000.00
2. Postage .....	500.00
3. Office Supplies .....	300.00
4. Printing .....	500.00
5. Traveling Expenses .....	2,400.00
6. Hearings, Conferences, Witness and Legal Fees .....	2,000.00
7. Office Rent .....	400.00
Total .....	\$9,100.00

Approved March 8th, 1923.

## CHAPTER 88.

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

### MOTOR VEHICLE REGISTRATION.

An Act Making an Appropriation for the General Expenses of the Department of Motor Vehicle Registration.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated, to the department of the Motor Vehicle Registration Department for the expenses thereof out of any monies in the State Highway Fund under paragraph 2 of Section 11, of Chapter 44, of the Laws of the Special Session of North Dakota for the year 1919, the sum of \$86,150.00, or so much thereof as may be necessary during the biennial period beginning July 1st, 1923, and ending June 30th, 1925, for the following specified purposes:

1. Salary .....	\$ 4,800.00
2. Clerkhire .....	20,000.00
3. Postage .....	20,000.00
4. Office Supplies .....	400.00
5. Furniture & Fixtures .....	1,200.00
6. Printing .....	5,000.00
7. Miscellaneous .....	700.00
8. Traveling Expense .....	1,500.00
9. Special Agents .....	2,000.00
10. Tags .....	30,000.00
11. Contingent .....	400.00
12. Premium Compensation Bureau .....	100.00
13. Bonds .....	50.00

Total .....\$86,150.00  
Approved March 10th, 1923.

## CHAPTER 89.

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

## DICKINSON NORMAL

An Act Making an Appropriation for the Current and contingent expenses of the Dickinson Normal School at Dickinson, and Making Permanent Improvements and additions thereto.

March 10th, 1923.

## PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 85, being an act making an appropriation for the current and contingent expenses of the Dickinson Normal School at Dickinson, and making permanent improvements and additions thereto, with my approval except as to the following items:

Laying out grounds, planting trees.....	\$ 2,500.00
Cement walks .....	4,000.00
Furniture and equipment for new building.....	18,000.00

or a total of .....\$24,500.00

vetoed for the reason that the appropriations made by the legislature exceed the available income of the state, and that the service contemplated under the above items can be taken care of thru institutional collections and otherwise.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$217,900.00 or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the Dickinson Normal School at Dickinson and making permanent improvements and additions thereto:

## 1—Maintenance.

Faculty salaries .....	\$ 85,000.00
Employee's salaries .....	20,400.00
Fuel, including freight .....	10,000.00
Light and power .....	1,800.00
Water .....	1,500.00
Rent .....	3,600.00
Printing, stationery, etc. ....	1,700.00
Postage, telephone, telegraph .....	800.00

Traveling expenses .....	400.00
Janitor's supplies .....	1,100.00
Student's welfare .....	900.00
Student's loans (Revolving fund) .....	500.00
Total.....	\$127,700.00

## 2—Improvements and Repairs.

Laying out grounds, planting trees.....\$	2,500.00
Cement walks .....	4,000.00
Laying out athletic grounds.....	250.00
Total.....	6,750.00

## 3—Equipment.

Furniture and equipment for new building\$	18,000.00
Library, books, periodicals, etc. ....	3,000.00
Tools and machines for power house.....	800.00
To complete new main building.....	60,000.00
Total.....	81,800.00

## 4—Miscellaneous.

Insurance, bonds, etc. ....	\$ 1,500.00
Total.....	1,500.00
Grand Total.....	\$217,900.00

Note.—It is estimated by the Budget Board that the above amounts, together with the estimated income of institutional collections of \$8,000.00, will be sufficient for all purposes.

Approved, except as to items enumerated on attached sheet, March 10th, 1923.

## CHAPTER 90.

(S. B. No. 94—Appropriations Committee.)

## DICKINSON NORMAL, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the General Maintenance Fund of the State Normal School at Dickinson.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$2,500.00 for the purpose of paying an existing deficit in the general maintenance fund of the State Normal School at Dickinson, N. Dak.

Sec. 2. **EMERGENCY.**) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

## CHAPTER 91.

(S. B. No. 83—Committee on Appropriations.)

### MAYVILLE NORMAL.

An Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Mayville and Making Permanent Improvements and Additions Thereto.

March 10th, 1923.

### PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 83, being an act making an appropriation for the current and contingent expenses of the state normal school at Mayville, and making permanent improvements and additions thereto, with my approval except as to the following items:

Extra labor and student help.....	\$ 2,400
Freight and express.....	600
Supplies, department of instruction .....	5,000
Supplies and repairs, janitor.....	1,200
Hospital maintenance .....	150
Student welfare .....	500

Under the subdivision of Equipment, the following items:

Manual training .....	\$ 200
Agriculture .....	200
Commercial department—typewriters .....	400
Desks and blackboards.....	200

Or a total amount vetoed of.....\$10,850

for the reason that the appropriations made by the legislature exceed the available income, and for the further reason that most of the service contemplated under these items can be taken care of thru the institutional fees and collections without crippling the service.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. **APPROPRIATION.**) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated.

the sum of \$145,490.00 or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State Normal at Mayville, for the biennium, and making permanent improvements and additions thereof:

1.	Maintenance.		
	Faculty salaries .....	\$ 46,100	
	Employees salary .....	28,940	
	Extra labor and student help.....	2,400	
	Fuel (including freight ).....	30,000	
	Light and power .....	3,800	
	Water and ice .....	4,000	
	Printing, stationery, office supplies.....	1,600	
	Postage, telephone and telegraph .....	700	
	Traveling expense .....	400	
	Freight and express .....	600	
	Supplies, Department of Instruction.....	5,000	
	Supplies and repairs, Engineer .....	3,600	
	Supplies and repairs, Janitor .....	1,200	
	Hospital maintenance .....	150	
	Student welfare .....	500	
	City Board of Education .....	8,000	
	Total.....		\$136,990
2.	Improvements and Repairs.		
	General repairs .....	\$ 1,000	
	Total.....		\$ 1,000
3.	Equipment.		
	Books, periodicals and bindings .....	\$ 1,000	
	Manual Training .....	200	
	Agriculture .....	200	
	Commercial Department—typewriters .....	400	
	Desks and blackboards .....	200	
	Total.....		\$ 2,000
4.	Miscellaneous.		
	Insurance—Fire and Tornado .....	\$ 5,000	
	Interest .....	500	
	Total.....		\$ 5,500
	Grand Total.....		\$145,490

Note—It is estimated by the Budget Board that the above amount together with the estimated income from interest and income and institutional collections estimated at \$48,000.00 will be sufficient for all needs of the institution.

Approved except as to items enumerated on attached sheet, March 10th, 1923.

## CHAPTER 92.

(H. B. No. 82—Committee on Appropriations.)

## MINOT NORMAL.

An Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Minot, North Dakota, and making Permanent Improvements and Additions thereto.

## PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 82, being an act making an appropriation for the current and contingent expenses of the State Normal School at Minot, North Dakota, and making permanent improvements and additions thereto, with my approval except as to the following items:

## Maintenance:

1. Advertising .....	\$ 200.00
2. Travel .....	500.00
3. Campus and farm supplies .....	400.00
4. Student welfare .....	1,000.00

## Equipment:

1. Lockers .....	600.00
2. Commercial apparatus .....	800.00
3. Books .....	1,600.00
4. Art and music .....	1,200.00

or a total of .....\$6,300.00

vetoed for the reason that the legislative appropriations exceed the available income and for the further reason that a portion of the service to be rendered by virtue of the items thus vetoed can be taken care of thru other channels.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$208,950.00, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State Normal School at Minot, North Dakota, and making permanent improvements and additions thereto:

## 1—Maintenance.

Faculty salaries, (including President) .....	\$103,000.00
Employee's salaries .....	31,600.00
Fuel (including freight) .....	30,000.00
Light, power and water .....	4,600.00
Printing, stationery, etc. ....	4,300.00
Postage, telephone and telegraph .....	1,600.00
Advertising .....	200.00
Traveling expense .....	500.00
Freight, express and drayage .....	800.00
School supplies .....	5,500.00
Engineer supplies .....	600.00
Janitor supplies .....	1,200.00
Campus and farm supplies .....	400.00
Students welfare .....	1,000.00
Total.....	\$185,300.00

## 2—Improvements and Repairs.

General repairs, buildings and power plant..\$	2,200.00
Total.....	2,200.00

## 3—New Buildings.

Smoke Stack .....	\$ 4,000.00
Total.....	4,000.00

## 4—Equipment.

Lockers .....	\$ 600.00
Commercial apparatus .....	800.00
Books .....	1,600.00
Art and Music .....	1,200.00
Science and agricultural equipment .....	1,600.00
Furniture .....	2,000.00
Library, books, periodicals, etc. ....	1,000.00
Total.....	8,800.00

## 5—Miscellaneous.

Insurance, bonds, etc. ....	\$ 3,750.00
Taxes, special improvements .....	4,000.00
Appraisement and valuation .....	400.00
Interest .....	500.00
Total.....	8,650.00
Grand Total of All Items.....	\$208,950.00

Approved except as to items enumerated on attached sheet,  
March 10th, 1923.

## CHAPTER 93.

(S. B. No. 82—Committee on Appropriations.)

## VALLEY CITY NORMAL.

An Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Valley City, and Making Permanent Improvements and Additions thereto.

## PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 82, being an act making an appropriation for the current and contingent expenses of the state normal school at Valley City, and making permanent improvements and additions thereto, with my approval except as to the following items:

Janitor's supplies .....	\$ 4,000.00
Educational supplies .....	6,000.00
Improvement of grounds .....	1,500.00

or a total amount vetoed of .....\$11,500.00

for the reason that the appropriations made by the legislature exceed the available income, and for the further reason that the service contemplated thru the items so vetoed can be taken care of by means of the institutional collections and otherwise.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$334,730, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State Normal School at Valley City, for the biennium, and making permanent improvements and additions thereto:

## 1—MAINTENANCE.

Salaries and wages .....	\$164,000.00
Instructors for summer school .....	50,000.00
Fuel (including freight) .....	36,000.00
Light, Power and Water .....	2,700.00
Printing, Stationery, Office supplies .....	4,000.00
Postage, Telephone Telegraph .....	3,000.00
Traveling Expense .....	400.00
Freight and Express .....	1,000.00
Janitor's Supplies .....	4,000.00



Engineer's Supplies .....	1,600.00
Educational Supplies .....	6,000.00
Students' Welfare .....	1,500.00
Total .....	\$274,200.00

## 2—IMPROVEMENTS AND REPAIRS.

General Repairs .....	7,500.00
Improvement of grounds .....	1,500.00
Repairs and Additions to Heating Plant .....	16,050.00
Total .....	\$ 25,050.00

## 3—EQUIPMENT.

Library, books, periodicals, etc .....	2,500.00
Furniture, apparatus, machinery .....	4,000.00
Equipment, new gymnasium .....	2,000.00
Total .....	\$ 8,500.00

## 4—MISCELLANEOUS.

Insurance, bonds, and etc. ....	9,480.00
Additions to permanent property .....	17,500.00
Total .....	\$ 26,980.00

Grand Total of All Items .....\$334,730.00

Note: It is estimated by the Budget Board that the above amounts will be sufficient for all purposes together with the estimated income and interest and institutional collections estimated at \$100,000.00.

Approved except as to items enumerated in attached sheet March 10th, 1923.

## CHAPTER 94.

(S. B. No. 81—Committee on Appropriations.)

## NORMAL AND INDUSTRIAL SCHOOL.

An Act Making an Appropriation for the Current and Contingent Expenses of the State Normal and Industrial School of Ellendale, and Making Permanent Improvements and Additions Thereto.

March 10, 1923.

## PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 81, being an act making an appropriation for the current and contingent expenses of the STATE NORMAL AND INDUSTRIAL SCHOOL at ELLEN-

DALE, and making permanent improvements and additions thereto, with my approval except as to the following items:

Educational supplies .....	\$4,000
Care of grounds .....	200
Interest, Carnegie warrants .....	1,800

or a total of .....\$6,000

hereby vetoed for the reason that the appropriations made by the legislature exceed the available income and for the further reason that the service contemplated under the items vetoed can be taken care of thru institutional collections.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$100,072, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State Normal and Industrial School at Ellendale, for the biennium, and making permanent improvements and additions thereto:

#### 1. MAINTENANCE.

Faculty Salaries .....	\$39,452
Employees Salaries .....	18,600
Fuel (Including Freight) .....	12,000
Water .....	200
Printing, Stationery, Office Supplies & Advertising .....	2,000
Postage, telephone and telegraph .....	720
Traveling Expense .....	400
Freight and Express .....	400
Engineer and Janitor Supplies .....	1,200
Educational Supplies .....	4,000
Care of Grounds .....	200
Farm Maintenance .....	2,000
Summer Schools .....	5,000
Students' Loans (Revolving Fund) .....	500
Students' Welfare .....	1,500

Total .....\$ 88,172

#### 2. IMPROVEMENTS AND REPAIRS.

Water Main Repairs .....	\$ 250
General Repairs on Buildings .....	2,000
Two Cisterns .....	1,000

Total .....\$ 3,250

**3. EQUIPMENT.**

Laboratories .....	\$ 1,000
Replacements .....	1,000
Library, Books, Periodicals, etc. ....	1,100
<b>Total .....</b>	<b>\$ 3,100</b>

**4. MISCELLANEOUS.**

Insurance, Bonds, etc. ....	3,750
Interest, Carnegie, Warrants, etc. ....	1,800
<b>Total .....</b>	<b>\$ 5,550</b>

**Grand Total .....** \$100,072

Note: It is estimated by the Budget Board that the above amounts together with the estimated income from interest and income and institutional collections estimated at \$44,000.00 will be sufficient for all needs of the institution.

Approved except as to items enumerated on attached sheet, March 10th, 1923.

**CHAPTER 95.**

(S. B. No. 78—Appropriations Committee.)

**OIL INSPECTION.**

An Act Making an Appropriation for the General Expense of the State Oil Inspection.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Oil Inspection Fund, not otherwise appropriated, the sum of \$51,420.00, for the Biennium, or so much thereof as may be necessary to pay the general expenses of the State Oil Inspection Department, as follows:

**1. Salary:**

State Oil Inspector .....	\$5,000
Chief Deputy Oil Inspector .....	4,800
<b>Total .....</b>	<b>\$ 9,800</b>

**2. Clerk Hire:**

Deputy Oil Inspectors (2) .....	\$7,200
Deputy Oil Inspectors (3) .....	5,400
Accountant and Stenographer (1) .....	2,400
Oil Chemist (1) .....	5,400
Assistant Oil Chemist (1) .....	3,000
Assistant Oil Chemist (1) .....	1,320

**Total .....** 24,720

3. Postage .....	600
4. Office Supplies .....	600
5. Furniture and Fixtures .....	200
6. Printing .....	1,500
7. Miscellaneous:	
Apparatus, Equipment, Express, Freight, Telephone	
Rents, etc. ....	6,000
8. Traveling Expense .....	8,000
<b>Total .....</b>	<b>\$51,420</b>
Approved March 10th, 1923.	

### CHAPTER 96.

(H. B. No. 93—Committee on Appropriations.)

#### BOARD OF PARDONS.

An Act to appropriate One Thousand Dollars to Provide Funds for the Payment of the Per Diem and Necessary Expenses of the Members of the State Board of Pardons, together with Postage, Telegrams, Telephone Tolls, Printing, and other Necessary Expenses incurred by such Board as Provided for in Section 11108 of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of One Thousand Dollars (\$1,000.00), or so much thereof as may be necessary to pay the per diem and necessary expenses of the members of the state board of Pardons, together with postage, telegrams, telephone tolls, printing and other necessary expenses incurred by such board as provided in section 11108 of the Compiled Laws of 1913 for North Dakota.

Approved February 27th, 1923.

### CHAPTER 97.

(H. B. No. 259—Committee on Appropriations.)

#### BOARD OF PARDONS, REPEAL.

An Act to Amend and Re-enact Section 11108 of the Compiled Laws of North Dakota for the year 1913, Relating to Board of Pardons.

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

Sec. 1. AMENDMENT.) Section 11108 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

The two qualified electors to be appointed on the board shall receive as compensation five dollars per diem while necessarily employed in attendance upon the sessions of the board and all traveling expenses necessarily incurred therein, to be paid as

provided by law for the payment of trustees' under section 11194.  
Approved February 27th, 1923.

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## CHAPTER 98.

(S. B. No. 140—Appropriation Committee.)

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### STATE PARKS.

An Act to appropriate \$1,500.00 for the biennium out of any money in the State Treasury not otherwise appropriated, for the purpose of upkeep of ten state parks, and the Purchase of additional Parks by the State Historical Society.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of \$1,500.00, for the biennium, or so much thereof as may be necessary to pay the State Historical Society for the upkeep of ten state parks, and the purchase of additional Parks by the State Historical Society.

Approved March 10th, 1923.

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## CHAPTER 99.

(H. B. No. 87—Committee on Appropriations.)

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### PENITENTIARY.

An Act Making Appropriations for the Current and Contingent Expenses of the State Penitentiary and for making of Permanent Improvements and Additions thereto.

### PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 87, being an act making appropriations for the current and contingent expenses of the state penitentiary and for making of permanent improvements and additions thereto, with my approval except as to the following items:

Office supplies .....	\$3,000
Electrical supplies .....	2,500
Identification dept. and escapes .....	4,000
Freight, express, telephone and telegraph .....	3,000
Drugs, medicine, hospital, etc. ....	4,000

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or a total amount vetoed of .....\$16,500  
for the reason that the appropriations made by the legislature exceed the available income, and that the warden assures us that

the most necessary part of the service contemplated thru the items thus vetoed can be taken care of thru institutional collections and otherwise.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. There is hereby appropriated the following sum of money, or so much thereof as may be necessary out of any moneys in the State Treasury, not otherwise appropriated for the payment of current and contingent expenses of the State Penitentiary and for the making of permanent improvements and additions thereto:

(a)	General maintenance .....	\$102,000.00
	Fuel, (including freight) .....	35,000.00
	Salaries .....	82,000.00
	Water .....	5,000.00
	Clothing .....	12,000.00
	Freight, express, tel. and tel. ....	3,000.00
	Office supplies .....	3,000.00
	Electrical supplies .....	2,500.00
	Drugs, medicine, hospital, etc. ....	4,000.00
	Transportation and clothing, discharg- ed inmates .....	8,000.00
	Wardens expense .....	1,000.00
	Prison congress expense .....	500.00
	School and amusement, (inmates) .....	2,000.00
	<b>Total</b> .....	<b>\$260,000.00</b>
(b)	Improvements and Repairs:	
	General repairs and painting .....	\$ 9,000.00
	<b>Total</b> .....	<b>\$ 9,000.00</b>
(c)	New Buildings:	
	Dairy barn	
(d)	Miscellaneous:	
	Insurance .....	\$ 9,000.00
	Identification dept. and escapes .....	4,000.00
	<b>Total</b> .....	<b>13,000.00</b>
	<b>Total for Maintenance, Improvements, and Re- pairs, New Buildings, and Miscellaneous</b> .....	<b>\$282,000.00</b>

Note.—It is estimated by the Budget Board that the above amounts together with the expected income from the Twine Plant, employees board, etc., of \$40,000.00 will be sufficient for all purposes.

Approved, except as to items enumerated on attached sheet,  
March 10th, 1923.

## CHAPTER 100.

(H. B. No. 91—Committee on Appropriations.)

## POULTRY ASSOCIATION.

**An Act to appropriate three hundred dollars to the North Dakota Poultry Association for the biennium period according to Section 5117 of the Compiled Laws of 1913 for the State of North Dakota.**

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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of the funds of the State Treasury not otherwise appropriated, the sum of three hundred dollars to be expended by the North Dakota Poultry Association in payment of premiums and special awards in connection with its annual exhibits.

Approved March 7th, 1923.

## CHAPTER 101.

(H. B. No. 265—Committee on Appropriations.)

## POULTRY ASSOCIATION, REPEAL.

**An Act to Repeal Section 5117 of the Compiled Laws of North Dakota for 1913, Relating to North Dakota Poultry Association.**

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

**Sec. 1. REPEAL.)** That Section 5117 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

## CHAPTER 102.

(S. B. No. 109—Appropriations Committee.)

## PREMIUMS ON OFFICIALS' BONDS.

**An Act to appropriate \$2,000.00 out of any Money in the State Treasury not otherwise Appropriated for the Purpose of Paying Premiums on State Officials' Bonds as Provided by Chapter 175 of the Session Laws of North Dakota for 1917.**

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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of \$2,000.00, for the biennium, or so much thereof as may be necessary to pay the premiums on bonds of state officers, bonded under the provisions of Chapter 175 of the session laws of North Dakota for the year 1917.

Approved February 19th, 1923.

## CHAPTER 103.

(S. B. No. 106—Committee on Appropriations.)

## PRESIDENTIAL ELECTORS.

An Act Making an Appropriation to Pay the Expenses and Per Diem of Presidential Electors as Prescribed by Section 1038 of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$300.00 for the biennium, or so much thereof as may be necessary to pay the expenses and per diem of Presidential electors as prescribed by Section 1038 of the Compiled Laws of North Dakota for the year 1913.

Approved March 7th, 1923.

## CHAPTER 104.

(H. B. No. 132—Appropriations Committee.)

## RAILROAD COMMISSIONERS.

An Act Entitled, An Act to Appropriate Money for the Use of the Board of Railroad Commissioners Between the Following Dates, January 1st, 1923 and June 30th, 1923, and Specifying the Purpose for Which the Appropriation is Made.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sums hereinafter named, or so much thereof as may be necessary for the office of the Board of Railroad Commissioners, and for their use, for the following purposes, between the following dates, namely, January 1st, 1923, and June 30th, 1923, both dates inclusive, to-wit:

- |  |           |
|--|-----------|
| (1) Expenses incurred as Fuel distributors, (North Dakota's portion of District Fuel Committee Expenses) ..... | \$ 467.20 |
| (2) Office Supplies .....  | 400.00    |
| (3) Miscellaneous Expenses .....   | 500.00    |

Total .....	\$1,367.20
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Sec. 2. EMERGENCY.) An emergency is hereby declared to exist and does exist and this act shall be in force and effect from and after its passage and approval.

Approved March 2nd, 1923.



## CHAPTER 105.

(S. B. No. 125—Appropriations Committee.)

## MISCELLANEOUS REFUNDS.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Miscellaneous Refunds of the State.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$25,000.00, for the purpose of paying the existing deficit in the Miscellaneous Refunds of the State.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 10th, 1923.

## CHAPTER 106.

(S. B. No. 108—Appropriations Committee.)

## REGULATORY DEPARTMENT.

An Act Making an Appropriation of \$44,000.00 for the Enforcement of the Feeding Stuffs, Fertilizer, Beverage and Sanitary Inspection Laws.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$44,000.00, or so much thereof as may be necessary to carry out the provisions of Section 1624 of the Compiled Laws of 1913 relative to the enforcement of the Feeding Stuffs, Fertilizer, Beverage and Sanitary Inspection Laws. The sum herein named is for the biennial period.

1. Beverage Fund .....	\$24,000.00
2. Pure Food Fund .....	20,000.00

\$44,000.00

Approved March 10th, 1923.

## CHAPTER 107.

(H. B. No. 257—Committee on Appropriations.)

## REGULATORY DEPARTMENT, REPEAL.

An Act to Repeal Section 1624 of the Compiled Laws of North Dakota for the year 1913, Relating to Enforcement, Beverage and Sanitary Laws.

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

Sec. 1. REPEAL.) That Section 1624 of the Compiled Laws

of North Dakota for the year 1913 be and the same is hereby repealed.

Approved February 27th, 1923.

## CHAPTER 108.

(S. B. No. 131—Committee on Appropriations.)

### APPREHENSION OF CRIMINALS.

An Act Making an Appropriation for the Reward and Apprehension of Criminals According to Chapter 200 of the Session Laws of 1917.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of \$1,000.00, for the biennial period, or so much thereof as may be necessary for the rewards for apprehension of criminals as provided for in Chapter 200 of the Session Laws of 1917.

Approved March 2nd, 1923.

## CHAPTER 109.

(S. B. No. 84—Committee on Appropriations.)

### SCHOOL FOR THE BLIND.

An Act Making an Appropriation for the Current and Contingent Expenses of the State School for the Blind at Bathgate, and Making Permanent Improvements and Additions Thereto.

### PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 84, being an act making an appropriation for the current and contingent expenses of the State School for the Blind at Bathgate, and making permanent improvements and additions thereto, with my approval except for the item of:

Aid to graduates attending advanced schools.....\$2,400.00  
for the reason that the appropriations exceed the available income  
and the service contemplated hereunder can be taken care of  
thru other channels.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated,

the sum of \$35,200.00, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State School for the Blind at Bathgate, for the biennium, and making permanent improvements and additions thereto:

(1) General Maintenance .....	\$28,000.00
(2) General Repairs .....	1,000.00
(3) Equipment .....	800.00
(4) Care of Blind Babies.....	3,000.00
Aid to graduates attending advanced schools.....	2,400.00
Total.....	<u>\$35,200.00</u>

Note. It is estimated by the Budget Board that the above amounts would be sufficient for all purposes together with the estimated income and interest collections estimated at \$20,000.00

Approved, except as to items enumerated on attached sheet, March 10th, 1923.

#### CHAPTER 110.

(S. B. No. 96—Appropriation Committee.)

#### SCHOOL FOR BLIND, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the General Maintenance of the State School for the Blind at Bathgate.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the purpose of paying an existing deficit in the general maintenance of the State School for the Blind at Bathgate, N. Dak.

Sec. 2. The appropriation referred to in Section 1 of this Act shall be in the nature of a loan to the Maintenance Fund of the State School for the Blind at Bathgate, North Dakota, as there is sufficient money from interest and income due the Maintenance Fund of the State School for the Blind at Bathgate, North Dakota, uncollected to reimburse the general fund of the State of North Dakota for such appropriation. Therefore, interest and income due and uncollected at the time of the approval of this Act, or as much thereof as is sufficient to reimburse the general fund of the State of North Dakota, shall, when collected, be paid into the general fund of the State of North Dakota by the issuance of transfer warrants by the State Auditor to the State Treasurer, and such transfer warrants credited to the general fund of the State of North Dakota.

Sec. 3. EMERGENCY.) - This act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

### CHAPTER 111.

(H. B. No. 84—Committee on Appropriations.)

#### SCHOOL FOR THE DEAF.

An Act Making an Appropriation for the Current and Contingent Expenses of the School for the Deaf at Devils Lake, and Making Permanent Improvements and Additions thereto.

#### PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 84, being an act making an appropriation for the current and contingent expenses of the School for the Deaf at Devils Lake, and making permanent improvements and additions thereto, with my approval except as to the following items:

Water and ice .....	\$ 2,000.00
Farm and garden maintenance .....	2,000.00
Dry goods and bedding .....	1,000.00
Remodeling hog house .....	200.00
Improving front tract .....	800.00
Tunnel to new dormitory .....	3,000.00
Grading and curbing new drives .....	500.00
Domestic science equipment .....	500.00

or a total of .....\$10,000.00

vetoed for the reason that the appropriations made by the legislature exceed the available income and for the further reason that the service contemplated under the items vetoed can be taken care of thru institutional fees and collections and otherwise.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$145,900, or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the School for the Deaf and making permanent improvements and additions thereto:

## 1—MAINTENANCE.

Salaries and wages .....	\$ 80,000.00
Fuel and light .....	17,500.00
Water and ice .....	2,000.00
Provisions .....	17,500.00
Kitchen utensils .....	800.00
Postage, telephone and telegraph .....	750.00
Educational supplies .....	2,000.00
Janitor's supplies .....	850.00
Farm and garden maintenance .....	2,000.00
Soaps and cleanser .....	300.00
Drugs and medicine .....	600.00
Dry goods and bedding .....	1,000.00
Office supplies .....	300.00
Students welfare .....	400.00
Total.....	\$126,000.00

## 2—IMPROVEMENTS AND REPAIRS.

General repairs .....	\$ 1,000.00
Decorating school building .....	400.00
Remodeling hog house .....	200.00
Improving front tract .....	800.00
Tunnel to new dormitory .....	3,000.00
Grading and curbing new drives .....	500.00
Total.....	\$ 5,900.00

## 3—EQUIPMENT.

Furniture, text books, library, etc. ....	\$ 3,000.00
Domestic science equipment .....	500.00
Two 150 H. P. boilers .....	7,000.00
Total.....	\$ 10,500.00

## 4—MISCELLANEOUS.

Insurance .....	\$ 3,500.00
Total.....	\$ 3,500.00
Total of All Items.....	\$145,900.00

Note.—It is estimated by the Budget Board that the above amounts will be sufficient for all purposes together with the estimated income and interest and institutional collections, estimated at \$22,000.00.

Approved, except as to items enumerated on attached sheet,  
March 10th, 1923.

## CHAPTER 112.

(H. B. No. 105—Committee on Appropriations.)

## SCHOOL OF SCIENCE.

An Act Making an Appropriation for the Current and Contingent Expenses of the State School of Science at Wahpeton, and Making Permanent Improvements and Additions Thereto.

## PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 105, being an act making an appropriation for the current and contingent expenses of the State School of Science at Wahpeton, and making permanent improvements and additions thereto, with my approval except as to the following items:

Printing, publicity, advertising .....	\$ 4,000.00
Postage, telephone and telegraph .....	700.00
Traveling expense .....	400.00
Students welfare .....	400.00
New boiler to replace boiler No. 2 .....	2,500.00
Repairing and replacing pumps .....	1,500.00
Interest .....	1,000.00
Balance due on land .....	900.00

or a total of .....\$11,400.00

vetoed for the reason that the legislative appropriations exceed the available income and for the further reason that the service contemplated by most of these items can be taken care of thru the institutional fees and collections.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$94,220.00 or so much thereof as may be necessary for the purpose of providing for the current and contingent expenses of the State School of Science at Wahpeton and making permanent improvements and additions thereto:

**1—MAINTENANCE.**

Faculty Salaries (\$33,300.00 paid by Income and Institutional collections.)

Employees Salaries .....	\$ 8,820.00
Fuel (including freight) .....	12,000.00
Light and Power .....	2,100.00
Water .....	1,000.00
Printing, Publicity, Advertising .....	4,000.00
Office Supplies and Stationery .....	400.00
Postage, Telephone and Telegraph .....	700.00
Traveling Expense .....	400.00
Students' Welfare .....	400.00
Material and Supplies for New Trades and Industrial Courses .....	2,000.00
Total.....	\$ 31,820.00

**2—IMPROVEMENTS AND REPAIRS.**

Covering Steam Pipes .....	\$ 1,500.00
New Boiler to replace Boiler No. 2 .....	2,500.00
Repairing and replacing pumps .....	1,500.00
General Repairs .....	2,000.00
Total .....	\$ 7,500.00

**3—EQUIPMENT.**

Printing Plant .....	\$ 9,000.00
New Trades and Industries .....	5,000.00
Total.....	\$ 14,000.00

**4—MISCELLANEOUS.**

Insurance, Bonds, etc. ....	\$ 3,000.00
Interest .....	1,000.00
Balance due on land .....	900.00
Instructors for new trades and industries courses .....	36,000.00
Total.....	\$ 40,900.00
Grand Total .....	\$ 94,220.00

Note: It is estimated by the Budget Board that the above amounts together with the estimated income from interest and institutional collections of \$40,000.00 will be sufficient for all needs.

Approved, except as to items enumerated on attached sheet on March 10th, 1923.

## CHAPTER 113.

(S. B. No. 100—Appropriation Committee.)

## SCHOOL OF SCIENCE, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Maintenance Fund of the School of Science at Wahpeton, North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$20,000.00 for the purpose of paying an existing deficit in the general maintenance of the School of Science at Wahpeton, N. Dak.

Sec. 2. The appropriation referred to in Section 1 of this Act shall be in the nature of a loan to the Maintenance Fund of the School of Science at Wahpeton, North Dakota, as there is sufficient money from interest and income due the Maintenance Fund of the School of Science at Wahpeton, North Dakota, uncollected to reimburse the general fund of the State of North Dakota for such appropriation. Therefore, interest and income due and uncollected at the time of the approval of this Act, or as much thereof as is sufficient to reimburse the general fund of the State of North Dakota, shall, when collected, be paid into the general fund of the State of North Dakota by the issuance of transfer warrants by the State Auditor to the State Treasurer, and such transfer warrants credited to the general fund of the State of North Dakota.

Sec. 3. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

## CHAPTER 114.

(S. B. No. 338—Sperry.)

## REIMBURSING COMMON SCHOOL FUND.

An Act Appropriating money to reimburse the common school fund of the State of North Dakota for losses resulting from a misappropriation of such fund occurring previous to January 1, 1917.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any money in the State Treasury not otherwise appropriated



the sum of Two Thousand Dollars (\$2,000), or so much thereof as may be necessary to reimburse the permanent fund of the common schools derived from the sale of public lands or from any other source of the State of North Dakota for losses resulting from a misappropriation of such fund occurring previous to January 1, 1917.

Approved March 2nd, 1923.

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## CHAPTER 115.

(H. B. No. 190—Appropriation Committee.)

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### REPEAL OF RELIEF OF NEEDY SETTLERS.

An Act to Repeal Sections 2545 and 2546 of Article 3 of the Compiled Laws of North Dakota for the year 1913, providing for the Relief of Needy Settlers.

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

Sec. 1. REPEAL.) That Sections 2545 and 2546 of Article three of the Political Code of the Compiled Laws of North Dakota for the year 1913, be and the same are hereby repealed.

Approved February 27th, 1923.

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## CHAPTER 116.

(S. B. No. 56—Whitman, by request.)

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### ACCEPTANCE OF SHEPPARD-TOWNER ACT.

An Act Providing for the Acceptance of the Provisions of the Sheppard-Towner Act; making an Appropriation to Meet the Allotments of the Sheppard-Towner Act; Authorizing State Department of Health to Accept Funds for Infant and Maternal Hygiene Work.

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

Sec. 1. ACCEPTING PROVISIONS OF SHEPPARD-TOWNER INFANT AND MATERNAL HYGIENE ACT.) The provisions of the Sheppard-Towner Act, allotting \$5,000.00 annually for five years to the State Department of Health, which provisions have already been accepted by the Governor during the legislative recess, are hereby accepted and approved by the legislative assembly.

Sec. 2. MAKING AN APPROPRIATION TO MEET THE ALLOTMENT OF THE SHEPPARD-TOWNER ACT.) The sum of \$2,000.00 is hereby appropriated out of moneys in the general fund in the State Treasury, not otherwise appropriated, for the purpose of conducting infant and maternal hygiene work in North Dakota under the supervision of the State Department of Health, Provided, a like sum is allotted by the Federal Government under the provisions of the Sheppard-Towner Act.

Sec. 3. The State Department of Health shall be authorized to accept funds from cities, counties, private organizations and individuals for infant and maternal hygiene work. Such work shall be carried on under the supervision of the State Department of Health, in accordance with specifications issued by the Children's Bureau of the United States Department of Labor.

Approved March 2nd, 1923.

## CHAPTER 117.

(H. B. No. 106—Committee on Appropriations.)

### SOCIETY FOR THE FRIENDLESS.

An Act to appropriate One Thousand and Forty Dollars (\$1,040.00) for the Payment \$10.00 Once Each Week During the Biennium 1923, 1924, as an Aid to the Society for the Friendless. Authorized Under Chapter 46 of the North Dakota Session Laws of 1911.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of \$1,040.00 or so much thereof as may be necessary to provide an allowance of \$10.00 once each week during the biennium 1923, 1924 to the Society for the Friendless, as prescribed by Chapter 46 of the Session Laws of North Dakota for 1911.

Approved February 27th, 1923.

## CHAPTER 118.

(S. B. No. 93—Appropriations Committee.)

### SUPREME COURT REPORTER AND LAW LIBRARIAN, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit incurred in the State Supreme Court.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$2,000.00 for the Purpose of Paying an existing deficit in the State Supreme Court Reporter and Law Librarian, viz:

Salary .....	\$1,000.00
Books and Reports .....	1,000.00

Total.....	\$2,000.00
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Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

## CHAPTER 119.

(H. B. No. 92—Committee on Appropriations.)

## TRAINING SCHOOL.

An Act Making an Appropriation for the Current and Contingent Expenses of the State Training School at Mandan, North Dakota, and for Making Permanent Improvements and Additions Thereto.

March 10, 1923.

## PARTIAL VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 92, being an act making an appropriation for the current and contingent expenses of the State Training School at Mandan, North Dakota, and for making permanent improvements and additions thereto, with my approval except as to the following items:

Girls' cottages .....	\$30,000.00
Ice house, refrigerator and dairy .....	3,000.00

or a total of .....	\$33,000.00
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vetoed for the reason that the appropriations made by the legislature exceed the available income.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated the sum of \$326,510.00 or so much thereof as may be necessary for the current and contingent expenses of the State Training School at Mandan, North Dakota and for making permanent improvements and additions thereto, viz:

## 1—MAINTENANCE.

Salaries and wages .....	\$ 38,200.00
Fuel (including freight) .....	12,600.00
Light and water .....	2,400.00
Printing, stationery, etc. ....	700.00
Postage, telephone and telegraph .....	900.00
Provisions .....	37,000.00
Clothing .....	18,000.00
Travel, officers and students .....	5,400.00
Freight and Express .....	1,300.00
School supplies .....	2,500.00
Farm and garden supplies .....	8,000.00
Engineer and janitor supplies .....	3,000.00
Students welfare .....	10,000.00
Students wage .....	2,000.00

Total.....	\$142,000.00
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**2—IMPROVEMENTS AND REPAIRS.**

Water and steam mains .....	\$ 12,000.00
Rewiring and conduits .....	2,000.00
Three sets of fire escapes .....	3,000.00
Septic tank and sewerage system .....	15,000.00
New well .....	1,000.00
Remodeling main building into school building .....	5,000.00
Improvements, Brown cottage .....	2,500.00
Hot water boiler .....	400.00
Paint, kalsomine, etc. ....	300.00
Total.....	\$ 41,200.00

**3—NEW BUILDINGS.**

Boys' cottages .....	\$ 60,000.00
Girls' cottages .....	30,000.00
Ice house, refrigerator and dairy .....	3,000.00
Purchase of land .....	25,000.00
Total.....	\$118,000.00

**4—EQUIPMENT.**

Office fixtures .....	\$ 970.00
Farm equipment .....	270.00
Household equipment .....	3,570.00
Fire extinguishers (25) .....	300.00
Fencing .....	500.00
Vocational equipment .....	3,000.00
Equipment, new buildings .....	10,000.00
Total.....	\$ 18,610.00

**5—MISCELLANEOUS.**

Insurance .....	\$ 5,350.00
Rewards .....	600.00
Burial expenses .....	600.00
Land rental .....	150.00
Total.....	\$ 6,700.00
Total of above for all purposes.....	\$326,510.00

Note: It is estimated by the Budget Board that the above amount together with the expected interest and institutional collections, which is estimated at \$20,000.00, will be sufficient.

Approved, except as to items enumerated on attached sheet, March 10th, 1923.

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CHAPTER 120.

(S. B. No. 122—Appropriations Committee.)

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TRAINING SCHOOL, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the General Maintenance Fund of the State Training School.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$20,000.00 for the purpose of paying an existing deficit in the general maintenance fund of the State Training School at Mandan, N. Dak.

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

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CHAPTER 121.

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

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STATE TREASURER, DEFICIT.

An Act Making an Appropriation to Provide for the Payment of an Existing Deficit incurred in the State Treasurer's Office.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$1,000.00, for the purpose of paying an existing deficit in the office of the State Treasurer, viz:

Postage .....\$1,000.00

Sec. 2. EMERGENCY.) This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

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CHAPTER 122.

(H. B. No. 89—Appropriations Committee.)

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TUBERCULOSIS SANITARIUM.

An Act Making an Appropriation of One Hundred Seventy Six Thousand Dollars for Maintenance, Improvements and Repairs, New Buildings, Equipment and Miscellaneous for the Tuberculosis Sanitarium at Dunseith.

## PARTIAL VETO.

March 10th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 89, being an act, making an appropriation of one hundred seventy six thousand dollars for maintenance, improvements and repairs, new buildings, equipment and miscellaneous for the tuberculosis sanitarium at Dunseith, with my approval except as to the following items:

General repairs .....	\$5,000
Grading grounds and roads .....	1,000

or a total of .....	\$6,000
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vetoed for the reason that the appropriations made by the legislature exceed the available income, and that the repairs and care of the buildings and grounds can be taken care of through other channels.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATIONS.) For maintenance, improvements and repairs, new buildings, general equipment and miscellaneous for the Tuberculosis Sanitarium at Dunseith, the following sums of money, or so much thereof as may be necessary, are hereby appropriated from any funds in the State Treasury not otherwise appropriated, viz:

## MAINTENANCE.

For Maintenance .....	\$100,000.00
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## IMPROVEMENTS AND REPAIRS.

General Repairs .....	\$ 5,000.00
Tunnels, sewer, water and steam mains .....	10,000.00
Grading grounds and roads .....	1,000.00

## NEW BUILDINGS.

Power House .....	40,000.00
Dairy Barn Extension .....	4,000.00

## EQUIPMENT.

Refrigerator Plant .....	5,000.00
Furniture .....	2,000.00
Other equipment .....	2,000.00

## MISCELLANEOUS.

Insurance, Bonds, etc. ....	7,000.00
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Total .....	\$176,000.00
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Approved, except as to items enumerated on attached sheet,  
March 10th, 1923.

## CHAPTER 123.

(S. B. No. 80—Appropriations Committee.)

## UNIVERSITY.

An Act Making an Appropriation of \$1,066,615.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

## PARTIAL VETO.

March 10, 1923.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 80, being an act making an appropriation of \$1,066,615 for the purpose of paying the general maintenance, improvements and repairs, new equipment, etc., of the state university at Grand Forks, North Dakota, with my approval except as to the following items:

Graduate department .....	\$ 2,700
Under improvements and repairs, the following items:	
Chemistry .....	\$ 800
Commons Building .....	1,500
Dormitories .....	6,000
Drives and walks .....	1,450
Engineering building .....	900
Outside painting .....	4,000
Storm water drainage .....	6,000
Under equipment the following items:	
Book stacks, Law Building .....	\$11,500
Under Maintenance Administration, the following:	
General expense .....	\$ 1,980
Publicity .....	6,010

or a total amount vetoed of .....\$42,840

These items are vetoed for the reason that the appropriations of the legislature exceed the available income and because the service provided for under most of these items can be taken care of out of institutional fees and collections.

Very truly yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the biennium, the sum of \$1,066,615.00, or so much thereof as may be necessary to pay the general maintenance of the several departments together with improvements and repairs, equipment and miscellaneous items, viz:

### MAINTENANCE, EDUCATIONAL DEPARTMENT.

1. Graduate department .....	\$ 2,700.00
2. College of Engineering .....	148,185.00
3. College of Liberal Arts .....	294,080.00
4. School of Education .....	158,460.00
5. School of Law .....	44,000.00
6. School of Medicine .....	44,360.00
7. Military and Physical Training .....	18,360.00
8. Summer Session .....	25,000.00
9. Library .....	35,800.00
10. General Educational Expense .....	26,800.00
11. Extension Division .....	29,240.00

### MAINTENANCE, ADMINISTRATION.

1. President's Office .....	\$ 20,660.00
2. Business Office .....	22,280.00
3. Registrar's Office .....	13,180.00
4. Stenographic Bureau .....	9,460.00
5. Telephone and Telegraph .....	6,688.00
6. Publicity .....	6,010.00
7. General Expense .....	1,980.00

### MAINTENANCE, PHYSICAL PLANT.

1. Ground and Property.....	\$ 12,580.00
2. Buildings .....	49,910.00
3. Power Plant, including Fuel .....	120,700.00
4. Office, Superintendent of Buildings and Grounds, Janitor Supplies .....	37,080.00
5. Total .....	\$1,127,513.00
Less estimated income from Interest and Income and Inst. Col. ....	212,000.00
Total Net Maintenance .....	\$915,513.00

### IMPROVEMENTS AND REPAIRS.

1. Chemistry .....	\$ 800.00
2. Woodworth Hall .....	1,200.00
3. Commons Building .....	1,500.00
4. Dormitories .....	6,000.00
5. Drives and Walks .....	1,450.00
6. Engineering Building .....	900.00
7. Merrifield Hall .....	1,950.00
8. Mines Building .....	1,600.00
9. Outside Painting .....	4,000.00
10. Power Plant .....	31,000.00
11. Storm Water Drainage .....	6,000.00

Total .....	\$ 56,400.00
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**EQUIPMENT.**

1. Carpenter Shop Equipment .....	\$ 772.00
2. Book Stack, Law Building .....	11,500.00
3. Printing Equipment, School of Journal- alism .....	1,000.00
Total Equipment .....	\$ 13,272.00

**MISCELLANEOUS.**

1. Insurance, Workmen's Compensation....	\$ 16,400.00
2. Interest .....	10,000.00
3. Special Taxes .....	6,750.00
Total Miscellaneous .....	\$ 33,150.00

**PUBLIC SERVICE, PUBLIC HEALTH LABORATORIES.**

1. University .....	\$ 21,648.00
2. Bismarck .....	5,562.00
3. Minot .....	5,270.00
4. Fargo .....	4,200.00
5. Clay Testing .....	7,600.00
6. Maintenance Briquetting Plant .....	10,000.00
Total Public Service .....	\$ 54,280.00
Less Income from Fees .....	6,000.00
Total Net for Public Service .....	\$ 48,280.00
Total Appropriation for All Purposes....	\$1,066,615.00

Approved, except as to items enumerated on attached sheet  
on March 10th, 1923.

**CHAPTER 124.**

(H. B. No. 98—Committee on Appropriations.)

**VENEREAL DISEASE.**

An Act to appropriate Twelve Thousand Five Hundred Forty-Eight and 48-100 Dollars (\$12,548.48) According to Chapter 237 of the Session Laws for the Year 1919 of the State of North Dakota for the Purpose of Stamping Out Venereal Diseases.

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

**Sec. 1. APPROPRIATION.)** There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of Twelve Thousand Five Hundred Forty-Eight and

48-100 Dollars (\$12,548.48), or so much thereof as may be necessary for the biennial period, to aid in the stamping out of venereal diseases and carrying out the provisions of Chapter 237 of the Session Laws for the Year 1919 for the State of North Dakota:

Sec. 2. The appropriation is for the following purposes:

Salary .....	\$ 6,000.00
Clerkhire .....	2,400.00
Printing .....	800.00
Miscellaneous .....	348.48
Traveling Expenses .....	1,000.00
Support of Clinic and Drugs .....	2,000.00
Total.....	\$12,548.48

Approved March 8th, 1923.

## CHAPTER 125.

(H. B. No. 101—Appropriations Committee.)

### VETERINARY MEDICAL EXAMINERS.

An Act Making an appropriation of eleven hundred and forty dollars (\$1140.00) to pay the expenses of a state board of Veterinary Medical Examiners as authorized under Section 2711 to 2720, inclusive, of the Compiled Laws of 1913 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any not otherwise appropriated funds in the State Treasury, the sum of eleven hundred and forty dollars (\$1140.00) or so much thereof as may be necessary to pay the expenses of the State Board or Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of 1913 for North Dakota.

(a) Salary .....	\$ 320.00
(b) Clerk hire .....	80.00
(c) Postage .....	75.00
(d) Office Supplies .....	150.00
(e) Furniture and Fixtures .....	25.00
(f) Printing .....	70.00
(g) Miscellaneous .....	20.00
(h) Traveling Expenses .....	400.00
Total .....	\$1140.00

Approved February 27th, 1923.

## CHAPTER 126.

(S. B. No. 103—Appropriations Committee.)

## VOCATIONAL EDUCATION AND REHABILITATION.

An Act Making an Appropriation of \$30,950.00 for the purpose of carrying out the Provisions of Chapter 203 of Session Laws of 1919 and Chapter 115 of the Session Laws of 1921 relating to Vocational Education and Vocational Rehabilitation.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of \$30,950.00, for the biennium, or so much thereof as may be necessary to pay the expenses of carrying out the provisions of Chapter 203 of Session Laws of 1919 and Chapter No. 115 of the 1921 Session Laws relative to Vocational Education and Vocational Rehabilitation, viz:

1. Salary .....	\$ 5,200.00
2. Clerkhire .....	400.00
3. Postage .....	150.00
4. Office Supplies .....	100.00
5. Printing .....	600.00
6. Miscellaneous .....	100.00
7. Traveling Expense, Director .....	2,400.00
8. For Aid to Vocation Schools .....	8,000.00
9. For Vocational Civilian Rehabilitation .....	14,000.00
Total.....	\$30,950.00

Approved March 10th, 1923.

## CHAPTER 127.

(S. B. No. 159—Committee on Appropriations.)

## WAR HISTORY COMMISSION.

An Act Appropriating Money for Use of War History Commission Between the Following Dates: June the 30th, 1923 to July the 1st, 1925.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated the sum of two thousand seven hundred and twenty dollars, for the biennium, or so much thereof as may be necessary for the proper maintenance of the department of the North Dakota War History Commission for the following specified purposes; between

the following dates; namely June the 30th, 1923 to July the 1st, 1925, to-wit:

1. Clerkhire .....	\$1,000
2. Postage .....	400
3. Office Supplies .....	120
4. Printing .....	200
5. Traveling Expense .....	600
6. Membership in National Association of War History Organizations .....	400
	<hr/>
	\$2,720

Sec. 2. All moneys appropriated for the use of the North Dakota War History Commission shall be disbursed and expended under the authority and direction of the State Historical Society of North Dakota, and all records, documents, material and articles of historical nature and significance collected by the North Dakota War History Commission shall be placed in the care and custody of the State Historical Society of North Dakota.

Approved March 10th, 1923.

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## CHAPTER 128.

(S. B. No. 168—Kelsh.)

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### WHITESTONE BATTLEFIELD MONUMENT.

An Act to Provide for the Repair of the Whitestone Battlefield Monument located in the Whitestone Battlefield Park, in Dickey County, North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any moneys of the general fund, not otherwise appropriated, the sum of \$500.00, for the repair of the monument of the Whitestone Battlefield, in Dickey County, North Dakota.

Sec. 2. Whereas, an emergency exists in that said monument was overturned and broken by a cyclone during the summer of 1922, and that same is liable to be further damaged unless repaired and restored immediately, therefore, this Act shall take effect and be in force from and after its passage and approval

Approved February 19th, 1923.

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CHAPTER 129.

(S. B. No. 134—Committee on Appropriations.)

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## WOLF BOUNTY.

An Act Making an Appropriation for a Bounty for Wolves and Coyotes, as Provided for by Chapter 242 of the Session Laws of 1919 for North Dakota.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated the sum of \$40,000.00, for the Biennium, or so much thereof as may be necessary for the payment of the Bounty on Wolves and Coyotes as prescribed by Chapter 242 of the Session Laws of 1919.

Approved March 8th, 1923.

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## ARCHITECTURE

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CHAPTER 130.

(S. B. No. 41.)

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## SCHOOL BUILDINGS.

An Act to Amend and Re-enact Section 16 of Chapter 58 of the Session Laws for the year 1917.

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

Sec. 1. AMENDMENT.) Section 16 of Chapter 58 of the Session Laws of North Dakota for the year 1917 is hereby amended and re-enacted so as to read as follows:

Sec. 16. Nothing contained in this Act shall be construed to prevent any person from making plans and specifications for, or supervising the erection, enlargement, or alteration of any building that is to be constructed by or for himself. Nor shall anything herein be construed to prevent any person from preparing for any school board, plans and specifications for, or supervising the erection or alteration of one or two room school buildings costing not to exceed \$5,000.00, or preparation of plans and specifications for the erection or alteration of school buildings, for the Superintendent of Public Instruction of the State of North Dakota, in carrying out the provisions of Section 1185 of the Compiled Laws of the State of North Dakota for the year 1913 in regard to furnishing plans for school buildings.

Approved February 5th, 1923.

# ATTORNEY GENERAL

## CHAPTER 131.

(S. B. No. 203—Kaldor.)

### ASSISTANTS

An Act to Amend and Re-enact Section 160 of the Compiled Laws of North Dakota for 1913, as amended and re-enacted by Chapter 18 of the Special Session Laws of North Dakota for the year 1919, Relating to the Appointment of Regular and Special Assistant Attorneys General, and Repealing Chapter 20 of the Special Session Laws of North Dakota for the year 1919, and all other acts and parts of acts in conflict therewith.

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

Sec. 1. AMENDMENT.) That Section 160 of the Compiled Laws of North Dakota for the year 1913, as Amended and Re-enacted by Chapter 18 of the Special Session Laws of North Dakota for the year 1919, be, and the same is hereby amended and re-enacted to read as follows:

Sec. 160. The Attorney General may appoint three Assistant Attorneys General whose appointment shall be in writing and filed in the office of the Secretary of State, one of such Assistant Attorneys General shall be designated as First Assistant Attorney General. Such Assistant Attorneys General shall have the same powers and authority as the Attorney General; and shall, before entering upon the duties of their office, take and subscribe the official oath prescribed by law. The Attorney General may also, when he deems it necessary, appoint Special Assistant Attorneys General. Such appointments shall be in writing. The same powers shall be conferred upon such Special Assistant Attorneys General as are exercised by the regular Assistant Attorneys General, when such powers are not specifically limited by the terms of such appointment. Such appointment shall be revokable at the pleasure of the Attorney General. Such appointment may be made with or without compensation, and when compensation is allowed by the Attorney General for services performed, it shall be paid out of the funds appropriated therefor in the office of the Attorney General, upon vouchers duly approved as other salaries for State officials are paid.

Sec. 2. REPEAL.) That Chapter 20 of the Special Session Laws for the year 1919, and all other Acts and parts of Acts in conflict herewith, be, and the same are, hereby repealed.

Approved March 1st, 1923.

## CHAPTER 132.

(S. B. No. 204—Kaldor.)

## REPORT.

An Act to Amend and Re-enact Section 158 of the Compiled Laws of North Dakota for 1913, Relating to the Attorney General's Report.

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

Sec. 1. AMENDMENT.) Section 158 of the Compiled Laws of North Dakota for the year 1913, is hereby amended and re-enacted as follows:

Sec. 158. He shall make a biennial report to the Governor on or before the 1st day of September of each even-numbered year, covering the business of his office to and including the 30th day of June last preceding, stating the number, character, condition and result of the actions prosecuted or defended by him in behalf of the state, the cost of prosecuting or defending each action, and the amount of fines and penalties collected. He shall also direct attention to any defect in the practical operations of the laws relating to revenue and criminal offenses, and suggest such amendments and changes as are in his judgment necessary to subserve the public interest.

Approved February 19th, 1923.

## ATTORNEYS

## CHAPTER 133.

(S. B. No. 286—Baird, Garberg and Kaldor.)

## BAR ASSOCIATION.

An Act to Amend and re-enact Chapter 25 of the Session Laws of the State of North Dakota for the year 1921, Being an Act to Create, define and establish the Bar Association of the State of North Dakota, and providing for the Publication of its Proceedings, and filing copies thereof with the State Bar Board and State Libraries, and as otherwise Provided and making an appropriation for the expenses connected therewith.

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

Sec. 1. AMENDMENT.) Chapter 25 of the Session Laws of the State of North Dakota for the year 1921, being an act to create, define and establish the Bar Association of the State of North Dakota, and providing for the publication of its proceedings, and filing copies thereof, with the State Bar Board and

State Libraries, and as otherwise provided and making an appropriation for the expenses connected therewith, is hereby amended and re-enacted to read as follows:

Sec. 1. An association, to be known as the Bar Association of the State of North Dakota, shall be and is hereby created, the members of which shall consist of all practicing attorneys who have paid their annual license fees to and have received their licenses from the Clerk of the State Bar Board, as provided by law, and all other attorneys who have been duly admitted to practice by the Supreme Court of the State of North Dakota and by law exempted from the payment of such license fees. Such members shall be entitled to all of the rights and privileges of said Association, and to vote, and to participate in its meetings.

Sec. 2. The said Bar Association of the State of North Dakota shall operate under the Constitution, by-laws and rules adopted at the annual meeting of the year 1921 of said Bar Association of the State of North Dakota, pursuant to the provisions of said Chapter 25 of the Session Laws of North Dakota for the year 1921, and shall receive annually, out of the State Bar Fund, the sum of Five Dollars per member for the purpose of paying for the printing and distribution of the annual report and proceedings of said Bar Association and for the payment of other necessary expenses of said Association. Such sum of Five Dollars per member, shall be paid into the treasury of the said Bar Association of the State of North Dakota quarterly by the Secretary of the State Bar Board, upon vouchers drawn by the President and Secretary of said Bar Association.

Sec. 3. The moneys so paid into the treasury of the said Bar Association of the State of North Dakota shall be paid out only upon vouchers drawn by the President and Secretary of the Bar Association; and the Secretary-Treasurer of said Bar Association shall, annually, in addition to the duties imposed upon him by the Constitution, by-laws and rules of said Bar Association, file in the office of the Clerk of the State Bar Board an itemized statement of the receipts and disbursement of said Bar Association.

Sec. 4. The bond of the Secretary-Treasurer of the Bar Association of North Dakota is hereby fixed at the sum of Two Thousand Dollars, the premium for which shall be paid out of the amount paid to the said Bar Association from the State Bar Fund.

Sec. 5. This Act shall not create any liability on the part of the State of North Dakota in excess of the payment as hereinbefore provided out of the State Bar Fund.



Sec. 6. All Acts and parts of Acts in conflict herewith are hereby repealed.

Sec. 7. EMERGENCY.) Whereas an emergency exists by reason of the fact that no sufficient provisions of law exist for the proper carrying on of the work of the Bar Association of the State of North Dakota, this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6th, 1923.

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## CHAPTER 134.

(S. B. No. 284—Baird, Garberg and Kaldor.)

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### BAR BOARD.

An Act To Amend and Re-enact Sections 782, 783, 784, 787, 799, 808, 809, 810, 811 and 812 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 69 of the Session Laws for the Year 1919. Relating to the Creation of a State Bar Board, its Members, their Term of Office, Qualifications, Compensation and Duties and Providing for the Admission of Attorneys to Practice and the Issuance of Licenses to Practice, and making an appropriation of \$10,000 from the State Bar Fund for the State Law Library.

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

Sec. 1. AMENDMENT.) Section 782 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 782. APPOINTMENT OF BAR BOARD.) The Supreme Court of the State of North Dakota shall appoint from the resident and licensed members of the Bar of this State three persons, who shall be learned in law, to constitute a State Bar Board, which shall succeed to and execute the duties of the State Board of Examiners in Law. All members of the State Bar Board shall be appointed from a list of members of the State Bar Association to be submitted from time to time by the said Bar Association, the list so submitted to consist of three members of the Association in good standing for each appointment to be made.

Sec. 2. AMENDMENT.) Section 783 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 783. TERM OF OFFICE. VACANCIES. HOW FILLED. QUALIFICATIONS.) The members of said Bar Board shall be appointed

within one month after this Act becomes a law. The term of office of the members of the first Board shall be as follows: One for a term ending January 1st, 1925, one for a term ending January 1st, 1927, and one for a term ending January 1st, 1929; and their successors shall receive their appointment for a term of six years each from the time of the expiration of the respective terms herein specified, subject, however, to removal at the pleasure of the Court; and in case of a vacancy occurring by reason of the death, resignation, removal or incapacity to serve of any member of said Bar Board a successor shall be appointed in the manner herein provided for the unexpired portion of the term. Every person appointed to said Bar Board shall qualify within ten days after such appointment by taking the oath required by the Constitution and Laws of the State, to faithfully perform the duties of such office.

Sec 3. AMENDMENT.) Section 784 of the Compiled Laws of the State of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 784. OFFICERS OF THE BOARD. EXAMINATIONS. RECORD OF PROCEEDINGS.) The said Bar Board shall organize within one month after the appointment of the members thereof by electing one of its members president, who shall hold said office for a term of two years and until his successor is duly elected and qualified. The Clerk of the Supreme Court shall be ex-officio Secretary and Treasurer of the Board. The said Board shall, at least once in each year, hold public examinations for admission to the Bar of this State, which examinations shall be both written and oral, at such places and times in this State, as the said Board shall direct. The said Board shall keep a record of all of its proceedings and also a record of all applications for admission and admissions to the Bar and shall enroll in a book to be kept for such purpose the name of each person admitted to practice as an attorney at law.

Sec. 4. AMENDMENT.) Section 787 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 787. COMPENSATION. FEES.) Each member of said Bar Board shall receive Ten Dollars per day for the actual time devoted to the duties of said office, and shall, in addition thereto, receive the actual expenses incurred while away from his place of residence in attending to such duties. The said Bar Board may employ such assistants, purchase such supplies, and incur such expense as may be necessary to carry on the work provided for herein, but such expenditures shall all remain within the sums

derived from the fees paid to said State Bar Board. All claims for such compensation, fees and expenses of such Board shall be submitted to the auditing board of this State on sworn vouchers as now required by law and shall be paid by the Treasurer of the State out of the State Bar Fund.

Sec. 5. AMENDMENT.) Section 799 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 799. REVOCATION AND SUSPENSION.) The revocation of any attorney's admission to the Bar is, and shall constitute, a forfeiture of his office as an attorney or counsellor at law to practice in the Courts of this State, but not until a copy of the charges against such attorney shall have been delivered to him by the Clerk of the Court in which the proceedings shall be had and an opportunity shall have been given him to be heard in his defense.

Sec. 6. AMENDMENT.) Section 808 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 808. REFERENCE TO STATE BAR BOARD BY SUPREME COURT.) Whenever it is brought to the attention of the Supreme Court of the State of North Dakota by verified complaint that any member of the Bar of said State is charged with conduct warranting his disbarment or suspension, and it appears to such Court that such charges should be investigated, the said Court may, in its discretion, refer the matter to the State Bar Board, with directions to investigate such charges, and when any such matter is so referred to the said Bar Board for investigation each of the members of said Bar Board shall have power and authority to administer oaths to witnesses and take testimony in regard to such charges and to issue subpoenas commanding witness so to appear at any place within the Judicial District where such witnesses may reside.

Sec. 7. AMENDMENT.) Section 809 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 809. REPORT BY BAR BOARD.) When the State Bar Board has completed the investigation, as provided in Section 808, it shall make a report to the Supreme Court including therein the conclusions of the said Board as to the truth or validity of the charges investigated and its recommendations as to whether further proceedings should be had.

Sec. 8. AMENDMENT.) Section 810 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 810. PROSECUTION BY STATE BAR BOARD.) Upon receiving the report mentioned in Section 809, the Supreme Court may, in its discretion, order and direct the State Bar Board to file accusations and begin proceedings for the disbarment, suspension or other disciplining of the accused attorney, in accordance with the method of procedure provided in Sections 799 to 804, inclusive, of the Compiled Laws of North Dakota for the year 1913; and if such order is made, it shall then be the duty of such State Bar Board to comply with such order and to designate and select the attorney or attorneys to further prosecute such matter or conduct the prosecution by its own members.

Sec. 9. AMENDMENT.) Section 811 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 69 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 811. WHO MAY PRACTICE. LICENSE FEE. APPROPRIATION.) No person shall be entitled to practice law or act as attorney or counsellor at law in this State unless such person shall first secure a certificate of admission to the Bar. Such certificate shall be issued upon payment of the fee provided therefor and, in addition thereto, the further payment of the annual license fee of Ten Dollars. From the moneys heretofore accumulated and now on hand in the State Bar Fund, there is hereby appropriated the sum of \$10,000 to be expended under the direction of the Supreme Court for purchase and repair of books in the State Law Library. The Clerk of the Supreme Court shall, in his ex officio capacity, as the Treasurer of said Bar Board, deposit all license fees with the State Treasurer to be by him kept in a fund known as the State Bar Fund, the same to be disbursed therefrom only in the manner herein provided. Nothing herein contained shall prevent any non-resident attorney, duly licensed to practice in another State, from appearing before the Courts of this State.

Sec. 10. AMENDMENT.) Section 812 of the Compiled Laws of the State of North Dakota for the year 1913 as amended by the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 812. LICENSE FEE. WHEN PAID.) On and after August 1st, 1919, every person practicing law in this State and acting as an attorney or counsellor at law therein, except those mentioned in Section 793 of the Compiled Laws of North Dakota

for the year 1913, shall secure an annual license from the State Bar Board. And on or before the first day of January of each calendar year thereafter every person engaged in the practice of law in this State shall secure an annual license from the State Bar Board. The Clerk of the Supreme Court, in his capacity as Secretary and Treasurer of the State Bar Board shall issue to any person holding an unrevoked certificate of admission to the Bar of the State of North Dakota, and paying the amount of the fee as determined under the provisions of Section 811, an annual license to practice law to such attorney which said license shall be good for one year from and after the first day of January of the year in which such license was issued.

Sec. 11. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 7th, 1923.

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## AUDITING BOARD

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### CHAPTER 135.

(S. B. No. 355—Atkins.)

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#### MEMBERSHIP.

An Act to Amend and Re-enact Section 375 of the Compiled Laws of North Dakota for the year 1913, as Amended by Chapter 227 of the Session Laws of 1915, as Amended by Chapter 21 of the Special Session Laws of 1919 Relating to the State Auditing Board, its Duties and the Membership thereof.

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

Sec. 1. That Section 375 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 227 of the Session Laws of 1915, as amended by Chapter 21 of the Special Session Laws of 1919, is hereby amended and re-enacted to read as follows:

Sec. 375 as amended. AMENDMENT. STATE AUDITING BOARD. DUTIES.) The Governor, State Auditor, Secretary of State, State Treasurer, and the State Examiner, shall constitute a board to be known as the State Auditing Board, any three of which shall constitute a quorum for the transaction of business. The State Auditor shall act as Secretary of the State Auditing Board, and shall receive and file for the consideration of the State Auditing Board, all accounts, claims or demands against the State, except those of State owned utilities, enterprises and business projects,

and such others as are now specifically excepted by law. The State Auditing Board shall hold its meetings at either the Governor's office, or the State Auditor's office at the seat of government, as the Board may decide. Meetings shall be had at least monthly and at such other times as the State Auditing Board may deem either necessary or advisable. It shall be the duty of the State Auditing Board to audit all claims, accounts, bills or demands against the state, except those of state owned utilities, enterprises and business projects, and such others as are now specifically excepted by law. Each and every claim, account, bill or demand against the state, paid by the State Auditor, shall bear the approval of the State Auditing Board, and the State Examiner shall hold the State Auditor personally responsible for the sum of any or all bills paid by the State Auditor which do not bear the approval of the State Auditing Board. The State Auditing Board may in its discretion require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim, account, bill or demand against the State, and may require the filing of a sworn statement in such form as it may prescribe.

Approved March 1st, 1923.

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## AUTO TRANSPORTATION COMPANIES

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### CHAPTER 136.

(H. B. No. 222—Harrington.)

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#### AUTO TRANSPORTATION COMPANIES.

An Act Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation over any Public Highway by Motor Propelled Vehicles; Defining Transportation Companies; Providing for Supervision and Regulation Thereof by the Board of Railroad Commissioners of the State of North Dakota; Providing for the Enforcement of the Provisions of this Act and for the Punishment of the Violations Thereof.

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

Sec. 1. (A.) The term "Corporation" when used in this act means a corporation, company, association, or joint stock association.

(B.) The term "person" when used in this act means an individual, a firm or a co-partnership.

(C.) The term "Commission" when used in this act means the Board of Railroad Commissioners of the State of North Dakota, or the Director of Public Works or such other board or

body as may succeed to the powers and duties now held by the board of Railroad Commissioners.

(D.) The term "Auto transportation company," when used in this act means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails used in the business of transporting persons, and, or property for compensation over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the incorporated limits of any city or town: provided, that the term "auto transportation company," as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, insofar as they own, control, operate or manage taxi-cabs, hotel busses, school busses, motor propelled vehicles, operated exclusively in transporting agricultural, horticultural or dairy or other farm products from the point of production to the market, or any other carrier which does not come within the term "auto transportation company" as herein defined.

(E) The term "Public Highway" when used in this act means every street, road or highway in this state.

(F.) The words "between fixed termini or over a regular route," when used in this act, means the termini or route between or over which any auto transportation company usually or ordinarily operates any motor propelled vehicles, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any motor propelled vehicle is operated by any auto transportation company "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the finding of the "Commission" thereon shall be final and shall not be subject to review.

Sec. 2. No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any motor propelled vehicle for the transportation of persons, and, or, property, for compensation on any public highway in this state except in accordance with the provisions of this act.

Sec. 3. The "Commission" of the State of North Dakota is hereby vested with power and authority and it is hereby made its duty to supervise and regulate every auto transportation company in this state as such to fix, just, fair, reasonable and sufficient rates, fares, charges, classifications, rules and regulations of each such auto transportation company, and to alter rates.

rules and regulations; to regulate the accounts, service, rate of speed of such auto transportation and safety of operations of each such auto transportation company; to require the filing of annual and other reports and of other data by such auto transportation companies; and to supervise and regulate auto transportation companies in all other matters affecting the relationship between such auto transportation companies and the traveling and shipping public. The Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this act, applicable to any and all such auto transportation companies; and within such limits shall have power and authority to make orders and to prescribe rules and regulations affecting auto transportation companies.

The Commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proved that such holder wilfully violates or refuses to observe any of its proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of this section, but the holder of such certificate shall have all the rights of re-hearing, review and appeal as to such order of the Commission as is provided for in Section 6 of this act.

Sec. 4. No auto transportation company shall hereafter operate for the transportation of persons and, or, property for compensation between fixed termini or over a regular route in this state, without first having obtained from the Commission under the provisions of this act, a certificate declaring that public convenience and necessity require such operation; but a certificate shall be granted when it appears to the satisfaction of the Commission that such person, firm, or corporation was actually operating in good faith, and in a manner deemed by the Commission adequate as to service, rates and the protection of the public over the route for which such certificate shall be sought on January 15th, 1923. Any right, privilege, certificate held, owned or obtained by an auto transportation company may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the Commission. The Commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this act to issue said certificate as prayed for; or for good cause shown to refuse to issue same or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.



Sec. 5. The Commission shall in the granting of certificate to operate any auto transportation company, for transporting persons and, or, property, for compensation require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the State of North Dakota or a surety bond of a company licensed to write surety bonds in the State of North Dakota on each motor propelled vehicle used or to be used in transporting persons, and, or property, for compensation, in the amount of not to exceed \$5,000.00 for any recovery for personal injury by one person and not less than \$10,000.00 and in such additional amount as the Commission shall determine, for all persons receiving personal injury by reason of one act of negligence and not to exceed \$1,000.00 for damage to property of any person other than the assured, and maintain such liability and property damage insurance or surety bond in force on each motor propelled vehicle while so used, each policy for liability or property damage insurance or surety bond required herein, shall be filed with the Commission and kept in full force and effect and failure so to do shall be cause for the revocation of the certificate.

Sec. 6. In all respects in which the Commission has power and authority under this act, applications and complaints may be made and filed with it and notices issued thereon, hearing held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and appeals from such orders and decisions may be taken by any party to the District Court of Burleigh County under the same terms and conditions as are provided for upon appeals to the District Court from orders and decisions of the Board of Railroad Commissioners in the State of North Dakota by the provisions of Chapter 192, Session Laws of North Dakota for 1919.

Sec. 7. Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement or any part or provision thereof, is guilty of a misdemeanor and punishable as such.

Sec. 8. Neither this act nor any provision shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this Union except in so far as the same may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

Sec. 9. Every auto transportation company now operating or which shall hereafter operate in this state shall at the time of the issuance of such certificate, and annually thereafter on or

between April 1st and April 15th of each Calendar year, pay a minimum fee of \$10.00 for each motor propelled vehicle used by such company for the transportation of persons and if the passenger seating capacity of such vehicle exceeds eight passengers a further fee computed on the basis of fifty cents per passenger for such additional seating capacity shall be paid. For each motor propelled vehicle used by any such company for transporting property for hire every such company shall pay a minimum fee of \$10.00 at the time and in the manner aforesaid, and if the rated capacity of any such vehicle exceed three tons, an additional fee computed on the basis of \$1.00 for each additional rated ton capacity shall be paid.

For each motor propelled vehicle used by any such company for transporting both persons and property simultaneously, the fee shall be computed on the basis of either tonnage or passenger capacity, and the basis which will yield the greater revenue shall apply.

Provided, that no certificate herein referred to shall be issued except for the full amount of the fee herein provided for regardless of the time of year application for such certificate is made.

In case of emergency or unusual temporary demands for transportation, the fees for additional motor propelled vehicles for limited periods shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

All sums collected hereunder shall be turned over by the Commission to the State Treasurer within thirty days after their receipt and by him credited to a special fund to be used by the Commission upon proper voucher and audit by the State Auditing Board for the expenses of said Commission in administering the provisions of this act.

Sec. 10. Any auto transportation company shall forfeit all rights under a certificate issued under the provisions of this act by non-use thereof for a period of sixty days.

Sec. 11. This act shall not repeal any of the existing law or laws, relating to motor propelled vehicles, their owners or operators, or requiring compliance with any condition for their operation.

Sec. 12. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6th, 1923.

# BANKS AND BANKING

## CHAPTER 137.

(S. B. No. 267—Majority of Committee on Banks and Banking.)

### ADMINISTRATION OF INSOLVENT BANKS.

An Act Declaring an Emergency to exist Affecting the Public Welfare of the State with Respect to the Administration of Insolvent Banks; Providing for the Liquidation Thereof; Vesting the Supreme Court with Jurisdiction of Such Liquidation Proceedings, and Requesting It to Assume Original Jurisdiction in Furtherance of the Public Interest; Creating the Position of Supreme Court Commissioner, Fixing His Compensation, and Defining His Powers and Authority, and Providing for the Appointment of Receivers of Insolvent Banks, and Making an Appropriation to Meet the Expenses Incident to Carrying Out the Purpose of the Act, and Directing the Supreme Court to Exercise its Supervisory Authority over the District Court in Proceedings for Liquidating the Affairs of Insolvent Banks.

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

Whereas, there are a large number of insolvent banks in the State, located in many different communities with thousands of depositors and other creditors, within and without the State, the obligations of which banks have remained for a long period of time unpaid, and by reason thereof the credit of the State is being injured, and hardship and injury being inflicted upon thousands of its citizens and citizens of other states, and

Whereas, in the judgement of the Legislative Assembly the ordinary judicial and administrative machinery of the State is insufficient and illy adapted to the successful and expeditious administration of the affairs of such insolvent banks, and their assets are being absorbed and depleted by expenses of administration, without corresponding liquidation of their obligations, and by reason of lack of sufficient legal authority to deal with their assets and administer their affairs, such assets are being appropriated by secured creditors in large amounts beyond the indebtedness secured, and the ordinary creditors are being thereby injured, and the depositors guaranty fund is being depleted and over whelmed with liabilities which it is liable to be unable to discharge, and

Whereas, by reason of the facts a situation of great public interest and concern has been created affecting the people of the state, as a whole, which cannot be properly and sufficiently protected according to the ordinary course of legal proceedings, and the legislature deems it proper for the Supreme Court to

assume and exercise its original jurisdiction upon the ground that it is necessary for the protection of public interest, it is hereby enacted as follows:

Sec. 1. The Supreme Court of the State of North Dakota is hereby given, and requested to exercise, original jurisdiction of the insolvency proceedings to liquidate and windup the affairs of all insolvent state banks within the state, at the time of the taking effect of this Act, and all such as may become insolvent during its continuance.

Sec. 2. Immediately upon the taking effect of this Act the State Examiner shall certify to the Attorney General a list of all State Banks in the State now closed as insolvent, whether in the hands of Receivers, the State Examiner's office, or other trustees or agents of the state, together with a concise statement, showing the time of insolvency, the name of the Receiver in charge, and such other information as the State Examiner believes will be of importance to the Attorney General.

Sec. 3. Immediately upon receiving such certificate the Attorney General shall institute a proceeding in the Supreme Court entitled in the name of the State of North Dakota, for itself, and on behalf of all creditors of such banks, as plaintiffs, against all of said insolvent banks as defendants, for the purpose of declaring them insolvent and winding up their affairs as insolvent banking associations. Such proceedings shall be brought by the filing in the office of the Clerk of the Supreme Court of a complaint reciting briefly the facts as to the insolvency of each of such banks, and the name of the receiver or other officer in charge.

Upon the filing of such complaint the Attorney General shall issue a summons in the usual form of summons issued in actions in the district court of the State, and containing an additional statement to the effect that a Petition charging the bank in question with being insolvent is on file in the office of the Clerk of the Supreme Court, and that unless answer is made thereto within 15 days from such service such complaint will be taken as confessed. Such summons, however, as prepared for service on individual banks need only name as a defendant the particular bank upon which service thereof is to be made, and such service may be made upon any officer of such bank.

Service of such Summons may be made in the same manner as the service of summons in ordinary civil actions is made, and the Sheriff of the County in which the bank to be served is located shall upon request of the Attorney General immediately make service, or cause service thereof to be made, as in ordinary actions, but he shall not be entitled to collect any fees or expenses for making such service, and he shall make return thereof when served to the Attorney General.

Sec. 4. Upon the Service of the Summons as aforesaid the defendant bank shall have fifteen days within which to serve and file an Answer denying insolvency, or any other material fact stated in the Petition and unless within such fifteen days such answer is served and filed the insolvency of such defendant shall be deemed confessed.

Sec. 5. Upon the taking effect of this Act the Supreme Court shall appoint a Court Commissioner who shall have all the qualifications prescribed by law for a Judge of the Supreme Court to whom it may refer any matters committed to the jurisdiction of the Court by this Act, who shall act for and on behalf of the Supreme Court in hearing evidence, finding facts and making orders in any matter arising in connection with the action or actions instituted in such court under the provisions of this Act.

Such commissioner may sit for hearing and determination of any question of law or fact that may arise in such action or actions at any place within the State, and any such hearing may be brought on upon reasonable notice given by the Commissioner to the party in interest of the time and place of such hearing, and in the exercise of the jurisdiction conferred upon him, said Commissioner may permit matters to be brought before him either upon ordinary notice served upon the parties or by order to show cause, according to the practice of the district courts.

Any decision of the Commissioner may be reviewed by the Supreme Court on the motion of any party aggrieved at such times and under such rules as the Court may prescribe, and unless objected to by motion to review as herein provided, the court may deem the decision of the commissioner correct and without notice or application affirm the same.

Any party desiring to have a review of the decision of the Commissioner by the Supreme Court must within three days after the making of the same, if he is present personally or by counsel, or within three days after written notice thereof, if not present, file with the Commissioner a brief written statement of the grounds of his objection and containing the post office address of the party or his attorney upon which notice of hearing shall be served. Such statement shall be filed by the commissioner with the Clerk of the Supreme Court and Notice of the Hearing of Such Motion for review shall be given to the complaining party by letter addressed to him, or his attorney at the place named in such statement. The time of giving notice of such hearing to be fixed by rule or order of the Supreme Court.

Sec. 6. Such commissioner shall be paid out of the general funds of the State the same salary as is paid to Justices of the Supreme Court and may employ such clerical assistance as shall be allowed by the Court, and shall be reimbursed by the State

for all his actual expenses incurred in connection with the performance of his duties to be passed upon by the State Auditing Board as other claims against the State. Such Commissioner shall take the constitutional oath to perform his duties according to the Constitution of the United States and the State of North Dakota.

Sec. 7. The Supreme Court shall make rules and regulations from time to time governing the reference of matters to the commissioner and the exercise of his jurisdiction and powers and the manner and method of reviewing his decisions.

Sec. 8. Upon the filing of the Complaint aforesaid the Court shall appoint a Receiver, or two joint Receivers, of all said insolvent banks, which receiver shall have all the powers and authorities ordinarily possessed and exercised by receivers of insolvent corporations or prescribed by statute and the court shall have all the power and authority with regard to the administration and closing of the affairs of such banks as are ordinarily possessed and exercised by Courts of equity over the affairs of insolvent corporations. If upon a hearing on an issue raised by answer to the complaint, it shall be established that any Bank proceeded against is not insolvent, then the Receiver shall be deemed to have been a temporary receiver, and shall account and be discharged accordingly as to such bank, in all other respects the receiver shall be deemed to be a permanent receiver.

The Receiver so appointed by the Court shall supercede and supplant any receiver theretofore appointed by the banking department, or by any other court, or any examiner or officer of the banking department that may be in charge of any of such banks, but until the receiver appointed under this Act shall take possession of any such bank the receiver, or other officer already in charge, shall continue, and it shall be his duty to protect, conserve and administer its affairs to the best of his ability, and he shall remain liable under his bond for all his acts committed prior to being finally relieved of his trust.

Sec. 9. If during the life of this Act any other banking association shall be deemed insolvent by the authorities vested by law with the right to institute insolvency proceedings against the banks, and such authorities desire to institute such proceedings, they shall make report thereof to the Attorney General, with the necessary facts as to insolvency, and he shall file a complaint such as hereinbefore provided for, as to such other association or associations, as to which it is desired to institute proceedings, joining as many as is desirable in one proceeding; and the same proceedings shall be had thereon as is provided with reference to associations already insolvent, and the court shall thereupon in like manner appoint the same receiver, or receivers, for

such additional association, or associations, and the original proceeding provided for herein, and all subsequent proceedings that may be taken as in this section provided shall be deemed to be merged and amalgamated into one proceeding, but the affairs of each association shall be kept separate.

Sec. 10. The Receiver appointed hereunder shall from time to time apply to the Commissioner for guidance and instructions and for the purpose of obtaining orders and directions with reference to the administration of the affairs or the disposition of the property of any of the Banks under his control, as receiver, in the same way and as far as may be practicable under the same course of procedure that receivers appointed by district courts apply to such district courts, and the receiver or any other parties aggrieved by any determination of the commissioner may apply to the Court for a review thereof, as hereinbefore provided for.

Sec. 11. At any time when the affairs of any bank under the receivership aforesaid are ready to be closed, the court shall fix the amount of the expense of the receivership properly chargeable to such bank.

Sec. 12. So far as practicable, except as herein otherwise provided, and except as may be otherwise provided by the Court, the ordinary rules of procedure applicable to like actions in the district court shall govern the proceedings herein provided for; but the Court may from time to time prescribe such rules of procedure as it shall from time to time find best adapted to the furtherance of the general purpose of expeditiously and economically winding up the affairs of insolvent banks.

Sec. 13. The Commissioner appointed hereunder shall have power and authority to issue subpoenas for witnesses any place within the State, and to administer oaths and to punish for contempt, to the same extent as a Judge of the District Court, subject to a review of his decision by the Supreme Court, as in case of other decisions. At any time when district court is not in session in any county, in which the commissioner is holding a hearing, he shall have a right to take and use the court room of the district court, and he may call upon the Clerk of such District Court to act as his clerk, in issuing subpoenas, and may call upon the Sheriff of the County to act as his Court officer, and such officer shall perform such services without compensation.

Sec. 14. The Commissioner shall, as far as practicable, hold his hearings in the County in which the Bank interested is located, and as far as practicable and with fair regard to the convenience and interest of all parties, at the most accessible point within the County.

Sec. 15. In all hearings before the Commissioner the parties procuring the attendance of witnesses shall be liable for their witness fees and mileage, as is allowed in district court, and the commissioner may make such order with reference to the payment of costs by the different parties as shall be just.

Sec. 16. The Supreme Court may from time to time as occasion shall require enter interlocutory or final judgments affecting the rights of particular parties to the proceedings without affecting the rights of any other party, and any judgment so entered in the Supreme Court may be at the request of any interested party transcribed to the district court of any county in the State where it shall be docketed by the Clerk of Court, and shall from the time of docketing be taken and considered as a judgment of such district court in all things the same as though originally entered, and it may be enforced as a judgment in such Court.

Sec. 17. There is hereby appropriated out of the general funds of the State the sum of \$10,000.00 per year, or so much thereof as may be necessary to pay the salary of the Court Commissioner and the expenses incident to the performance of his duties hereunder.

Sec. 18. In case the Supreme Court shall be of the opinion that its original jurisdiction does not extend to the controversy or controversies referred to in this act, or if for any other reason the Supreme Court shall refrain from exercising its original jurisdiction with respect thereto, the proceeding shall not be dismissed, but all papers and files therein shall be transmitted to the Clerk of the District Court of Burleigh County, and that court shall be and is thereupon vested with full jurisdiction of such proceeding, and thereupon the Supreme Court, in the exercise of its supervisory jurisdiction shall designate some district judge to hear and try said controversy or controversies, and the judge so designated shall give precedence to such controversy or controversies over all other work and in the disposition thereof he shall be governed by the provisions of this act, and endeavor in every way to carry the same into effect. The District Judge so designated shall perform all of the duties which the act requires to be performed by the Court Commissioner, and in such case no court commissioner shall be appointed. In such case the acts of the District Court shall be subject to review by the Supreme Court in the same manner herein provided for review by the Supreme Court of the acts of the court commissioner. Provided that all acts of such district court performed under the provisions of this act, including the appointment of a receiver, shall be subject to the supervisory control of the Supreme Court. In case of the designation of a District Judge as herein provided for, all his necessary traveling expenses incurred in car-



rying out the provisions of this act shall be paid out of the general fund of the state upon vouchers duly presented, as in other cases of the expenses of District Judges. In case of the designation of a District Judge as in this section provided, all further insolvency proceedings, in this act hereinbefore provided to be instituted in the Supreme Court, shall be instituted in the District Court of Burleigh County, and conducted in like manner.

In case of the designation of a District Judge as in this section provided for, the rules of procedure prescribed by the act for the Court Commissioner shall govern the procedure before such District Judge, and the Supreme Court shall likewise make necessary rules governing the conduct of such proceeding or proceedings.

Sec. 19. This Act shall expire and become inoperative for any purpose on the first day of July, 1926.

Approved March 6, 1923.

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## CHAPTER 138.

(S. B. No. 152—Bond.)

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### CONSOLIDATION OR MERGER OF BANKS.

An Act Authorizing the Consolidation or Merger of Banking Associations, Regulating the Procedure and Providing for Supervision Thereof, and Providing a Limitation of Actions.

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

Sec. 1. Any two or more banking associations organized under the laws of this state, may consolidate their capital, assets, and liabilities, or one or more of such associations may be merged into another in the following manner:

Sec. 2. The term "consolidation" as used herein shall mean the consolidation of the liabilities, assets and corporate existence of two or more associations into a single association, which shall issue its stock to stockholders in the consolidating associations in return for the assets of the consolidating associations.

The term "merger" as used herein shall mean the taking over, or the absorption of the assets of one association by another, and the assumption of the liabilities of the association, or associations, whose assets and liabilities are taken over.

The term "old association" where hereinafter used means the associations which are consolidating or merging into the other association, and the term "new association" means the association into which the other associations are being consolidated or merged.

Sec. 3. Whenever two or more banking associations shall desire to take advantage of this Act, the Directors of each thereof shall call a special meeting of the stockholders to act upon the proposed consolidation or merger. The Notice of such meeting shall definitely state the purpose for which it is called, or the matter may be acted upon at a regular stockholders' meeting, but in that event notice of the fact that the question of consolidation or merger will be considered shall be given to each stockholder by registered mail, addressed to him at his regular business address at least ten (10) days preceding the holding of such meeting.

Sec. 4. At such stockholders' meeting, the question of the proposed consolidation or merger shall be put to a vote, and each stockholder may vote thereon in person, or by proxy, the full number of shares of stock standing in his name on the books of the association. The question so put shall embody the proposed amount of capital stock of the consolidated or merged corporation, but the statement of such amount shall be only advisory, and may be varied therefrom, within the limits hereinafter prescribed, by the State Examiner; or Court, on passing on the question of consolidation or merger. The proposal for consolidation or merger shall be deemed lost, unless two-thirds of all of the stock shall vote in favor thereof.

Sec. 5. A consolidation shall not be permitted except upon condition that the new association have a capital of at least two-thirds of the aggregate capital of the old associations, but it may have a larger capital than that of the old associations.

Sec. 6. The several stockholders' meetings at which the proposed consolidation or merger is acted upon must be held at such times that the result of all thereof may be certified to the State Examiner within thirty (30) days from the date of the holding of the first of such meetings; and the result of each meeting must be certified to the State Examiner by the Chairman, and Secretary of the meeting within ten (10) days after the holding thereof.

Sec. 7. Upon receiving the certificates aforesaid, if they shall show favorable action by all of the associations concerned, the State Examiner shall cause a thorough examination of the condition of the said associations to be made with a view of determining whether their condition is such that the proposed consolidation or merger would result in a sound and efficient banking association adapted to the needs of the community in which it is proposed to operate.

Sec. 8. Upon completing such examination, the State Examiner shall advise each of the said associations of his findings

as to whether a consolidation or merger is desirable; and in that connection, he shall indicate any changes, if any there be, in the condition of either of said associations that would make such consolidation or merger desirable, if not desirable on the conditions existing; and he may prescribe a time within which such changes in conditions may be made to warrant his approval.

If the finding of the State Examiner is adverse to the proposed consolidation or merger, the associations affected may informally appeal to the Banking Board for a review thereof, and the Board shall, as speedily as possible, set a time when it will hear any reasons that may be advanced why the findings of the State Examiner should be reversed; and upon such hearing, it shall make such order as seems proper in the premises.

Sec. 9. If the finding of the State Examiner, or the finding of the Banking Board, on appeal from his decision, is favorable to a consolidation or merger, either absolutely or upon conditions that were agreeable to the participating associations, each of such associations shall, by its Board of Directors, appoint one or more representatives to meet with the representatives of the other association, or associations, and they shall proceed to determine and make a schedule of the assets of each of the associations that shall be taken over by the new association, and they shall likewise schedule all the indebtedness of the old associations, and only such assets shall be retained by the old associations as the State Examiner shall deem not proper assets to be held by the new association. In case of consolidation, such representatives shall likewise agree upon the proportion of the stock in the new association that shall be accredited to the stockholders of each of the old associations, but the distribution of such stock among the stockholders of the several old associations shall be by the old associations as hereinafter provided for.

Sec. 10. The schedules aforesaid, and the agreement arrived at under the provisions of the last preceding paragraph shall be reduced to writing and signed in duplicate by the representatives of the old associations and shall be binding upon them and non-revocable. If the several associations are unable to agree, no consolidation or merger shall take place. Upon the associations agreeing and signing the agreement as aforesaid, one of the duplicates shall be delivered to the State Examiner who may either approve or disapprove the same, or make suggestions for the modification thereof as a condition of approval, and he may fix a time within which the conditions shall be met, and likewise agreed to in writing are resubmitted to him.

And in this case likewise, the association may informally appeal from the decision of the State Examiner to the Banking Board.

Sec. 11. If the State Examiner, or upon appeal, the Banking Board shall approve the agreement, or modified agreement entered into as aforesaid, such approval shall be endorsed on the duplicate of the agreement in the possession of the State Examiner, and each of the associations shall be immediately notified of such approval.

Sec. 12. Upon receipt by the several associations of notice of the approval provided for in the last section, the associations seeking consolidation or merger, shall file in the office of the Clerk of the District Court of the County in which at least one of the associations is doing business, a petition asking for a decree of consolidation or merger, which petition shall give the names and location of the new association, and shall recite briefly the taking of the several successive steps hereinbefore provided for and a statement of the amount of the assets and indebtedness of each of the old associations to be transferred to and assumed by the new association, the amount of the capital stock, and the amount thereof to be apportioned to the stockholders of each of the old associations and the names of the first Board of Directors of the new association.

Sec. 13. Upon the filing of such petition, the Clerk of the District Court shall cause a notice to be issued which shall be substantially the following form:

State of North Dakota.

In District Court.

County of.....

.....Judicial District

In the Matter of the Application for Consolidation (or merger as the case may be) of The.....

Bank of.....and the.....

Bank of.....

The State of North Dakota to all Persons Whomsoever—Greeting:

Notice is Hereby Given that on the.....day of.....

19..... the above named banking associations filed in this office their petition, in form prescribed by law, praying a decree permitting them to consolidate (or merge, as the case may be) under

the name of.....Bank, with its

principal place of business in the.....of.....  
North Dakota.

That the effect of such consolidation (or merger, as the case may be) will be to transfer the principal assets of the petitioning associations to the said.....bank of....., and to create a liability in the said last mentioned association to pay all of the debts of the said petitioning bank, and to establish a novation by the said petitioning banks, and creditors, and the said last mentioned bank.

That said petition will be heard by the Court at..... on the day of.....19....., or as soon thereafter as counsel can be heard, at which time all creditors of the petitioners are summoned and commanded to file their appearance in the office of the Clerk of this Court together with an Answer to said petition showing cause why such consolidation (or merger, as the case may be) should not be allowed.

Attested by the Seal ..... Clerk of the District Court of  
of the Court.  
.....County, North Dakota.

Such notice so signed and attested shall be published in some newspaper qualified to publish legal notices in the county in which such petition is filed once in each week for three (3) successive weeks and the last such publication shall be at least twenty (20) days preceding the date set for the appearance, and proof of such publication shall be made by affidavit filed in the office of the Clerk of the District Court as in other cases of publications of process.

Sec. 14. If at the end of twenty (20) days after the last publication, no appearance has been made in opposition to such petition, the Court shall at once upon the showing of the default, make its decree permitting the consolidation, or merger, as the case may be.

Sec. 15. In case opposition to such petition shall be made by any creditor, the Court shall order a summary and speedy hearing, in which the petition and answer filed with the appearance shall constitute the pleadings; and the burden shall be upon the objecting parties to show cause why the petition should not be granted and the only cause for denying such petition shall be that the objecting creditor is in danger of being substantially damaged in his financial rights; and in case any objecting creditor shall establish that he is in danger of suffering such substantial damage, the Court may order that the proceedings be stayed, and a bond of indemnity, to be approved by

the Court, given to him conditioned that all his legal claims against any of the old associations will be paid when due by the new association, and upon the furnishing of such indemnity, the proceedings shall be considered as though no opposition had been made thereto.

And the Court shall accordingly enter its decree permitting the consolidation, or merger, as the case may be.

Sec. 16. The effect of a decree permitting consolidation, or merger, shall be to bar forever all objections thereto, and to establish a complete novation between the old associations, and creditors, and the new association to the end that from that time henceforth, the old associations are relieved of all liability to creditors, all such creditors having a valid and legal claim against the new association to the full extent that they had a claim against any of the old associations, and the new association is liable for all indebtedness of all the old associations to the same extent that they were liable, and all of the stockholders' liability, as stockholders, in the several old associations are merged into their stockholders' liability as stockholders in the new association.

Sec. 17. The decree of the District Court entered in the proceedings provided for in this Act shall be final and conclusive, not subject to appeal, nor to motion to vacate or set aside, and not subject to be set aside or vacated on motion for a new trial.

Sec. 18. No stockholder of any association affected by this Act who shall have voted in favor of consolidation or merger, or shall have refrained from voting shall be heard at any stage of the proceedings to object to the consolidation or merger but shall be deemed to have consented thereto, but any stockholder who voted against consolidation or merger may be heard at any stage of the proceedings, prior to the filing of the petition in Court, and may at any such time formally or informally, file objection and appear before the State Examiner, or the Banking Board, and show cause why the proposed consolidation or merger should not be allowed, but the determination of the State Examiner or the Banking Board shall be conclusive of his rights, and no action or proceeding in court shall be maintainable by any one questioning the validity of such consolidation or merger or to recover any thing on account thereof unless the same shall be commenced prior to the time of the entry of a decree of consolidation or merger, and the Court in which the petition for consolidation or merger is filed, or the appropriate federal Court shall have exclusive jurisdiction of such action or proceeding.

Sec. 19. Upon the entry of a decree of merger, no further Act shall be necessary to be done, except to make the transfers of the assets from the old associations to the association into which they are merged, but in case of a consolidation, the decree of the Court shall specify the name and location, and the amount of the capital stock of the new association, and the proportions in which it shall be allotted to each of the old associations, apportioning the same in even hundreds of dollars. The decree shall also name the first Board of Directors, as set forth in the petition, or in case of the death or disability of any one or more of such proposed Directors, shall substitute another or others to be nominated by the petitioners.

A certified copy of such decree shall thereupon be filed in the office of the Secretary of State, accompanied by a fee of Five (\$5.00) dollars, and such new association shall thereupon become a banking association in all things the same as though originally organized under the Banking Laws and the Secretary of State shall thereupon issue to it a certificate of authority, as in the case of the incorporation of other banking associations, which certificate should be delivered to the State Examiner to be in turn delivered by him to the said new association upon its being made to appear to him that all the terms and conditions of consolidation have been complied with.

Sec. 20. Immediately upon delivery of the certificate of authority by the State Examiner to the Directors of the Association, they shall meet and elect officers, and until the election of such officers they shall personally supervise and conduct the business of the new association.

Sec. 21. Upon either a consolidation or merger, as herein provided for, the old associations shall cease to operate as banking associations or to transact any business other than to administer any assets that under the terms of the consolidation or merger have not been transferred. They shall not elect any new officers or directors, but the Directors and officers holding at the time of the consolidation or merger shall continue and the corporation itself shall remain in existence for a period of one (1) year during which time its remaining assets, if any must be disposed of, and the proceeds distributed among its stockholders, and at the end of one year from the filing of the decree of consolidation or merger, the said old associations shall cease to exist, unless upon good cause shown, and before the expiration of the said period of one (1) year any of said old associations shall obtain from the Court an order extending the time of their existence, which order shall only be granted upon a showing of a substantial reason therefor.

Sec. 22. In case of consolidation, upon the new association coming into existence, the Board of Directors of each of the old associations must furnish to the Board of Directors of the new association a statement of the amount of stock due to each of the stockholders in such old association which shall be the same proportion of the amount of stock in the new association, allotted to such old association, that the stockholders stock bore to the total outstanding stock of the old association, and the new association shall thereupon issue its stock to such individual stockholders of the old association. Provided, however, if the stock to which such stockholder is entitled does not consist of an even multiple of one hundred dollars, stock shall be issued to such individual stockholders entitled thereto for the even hundreds of dollars, included in the total amount, and there shall be issued by the new association a certificate in blank for the aggregate of the odd dollars of all such old stockholders in each of such old associations which certificate in blank shall be delivered to the Directors of the old association in trust for the use of its stockholders and if the apportionment of such interest in such blank certificate cannot be otherwise made, the Directors of such old association shall have authority to sell the same and divide the proceeds among the parties entitled thereto.

Sec. 23. The purpose of the Act is remedial, and it is intended to remedy a well understood condition existing in the banking business of the State of North Dakota, a part of which condition is the need of larger and stronger banking institutions, and the supplying of more efficient banking service, to various communities, and to the end that such conditions may be remedied to the utmost extent possible, this Act shall be in all things liberally construed, for the accomplishment of its ultimate purpose.

Approved February 27th, 1923.

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## CHAPTER 139.

(S. B. No. 144—Miklethun.)

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### BANK DEPOSITS.

An Act Relating to Deposits in Banks, and Trust Companies, and making it unlawful to make a charge against the same without the consent of the depositor.

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

Sec. 1. It shall be unlawful for any bank, or trust company, with which money has been deposited, to charge against the deposit any claim of such bank or trust company or any other person, or to appropriate the same to the payment of any debt



to such bank or trust company or any other person, without legal process or without the consent of the depositor.

Sec. 2. Any bank or trust company which shall so charge any claim against a deposit or in any way appropriate the same to the payment of a debt of the depositor, in violation of the terms hereof, shall be liable to the party aggrieved for any damages caused thereby to be recovered in a civil action.

Approved February 24th, 1923.

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## BEES

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### CHAPTER 140.

(S. B. No. 243—Eastgate.)

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#### BEES.

An Act to Safeguard the Business of Beekeeping Against Contagious and Infectious Diseases; Defining Apiaries; Providing for State Inspection Under the Direction and Control of the Commissioner of Agriculture and Labor; Prohibiting the Sale, Barter, Offer of Sale or Barter, Moving, Transportation, Shipping or Offering for Shipping or Transportation, of any Bees, Brood, Comb or Beekeeping Appliances that are Infected; Providing for the Proper Certification of Shipments into the State, and the Reporting of such Shipments by the Purchaser or Importer; Fixing Penalties for Violation.

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

Sec. 1. It shall be the duty of the Commissioner of Agriculture and Labor, hereinafter called the Commissioner, to enforce the laws relating to the inspection of apiaries as hereinafter provided.

Sec. 2. The Commissioner shall appoint some person qualified by scientific training or practical experience to be state inspector of apiaries, hereinafter called the Inspector, who is charged with the inspections required under the provisions of this Act, under the direction and control of the Commissioner. The Inspector shall be furnished with such supplies, equipment and printing as may be necessary to carry out the provisions of this Act.

Sec. 3. The Commissioner shall prescribe and issue such reasonable regulations and orders as in his judgment may be necessary to prevent, eradicate or control the introduction, spread, or dissemination of any and all contagious or infectious diseases of honey bees.

Sec. 4. The Commissioner is hereby authorized to appoint or dismiss, on the recommendation of the Inspector, deputies, who shall be empowered to make inspections under the direction and control of the Commissioner.

Sec. 5. Whenever the owner of an apiary believes or has reason to believe that foul brood, or any dangerous disease, which is infectious or contagious in its nature and injurious to honey, bees, or bees in the egg, larval, pupal or adult stages, is present among his bees, he shall at once notify the Inspector, stating all facts known to him with reference to said contagion or infection.

Sec. 6. The Inspector shall have authority to visit and examine personally or by deputy any apiary for the purpose of ascertaining the existence of, or for treatment or destruction of, any contagious or infectious disease of bees or brood; and for this or any other purpose within the scope of this Act, he or his deputies may enter upon private property or premises during reasonable business hours, and no person shall deny such access, or hinder, thwart or defeat said Inspector or his deputies in the performance of his official duties.

Sec. 7. The Inspector shall inspect, in person or by deputy, every apiary, including all appliances, structures, buildings and bees thereof, which is reported as being infected with any disease injurious to honey bees in their eggs, larval, pupal or adult stages.

Sec. 8. If such inspection discloses any infection in such apiary, appliances, structures, buildings or bees, the Commissioner shall give instruction to the owner or person in charge of such property for such treatment as in the judgment of the inspector may be necessary for the eradication or control of such infection; and the owner or person in charge shall carry out such instructions within ten days after a date to be specified in such instructions.

Sec. 9. If said owner or person in charge shall refuse or neglect to carry out the instructions within the period herein specified, the Commissioner shall have power to apply, or cause to be applied such treatment, or, in his discretion and if deemed necessary, may destroy such infected bees or property; and no damages shall be awarded to the owner for the loss of any infected apiary, bees, hive, apiary appliance or bee product destroyed under the provisions of this Act or of any order or regulation made in pursuance thereof.

Sec. 10. The Commissioner shall cause to be issued, at the request of the owner or person in charge of any apiary in the State, after an official inspection has been made and such apiary has been found not to be infected with any dangerous disease.

a certificate signed by the Inspector setting forth the fact of such inspection, the date thereof, and a statement of fact showing such finding.

Sec. 11. After an inspection or handling of any infected apiary, bees, hive or other apiary appliance, structure or building, and before proceeding to any other apiary, the Inspector or his deputy shall thoroughly disinfect every portion of his person and clothing and every tool and appliance used by him that may have been in contact with infected material, and shall cause the same to be done by his assistants.

Sec. 12. The Commissioner may, in his discretion, order any owner or person in charge of bees dwelling in hives without movable frames and combs or not permitting of ready examination, to transfer such bees within a reasonable time, to be by said Commissioner specified, to hives with movable frames.

Sec. 13. No person shall sell, barter, offer for sale or barter, move, transport, deliver, ship or offer for shipment within the State any bees, brood, comb or used beekeeping appliances from an apiary known to be infected with any contagious or infectious disease. No person shall expose in any place to which bees have access any bee product, hive or other apiary appliance in such manner that contagious or infectious diseases of bees could be disseminated therefrom.

Sec. 14. There shall be affixed to the outside of every package, box, crate or bundle containing bees, comb or used beekeeping appliances entering this State a copy of a certificate duly issued by an official state inspector showing that said bees, comb or appliances have been inspected and found not infected with any contagious or infectious disease.

Sec. 15. All shipments of bees, comb or used beekeeping appliances from outside of this State shall be reported immediately upon receipt thereof by the purchaser or importer to the Inspector, giving the name of the shipper and a complete description of such shipment.

Sec. 16. An apiary within the meaning of this Act shall mean any place where one or more hives or colonies of bees are kept.

Sec. 17. The words "person" and "owner" as used in this Act shall include natural persons, firms, associations or corporations.

Sec. 18. Any person, who, himself, or by his agent or employee, or as agent or employee for another, violates any of the provisions of this Act, or any regulation or order made in pur-

suance thereof, shall, on conviction thereof, be punished by a fine of not less than Five Dollars nor more than One Hundred Dollars.

Sec. 19. Whereas, there is now no proper provision of law for the protection of the business of beekeeping against contagious and infectious diseases, this Act is hereby declared to be an emergency measure, and shall be in force from and after its passage and approval.

Approved March 2nd, 1923.

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## BILLS OF SALE

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### CHAPTER 141.

(H. B. No. 147—Sathre and Twichell.)

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#### FILING OF BILLS OF SALE.

An Act Providing For the Filing of Bills of Sale and other Transfers of Personal Property and Prescribing the Effect of Such Filing.

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

Sec. 1. A bill of sale, or other instrument, transferring the title to personal property, must be signed by the vendor or transferor in the presence of two witnesses who must sign the same as witnesses thereto, or acknowledge the execution of the same before some official qualified to take acknowledgments. Any such instrument so witnessed or acknowledged, shall be entitled to be filed in the office of the Register of Deeds of the County where the property or any part thereof covered by such instrument, is at the time so situated.

Sec. 2. The filing of such instrument shall operate as notice thereof to all subsequent purchasers and encumbrancers of so much of said property as is at the time of such filing situated in the county wherein such instrument is filed, and the filing of such instrument shall be deemed equivalent to an immediate delivery, followed by an actual and continued change of possession of the property covered by such instrument.

WHEREAS, there is now no law providing for the filing of the instruments covered by this Act and prescribing the effect of such filing therefore this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 27th, 1923.

# BIOLOGICAL STATION

## CHAPTER 142.

(S. B. No. 392—Stevens.)

### BIOLOGICAL STATION.

An Act to Provide a Custodian for the Property Belonging to the State of North Dakota Known as the Biological Station and Located on the Shores of Devils Lake, Ramsey County, North Dakota, and to Designate the Purposes for Which Said Property May be Used.

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

Sec. 1. All of the property belonging to the State of North Dakota known as the Biological Station, located on the shores of Devils Lake, Ramsey County, North Dakota, including the buildings, lands, personal property and fixtures connected therewith, is hereby placed under the care and custody of the North Dakota Game and Fish Board, and shall be used by them for such purposes and in such manner as said Board shall deem best for the advancement of the work as such Board may be engaged in from time to time, and for the purposes of an educational and attractive feature to the park where said Biological Station is located, and shall be at all times open and free to the public under such rules and restrictions as said Game and Fish Board may deem to be for the best interests of the work being conducted from time to time at said Biological Station.

Sec. 2. TRANSFER OF PROPERTY.) Upon the taking effect of this Act it shall be the duty of the University of North Dakota to turn over to the North Dakota Game and Fish Board all the property of the State of North Dakota belonging to such Biological Station which shall be receipted for by the North Dakota Game and Fish Board, and said property shall be cared for and preserved by the North Dakota Game and Fish Board to the best of their ability. The North Dakota Game and Fish Board shall upon receipt of such property file in the office of the Board of Administration a certified list of such property and shall whenever legislation is enacted directing them so to do, turn over such property as may come into their hands by the terms of this Act any and all property so received, in as good condition as when received, natural wear and tear excepted.

Sec. 3. EMERGENCY.) Whereas the law allowing an annual appropriation for the work previously carried on at the Biological Station of North Dakota has been repealed, and there

being no one in charge of such property, and there being danger of such property depreciating in value unless placed under a proper custodian, therefore this Act shall be in force and effect from and after its passage and approval.

Approved March 2nd, 1923.

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## BOARD OF AUDITORS

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### CHAPTER 143.

(H. B. No. 310—Watt.)

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#### EXAMINATIONS BY BOARD OF AUDITORS.

An Act Directing and Empowering the State Board of Auditors to Annually Examine and Audit the Accounts, Books and Vouchers of the State Hail Insurance Department, State Highway Department, and Workmen's Compensation Bureau, to take account of the amount and condition of the assets and liabilities of each Department so examined and audited, and make reports thereof to the Governor.

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

Sec. 1. It shall be the duty of the State Board of Auditors, in addition to the other duties now enjoined by law, at least once each year, to cause an examination and audit to be made of the accounts, books, and vouchers of the State Hail Insurance Department, the State Highway Department, and the Workmen's Compensation Bureau, and to take an account of the amount and condition of the assets and liabilities of each Department so examined and audited, and to make and file a report thereof with the Governor, on or before the 15th day of November of each year. The Board is hereby authorized and empowered to employ such expert accountants as it may deem necessary to carry out the provisions of this Act.

Approved February 27th, 1923.

## BOUNTIES

### CHAPTER 144.

(S. B. No. 337—Whitmer.)

#### MAGPIE BOUNTY.

An Act Providing for a Bounty for the Destruction of Magpies.

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

Sec. 1. For the purpose of encouraging the destruction of magpies, a bounty of fifteen cents shall be paid by the State of North Dakota for each magpie killed.

Sec. 2. Any person killing any magpie to obtain the bounty thereon shall within sixty days from the date of killing exhibit or cause to be exhibited the wings of such bird to the county auditor of the county in which the said bird was killed and shall at the same time file with the county auditor an affidavit setting forth that he killed or caused to be killed the birds from which the wings were taken, that the same were killed within the limits of the county to whose county auditor the same were presented.

Sec. 3. The county auditor shall before issuing the certificates herein provided for, require statements of two resident taxpayers of the county that they are acquainted with the person presenting the wing or wings and that to the best of their knowledge and belief the birds from which said wing or wings were taken were killed within the limits of said county.

Sec. 4. The county auditor shall in the presence of and with the assistance of the county treasurer or the clerk of the District Court count and minutely examine the wings so presented and if he finds that the same are the wings of magpies, he shall issue a certificate to the person presenting such wings. Such certificate shall show the number and kinds of wings, the name of the person presenting them, also the fact that the affidavits have been filed and the examination required herein has been made. Such certificate shall be signed by the county auditor in his official capacity and attested by the officer acting with him. The county auditor shall keep a record in a bound book of all wings presented, showing the date, number and kind of wings, the names of the persons presenting them, together with the names of the witnesses, which book shall be kept as an official record.

Sec. 5. Should any county auditor or officer acting with him have reason to believe that any person presenting a wing or wings as provided, has evaded the provisions of this article to obtain the bounty unlawfully, such officer shall require satisfactory evidence of the time, place and manner of the killing of said bird or birds.

Sec. 6. It shall be the duty of the State Auditor upon the certificate of the county auditor to give the person presenting said certificate a warrant upon the State Wolf Bounty Fund, hereinafter provided for, in the amount required to compensate at the bounty prices by this article provided for the number of birds mentioned in the order, taking the receipt on the back of the order of the person presenting, for the full amount received; and the State Auditor and the State Treasurer shall keep an account of all warrants so issued and paid and list them in their annual report to the Governor.

Sec. 7. The Secretary of State shall provide each county auditor with the necessary blanks for the purpose of carrying into effect the provisions of this article.

Sec. 8. Any person who shall falsely make, alter, forge or counterfeit any of said certificates shall be deemed guilty of forgery, and any person who shall swear falsely to any affidavit provided herein, or procure the same to be done by another, with the intent of obtaining any one of the said certificates, shall be guilty of perjury; and any person convicted of any of the offenses declared in this section shall be punished by imprisonment in the State Penitentiary for a term of not less than one year nor more than five years. Any person or persons who shall patch up any wing or who shall present any punched wing, with the intent to defraud the state, or any officer who shall sign any certificate herein provided for without first counting the wings, or shall intentionally evade any of the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not to exceed three months, or by both such fine and imprisonment.

Sec. 9. The bounties provided for in this Act shall be paid from the State Wolf Bounty Fund.

Approved March 8th, 1923.



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CHAPTER 145.

(S. B. No. 311—Whitmer.)

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WOLF BOUNTY.

An Act to Amend and Re-enact Section 1, of Chapter 242, Session Laws of North Dakota for the year 1919, Relating to State Bounty on Wolves and Coyotes.

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

Sec. 1. AMENDMENT.) That Section 1 of Chapter 242 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 1. STATE BOUNTY FOR WOLVES AND COYOTES.) For the purpose of encouraging the destruction of wolves and coyotes, a bounty shall be paid by the State of North Dakota for each wolf and coyote killed as follows:

Five dollars for each mature wolf or coyote killed, and two dollars for each wolf or coyote pup killed prior to September 1st of the year of the whelping of such wolf or coyote pup. Provided further, that no bounty shall be paid on wolves or coyotes killed by the Extension Division of the North Dakota Agricultural College, through the directors thereof co-operating with the Bureau of the Biological Survey of the United States Department of Agriculture.

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency measure; Provided, however that the provisions of this Act shall not apply to any wolves or coyotes killed prior to May 1, 1923.

Approved March 8th, 1923.

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BOVINE TUBERCULOSIS

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CHAPTER 146.

(H. B. No. 68—Burk.)

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BOVINE TUBERCULOSIS.

An Act to Amend and Re-enact Chapter 86 of the Session Laws for the year 1921, Relating to the application of the Tuberculin Test and Eradication of Bovine Tuberculosis in Townships in Counties in North Dakota under direction of the State Live Stock Sanitary Board by Petition of a Majority of Freeholders in such Townships.

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

Sec. 1. AMENDMENT.) Chapter 86 of the Session Laws for

the year 1921 is hereby amended and re-enacted to read as follows:

Sec. 2. Upon receipt of a petition signed by a majority of the freeholders of any township in any county in this State petitioning for the application of the tuberculin test to all breeding and dairying cattle within such township, the State Live Stock Sanitary Board is authorized and empowered to enforce the tuberculin testing of all such breeding and dairying cattle in such township, in accordance with the laws providing for the eradication of bovine tuberculosis and reimbursement of owners of cattle destroyed for tuberculosis and the rules and regulations of the State Live Stock Sanitary Board. Provided that in any circumscribed area as established by the State Live Stock Sanitary Board where all the cattle in said area have been tuberculin tested no other cattle shall enter said area unless tuberculin tested under the direction of the State Live Stock Sanitary Board and are accompanied by the proper tuberculin test health certificate.

Sec. 3. PENALTY.) Any person who refuses to assist or endeavors to prevent the State Live Stock Sanitary Board or its agents in carrying out the purposes of, or violates any of the provisions of this Act, shall be guilty of a misdemeanor and be punished by a fine of not less than Twenty-five Dollars nor more than Five Hundred Dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days, or both such fine and imprisonment.

Sec. 4. EMERGENCY.) This is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage.

Approved February 27th, 1923.

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## BUDGET BOARD

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### CHAPTER 147.

(H. B. No. 201—Larkin.)

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#### BUDGET BOARD, MEETS WHEN.

An Act to Amend and Re-enact Section 4 of Chapter 61 of the Session Laws of North Dakota for 1915.

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

Sec. 1. AMENDMENT.) Section 4 of Chapter 61 of the Session Laws of North Dakota for the year 1915 is hereby amended and re-enacted to read as follows:

Sec. 4. STATE BUDGET BOARD TO PREPARE ESTIMATE.) The State Budget Board shall meet on the 2nd Tuesday in November of each year next preceding the meeting of the Legislative Assembly at the State Capitol.

The State Auditor shall submit to the Board the estimates required by Section 3 of this Act to be filed in his office by the head of each state department and by various officers, boards and commissions. The board shall thereupon proceed to prepare estimates for a State Budget of the amounts required to be appropriated by the state legislative assembly for the conduct of the business of the state in all its offices, institutions, departments and undertakings for the two fiscal years next ensuing. Before making up such estimates the board shall examine all statements and requests for appropriations presented to it, and shall afford to the officers, boards and commissions presenting such statements, and making such requests, reasonable opportunity for explanation in regard thereto and, whenever requested, shall grant to such officers, boards or commissions a hearing thereon. All such hearings shall be open to the public. The Budget Board, or any member or members thereof, may, if the board deems it advisable, visit any department, institution or undertaking for which an appropriation is requested, for the purpose of examination and investigation. The board may also hold such public hearings as in its judgment shall be deemed advantageous for the purposes of preparing said estimates. When said estimates have been prepared they shall be transmitted to the legislative assembly not later than the tenth day of the session thereof, together with such recommendations, reasons and explanations with regard to said estimates as shall be deemed necessary by the Budget Board. The Budget Board shall, at the same time, transmit to the legislative assembly all statements, estimates and requests, or copies thereof, which were filed with the State Auditor by officers, boards and commissions as required by Section 3 of this Act.

Approved March 7th, 1923.

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## BUILDING AND LOAN ASSOCIATIONS

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### CHAPTER 148.

(H. B. No. 73—Starke.)

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#### TERMS OF DIRECTORS.

An Act to Provide for the Election of Directors of Building and Loan Association for the Term of Three Years.

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

Sec. 1. That a Building and Loan Association organized

under the laws of the State of North Dakota may provide by its by-laws for the election of its directors for a term of three years.

Sec. 2. That when any such Building and Loan Association adopts by-laws for the election of its directors for a term of three years, then at the first annual election of directors, after the adoption of such by-laws, the directors shall be divided into three groups equal in number as nearly as practicable, the first group to be elected as directors for a period of one year, the second group for a period of two years, and the third group for a period of three years so that as nearly as possible the terms of one-third of such directors shall expire each year and thereafter such directors shall be elected for the full period of three years.

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

Approved February 19th, 1923.

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## CARNIVALS

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### CHAPTER 149.

(S. B. No. 315—Whitman.)

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#### CARNIVALS.

An Act Defining Carnivals and Prohibiting the same except under certain restrictions; Defining the Powers and Duties of town and fair boards in Regard thereto; and Providing a Penalty.

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

Sec. 1. DEFINITIONS.) The word "Person" as used in this Act shall mean and include natural persons, firms and corporations and their clerks, agents and abettors. The word "Carnival" shall mean and include an aggregation of attractions, whether shows, circuses, acts, games, vending devices, or amusement devices whether conducted under one or more managements or independently, which are temporarily set up or conducted in a public place or upon any private premises accessible to the public with or without admission fee and which, from the nature of the aggregation, attracts attendance and causes promiscuous co-mingling of persons in the spirit of merrymaking and revelry. The words "Town Board" shall mean and include village or city councils or commissions, or their agents, duly authorized to make any contract or issue any permit as provided

in this Act. The words "Fair Board" shall mean and include the officers of any state or county fair association, or their agents duly authorized to make any contract or issue any permit as provided by this Act.

Sec. 2. CARNIVALS, WHEN PERMITTED, PROHIBITIONS.) No person shall within this state set up, run, operate, or conduct any itinerant carnival except within the limits of an incorporated municipality, or within the limits or upon the grounds of a state or county fair association and then only when such person shall have procured and has in his possession a written contract and permit from the Town Board of the municipality or the Fair Board of the fair association where such carnival is set up and operated setting forth the conditions under which such carnival shall be operated. The permit shall be granted upon the condition and the contract shall state that there shall not be set up or operated any gambling device, lottery, number or paddle wheel, number board, punch board, or other game of chance or skin game of any kind whatsoever; or lewd, lascivious or indecent show, indecent exposure of the person, suggested lewdness or immorality, the hooche-kooche or other indecent dance, men only shows, where women or girls perform, or any other lewd, immoral or indecent show or attraction; and that such will not be allowed or permitted and that such person will not knowingly allow or permit to follow or be connected with such carnival any man or woman infected with venereal disease and will cooperate with such town or fair board discovering and apprehending any such man or woman.

Sec. 3. POWERS AND DUTIES TOWN AND FAIR BOARDS.) No such permit shall be granted by such town board or fair board until they shall have investigated such carnival and are satisfied that, if permitted, the same will be operated in accordance with the laws of the state and ordinances of the municipality and that none of the illicit or unlawful acts mentioned in the contract will be permitted. Such town boards and fair boards are hereby authorized to enter into such contracts, issue such permits, collect such permit fees as are necessary to pay expenses of said investigation, aid in policing such grounds and in otherwise compensating such municipality or association in such amount as they may determine and shall require such person to execute and deliver to such municipality a bond in the penal sum of not to exceed \$500.00 to be approved by such board, conditioned for the faithful conduct of such carnival in accordance with the laws and ordinances and that the same shall be forfeited upon the violation of the laws or acts prohibited by such contract. The said town board and fair board are hereby required to enforce the provisions of this Act, such contract made and entered into, the laws of this state and the ordinance of such

municipality in relation to such carnivals and shall not allow or permit the acts prohibited in this Act by such person. Each license shall contain the provision that sheriffs, constables, and police officers shall have free access to the grounds and all booths, shows and concessions on such grounds at all times and it shall be the duty of all officers present at such carnival to enforce all the provisions of this act and the laws of this state.

Sec. 4. CONTRACT, PERMIT MUST BE SHOWN.) The contracts and permits as provided for in this Act shall be made in duplicate and one shall be in the possession of the town or fair board and the other in the possession of the manager of such carnival and in either case shall upon request of an officer or citizen be produced and shown. Refusal to show the same to one asking to see it, shall be presumptive evidence that such carnival is being operated without such contract or permit.

Sec. 5. PENALTY.) Any person or persons, town board or fair board, who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and shall upon conviction be fined in any sum not less than \$50.00 nor more than \$500.00, or be confined in the county jail not to exceed 90 days, or by both such fine and imprisonment.

Sec. 6. EMERGENCY.) Whereas, there is repeatedly left in the trail of such carnivals venereal disease and such carnivals operate numerous gambling devices and skin games, this Act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 6th, 1923.

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## CHILD WELFARE

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### CHAPTER 150.

(S. B. No. 172—Baird and Baker.)

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#### POWERS AND DUTIES OF BOARD OF ADMINISTRATION.

An Act Granting to and Imposing Upon the Board of Administration Certain Powers and Duties With Referance to the Welfare of Children, and the Administration and Enforcement of Laws Relating Thereto.

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

Sec. 1. In addition to the other duties prescribed by law the Board of Administration shall have the following duties and powers:

(a) To license, supervise and regulate hospitals and lying-in places, which receive women for maternity care, homes and institutions receiving children for temporary or permanent care, and all other child helping and child placing organizations, (except such hospitals, institutions or organizations as are fully supported by, and under, the direction, control and management of the state):

(b) To investigate the homes into which children are placed for permanent care or adoption, and to withdraw all such children who are found to be in unsuitable homes:

(c) To investigate petitions for the adoption of children, as such petitioners are referred by courts of competent jurisdiction to the Board, and to report to such courts as to the suitability of the home and the child each to the other:

(d) To accept the guardianship of the persons of children who may be committed to its care by courts of competent jurisdiction as neglected, delinquent, dependent or defective, and to make such provision for children so committed, as are within the resources of the Board, and as will afford them proper care and protection:

(e) To cooperate with the juvenile courts of the state in the investigation of all cases of delinquency, dependency and neglect, to act upon requests of such courts as probation officers, and to assist in the establishing of uniform, humane and efficient standards of juvenile court administration:

(f) To cooperate with county commissioners or the county courts of the state in the administration of the (county allowance) mother's pension law by investigation, upon request of such courts, or county commissioners, of all applications for such allowance, by friendly visiting and supervision after such allowances have been granted, and to assist in the establishment of the most enlightened standards of administration:

(g) To secure the enforcement of laws relating to the establishment of the paternity of illegitimate children and the fulfillment of the maternal and paternal obligation toward such children; to assist the unmarried pregnant woman and unmarried mother in such ways as will protect the health, wellbeing and general interests of her child:

(h) To secure the enforcement of the child labor laws, laws relating to sex offenses involving children, cruelty to and abuse of children, and the contributing by adults to the delinquency and neglect of children, and laws relating to the non-support and desertion of children.

(i) To cooperate with the superintendent of public instruction and the county superintendent of schools in the enforce of the compulsory education law:

(j) To receive and provide for such feeble-minded persons as may be committed to its guardianship by courts of competent jurisdiction:

(k) To cooperate with the Boards of County Commissioners in the selection of child welfare workers and boards.

(l) To act as parole officers of juveniles upon the request of courts or of superintendents of institutions of the state to which dependent, neglected, handicapped or delinquent children may be committed.

(m) To secure the enforcement of all laws for the protection of neglected, dependent, delinquent, illegitimate and defective children, and those in need of the special care and guardianship of the state, to take the initiative in protecting and conserving the rights and interests of such children, to inquire into such home and community environmental conditions as tend to create delinquency and neglect and to promote such remedial or preventive measures as will strengthen parental responsibility and stimulate wholesome community life, and to perform such other duties as may be conferred upon the Board by the laws ~~and~~ statutes of this state.

Sec. 2. The Board shall have authority to employ and fix the salary of an executive officer and such agents as shall be necessary to carry out the purpose of this act, and to pay such expenses as are incidental to the performance of such duties.

Sec. 3. REPEAL.) All acts or parts of acts inconsistent herewith are hereby repealed.

Approved February 24th, 1923.

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## CHAPTER 151.

(S. B. No. 193—Baird and Baker.)

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### ADOPTION.

An Act To Amend and Re-enact Sections 4444 and 4446 of the Compiled Laws of North Dakota for 1913, Relating to the Adoption of Minor Children.

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

Sec. 1. AMENDMENT.) Section 4444 of the Compiled Laws of North Dakota for 1913, is hereby amended so as to read as follows:



Sec. 4444. Except as herein provided no adoption of a minor child shall be permitted without the consent of its parent or parents, but the consent of a parent who has abandoned the child, or who can not be found, or who is insane or otherwise incapacitated from giving consent, or who has lost custody of the child through divorce proceedings or the order of a juvenile court, may be dispensed with, and consent may be given by the guardian, if there be one, or if there be no guardian by the board of administration. In case of illegitimacy the consent of the mother shall suffice; provided, however, that her consent may be dispensed with for any of the reasons hereinbefore stated.

When the parents of any minor child are dead, or have abandoned it, and can not be found, and such child has no duly appointed guardian in the state, the court shall order a hearing, with, three weekly published notices to be given, the last publication to be at least ten days before the time set for the hearing. In every such case the court shall cause such further notice to be given to the known kindred of the child as shall appear to be just and practicable; provided, that if there be no duly appointed guardian, a parent who has lost custody of the child through divorce proceedings, and the father of an illegitimate child who has acknowledged its paternity in writing, or against whom paternity has been duly adjudged, shall be served with notice in such manner as the court shall direct in all cases where the residence is known or can be ascertained.

Sec. 2. AMENDMENT.) Section 4446 of the Compiled Laws of North Dakota for 1913 is hereby amended to read as follows:

Sec. 4446. Any person may petition the district court, or county court having increased jurisdiction, in the county in which he is a resident, for leave to adopt a minor child, and if desired for a change of the child's name. Such petition by a person having a husband or wife shall not be granted unless the husband or wife joins therein.

Upon the filing of such petition the court shall require notice to be sent to the board of administration, together with a copy of the petition so filed. It shall then be the duty of the board to verify the allegations of the petition; to investigate the conditions and antecedents of the child for the purpose of ascertaining whether he is a proper subject for adoption; and to make proper inquiry to determine whether the proposed foster home is a suitable home for the child. The board shall as soon as practicable submit to the court a full report in writing with a recommendation as to the granting of the petition and any other information regarding the child or the proposed foster home which the court shall require, and no petition shall be granted until the child shall have lived for six months in the proposed foster home; provided, however, that such investigation and

period of residence may be waived by the court in exceptional cases upon good cause shown and when the court is satisfied that the proposed home and the child are suited to each other. Provided, that in all such cases the board shall receive notice of the filing of the petition and a copy thereof, together with the order of the court waiving investigation.

The files and records of the court in adoption proceedings shall not be open to inspection or copy by other persons than the parties interested and their attorneys and representatives of the board of administration, except upon an order of the court expressly permitting the same.

Sec. 3. REPEAL.) All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 2nd, 1923.

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## CHAPTER 152.

(S. B. No. 189—Baird and Baker.)

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### TRANSFER OF RIGHTS IN CHILDREN.

An Act Concerning the transfer of rights in children and for the repeal of Chapter 77 of the Laws of 1919.

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

Sec. 1. ASSIGNMENT OF CHILDREN PROHIBITED.) No person, partnership, voluntary association or corporation, other than the parents or relatives of a child, may assume the permanent care and custody of a child under the age of eighteen years, unless authorized so to do by an order or decree of a district court having jurisdiction. No parent shall assign, or otherwise transfer his rights or duties with respect to the care and custody of his child under eighteen years of age, and any such transfer or assignment, written or otherwise, hereafter made shall be void. Provided, that this section shall not affect the right of the parent to consent in writing to the legal adoption of his child, but such written consent shall not operate to transfer any right in the child in the absence of a decree by the district court.

Sec. 2. REPEAL.) Chapter 77, Laws of 1919, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

Sec. 3. PENALTY.) Any person who violates any of the provisions of this act shall upon conviction be guilty of a misdemeanor.

Approved March 2nd, 1923.

## CHAPTER 153.

(S. B. No. 191—Baird and Baker.)

## CUSTODY OF CHILD.

An Act Amending and Re-enacting Section 4424, Compiled Laws of North Dakota for 1913, relating to the custody, service or earnings of minor children.

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

Sec. 1. AMENDMENT.) Section 4424, Compiled Laws of North Dakota for 1913, is hereby amended so as to read as follows:

Sec. 4424. WHO ENTITLED TO THE CUSTODY OF A CHILD.) A father and mother of a legitimate unmarried minor child are entitled equally to its custody, services and earnings, and neither can transfer such custody, services and earnings to any other, without the written consent of the other, except in case of death, desertion or abandonment.

Sec 2. REPEAL.) All acts and parts of acts inconsistent herewith are hereby repealed.

Approved March 5th, 1923.

## CHAPTER 154.

(S. B. No. 176—Baird and Baker.)

## CARE OF CRIPPLED CHILDREN.

An Act Providing for the care and treatment of indigent crippled or deformed children.

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

Sec. 1. If the parent, parents, guardian or person having the custody of any child under eighteen years of age who is crippled are unable to secure for such child the surgical and hospital treatment necessary to place such child in as nearly normal a physical condition as is possible, application in writing duly verified by the person making the same shall be made to the district court of the county in which the child resides, setting forth the name and age of the child, the name or names of his parents, guardian or custodian, their financial ability, the physical condition of the child and the need of surgical or other hospital treatment and the probable cost thereof. Upon the filing of such petition the district court, or one of the judges thereof, shall order an investigation of the allegations of the petition by a probation officer, or other agent of the court, who shall make a written

report upon such investigation. When such report is filed the court forthwith shall fix a day for the hearing of said matter, not less than three nor more than thirty days after the filing of the report, and shall issue a summons requiring the child, together with the parent or parents, guardian or other person or persons having the custody of the child and the State's Attorney and the chairman of the board of county commissioners wherein the child resides, to appear before the court at the time fixed to show cause why the child should not be dealt with according to the provisions of this act. The summons shall be served upon such persons in the manner provided for the service of a summons in a civil action, and if there is no parent, guardian or other person having the custody of the child, the court shall appoint a suitable person to act in behalf of the child as guardian ad litem upon whom service of the summons shall be made. If upon such hearing the court shall find that the parents are unable to provide the necessary surgical and hospital care necessary for the proper treatment of the child, it shall commit the child to the temporary custody and care of the State Board of Administration, or other officer or agency by whatever name designated having charge of child welfare in the state, and if no such board, officer or agency exists, the court shall commit the child to the temporary custody and care of a suitable person, organization or agency and such board, officer, person, organization or agency shall assume care of the child and shall secure for it the treatment necessary and appropriate to the child's physical condition, in any hospital within the state where medical and surgical service can be secured without charge. When treatment is complete the transportation and hospital expenses of the child shall be certified to by the board, officer, agency, organization or person to whom the temporary custody of the child was committed, and upon such certificate shall be approved by the district court and thereupon shall become a charge against the county in which such child resides. Upon discharge from the institution the child shall be released from further custody and care and the prior commitment thereof revoked.

Nothing in this Act shall be construed as compelling any specific treatment to any child, contrary to the objection of the parent, guardian or person standing in loco parentis.

Approved March 5th, 1923.

## CHAPTER 155.

(S. B. No. 177—Baird and Baker.)

## CHILD LABOR.

An Act Regulating the Employment of Child Labor and to Provide for the Enforcement thereof, and to Prescribe Penalties for Violations of the Act and Repealing Chapter 153, Laws of 1909, the Same Being Section 1404 to 1414 Inclusive, Compiled Laws for 1913.

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

Sec. 1. UNLAWFUL TO EMPLOY CHILD UNDER FOURTEEN YEARS.) No child under fourteen years of age shall be employed, permitted or suffered to work in or in connection with any factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in any business or service whatever, during any part of the hours during which the public schools of the district in which the child resides are in session.

Sec. 2. EMPLOYMENT OF CHILD UNDER SIXTEEN YEARS.) No child between fourteen and sixteen years of age shall be employed, permitted, or suffered to work in any factory, workshop, or mercantile establishment unless the person or corporation employing him procures and keeps on file, and accessible to the superintendent of schools of the city or village, if one is employed, otherwise to the clerk of the school board or board of education, an employment certificate as hereinafter prescribed, and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the building in which such child is employed. On termination of the employment of a child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parents or guardian or custodian. The superintendent of schools or clerk of the school board or board of education, or any member or agent of the Workmen's Compensation Bureau, or of the board of administration, or of the county board of child welfare, if there be any, or any school attendant, or truant officer, or any other officer charged with the enforcement of child labor, compulsory education or other child welfare laws, as the case may be, may make demand on any employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work and whose employment certificate is not then filed as required by this act, that such employer shall either furnish him within ten days, evidence satisfactory to him, that such child is in fact over six-

teen years of age, or shall cease to employ or permit or suffer such child to work in such factory. Such officer may require from such employer the same evidence of the age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer shall fail to produce and deliver to such officer, within ten days after such demand, such evidence of age herein required by him and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this act that such child is under sixteen years of age and is unlawfully employed.

Sec. 3. WHO AUTHORIZED TO ISSUE EMPLOYMENT CERTIFICATE.) The superintendent of schools of the city or village, if one is employed, and if not, then the clerk of the school board or board of education, is hereby authorized to issue an employment certificate in writing, such certificate to be issued upon the evidence prescribed in section four of this act; provided, that no employment certificate shall be issued for any child then in or about to enter his own employment, or the employment of a firm or corporation of which he is a member, officer or employe.

Sec. 4. EMPLOYMENT CERTIFICATE, ON WHAT ISSUED.) The person authorized to issue employment certificate shall not issue such certificate until he has received, examined, approved, and filed the following papers duly executed:

(a) A birth certificate or duly attested transcript thereof issued by the registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A baptismal certificate or transcript of the record of baptism, duly certified, showing the date of birth and place of baptism of child, or

(c) A bona fide contemporary record of the date of the child's birth, comprising a part of the family record or births in the Bible, or other documentary evidence satisfactory to the board, such as a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, a passport showing the age of the child, or a life insurance policy; provided, that such other satisfactory documentary evidence has been in existence at least one year, and in the case of a life insurance policy at least four years; and provided further, that a school record or a parent's, guardian's or custodian's affidavit or other written statement of age shall not be accepted except as specified in paragraph (d), or

(d) A certificate signed by a public-health physician or a public-school physician, stating, in his opinion, the physical age of the child. Such certificate shall show the height and weight of the child and other evidence of physical age revealed by the physician's examination or upon which the opinion of the physician is based. A parent's, guardian's or custodian's signed statement as to the age of the child, and a record of age as given on the register of the school first attended by the child, or in any school census, if obtainable, shall be submitted with the physician's certificate showing physical age. No certificate shall be issued if the physician's certificate of physical age or the parent's statement or the register of the school first attended or the school census shows the child to be under the age of fourteen if employment in a mill, cannery, workshop, factory or manufacturing establishment is contemplated, or under the age of sixteen if employment in a mine or quarry is contemplated.

The agent issuing the age certificate for a child shall require the evidence of age stated in paragraph (a) in preference to that specified in any subsequent paragraph, and shall not accept evidence of age permitted by any later paragraph, unless he shall receive and file evidence that the proof of age required by the preceding paragraph or paragraphs cannot be obtained, or

(e) A letter written on the regular letter-head, or other business paper, used by the person who desires to employ the child, stating the intention of such person to employ such child, and signed by such person or someone duly authorized by him, or

(f) A certificate of the superintendent or other principal or chief executive officer of the school which such child last attended, or in the absence of such person, a certificate of the clerk of the school board, showing that such child is more than fourteen years of age, and stating the date of the birth of such child and the number of years the child has attended school and the name of the parent, guardian or custodian of the child, as shown on the records of the school. Such employment certificate shall not be issued to permit employment during the school term unless the said certificate as to the child's school record shall contain the statement that such child has passed successfully the Eighth grade in the public school, or that the child has attended school at least nine years. Attendance at kindergarten shall not be counted as a part of the nine years' school attendance. It shall be the duty of such superintendent, principal or clerk, to issue such certificate upon receipt of any application in behalf of any child entitled thereto; provided, that during any vacation season a certificate of employment may be issued, if it shall be certified in addition to the other requirements herein specified, that the applicant has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not

less than one hundred twenty days during the school year previous to his arriving at the age of fourteen years, or during the year previous to his applying for such school record, and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions; provided, further, that any such employment certificate issued during the vacation period upon such school record shall show on its face that it is a vacation certificate, and is valid only for the vacation period; provided, further, that a certificate permitting the employment of a child during the school term, but not during the daily period of the school sessions, may be granted upon compliance with the requirements for a vacation certificate, if such child is in actual, regular and full time attendance at school in any public, private or parochial school, as provided by law, and maintain in such school a passing grade in all studies pursued. No child, however, shall be employed who at the time is guilty of truancy or deficiency in his studies.

Sec. 5. CONTENTS OF CERTIFICATE.) Such employment certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Sec. 6. TERMINATION OF EMPLOYMENT.) Upon the termination of the employment of any minor, his employer shall forthwith return the certificate of employment to the authority issuing the same, and thereafter a new certificate shall be issued only upon presentation by the child of a new promise of employment, and a new certificate of physical fitness.

Sec. 7. REVOCATION OF CERTIFICATE.) Whenever it shall appear to the officer issuing a certificate of employment or his successor, that such certificate has been improperly or illegally issued, or that the physical or moral welfare of the child would be best served by the revocation of the certificate, such officer may forthwith revoke the same and shall, by registered mail, notify the person employing such child, and the child holding the certificate of such revocation. The employer immediately upon receiving such notice shall forthwith return the revoked certificate to the officer revoking the same, and discontinue the employment of the child.

Sec. 8. HOURS OF LABOR.) No persons under the age of sixteen years shall be employed or suffered or permitted to work



at any occupation, except domestic services and farm labor, more than forty-eight hours in any one week, nor more than six days in any one week, nor more than eight hours in any one day, nor before the hour of seven o'clock in the morning, nor after the hour of seven o'clock in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed, a printed notice, stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner, or times allowed for other meals, begin and end. The printed form of such notice shall be furnished by the superintendent of schools of the city or village, or the clerk of the school board, or board of education, or the Workmen's Compensation Bureau, or the board of administration, or the county board of child welfare, if there be one, and the employment of any minor for longer times in any date so stated shall be deemed a violation of this section.

Sec. 9. PEACE OFFICERS TO INSPECT PLACES OF WORK.) Peace officers may visit mines, factories, workshops and mercantile establishments within their several jurisdictions, and ascertain whether any minors are employed therein contrary to the provisions of this act; and it shall be their duty to report any cases of such illegal employment to the school board, or the board of administration, or the county board of child welfare, if there be one. Such officer may require that the employment certificates and lists provided for in this act of minors employed in such factories, mines, workshops or mercantile establishments shall be produced for their inspection. Complaints for offenses under this act may be made by such peace officer or by any other person cognizant of the facts.

Sec. 10. EMPLOYMENTS.) No child under the age of sixteen years shall be employed at mining, sewing belts, or to assist in sewing belts, in any capacity whatever; nor shall any child adjust any belt to any machinery; they shall not oil or assist in oiling, wiping or cleaning machinery; they shall not operate or assist in operating circular or band saws, wood-shapers, wood-joiners, planers, sandpaper or wood polishing machinery, emery or polishing wheels used for polishing metal, wood-turning or boring machinery, stamping machines in sheet metal and tinware manufacturing, stamping machines in washer and nut factories, operating corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating any steam boiler, steam machinery, or other steam generating apparatus, or as pin boys in any bowling alleys; they shall not operate or assist in operating dough brakes, or cracker machinery of any description; wire or iron straightening machinery; nor shall they operate or assist in operating rolling mill machinery, punches or shears, washing,

grinding or mixing mill or calendar rolls in rubber manufacturing; nor shall they operate or assist in operating laundry machinery; nor shall children be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacture of paints, colors, or white lead; nor shall they be employed in any capacity whatever in operating or assisting to operate any passenger or freight elevator; nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes, or any other employment that may be considered dangerous to their lives or limbs, or where their health may be injured or morals depraved; nor in any theater, concert hall, or place of amusement; nor shall females under sixteen years of age be employed in any capacity if such employment compels them to remain standing constantly; provided, that this section shall not prevent the education of a child in music, nor employment as a singer or musician in a church, school or academy, nor in any school or home talent exhibition given by the people of a local community; and provided further, that a child under sixteen years of age may be employed in a theater, concert hall or place of amusement if a permit therefor be first obtained from the judge of the juvenile court, or juvenile court commissioner, where the child resides, or from the county board of child welfare, if there be one. Such permit shall be granted only if it appears to the satisfaction of such court, or board of child welfare, that the appearance of such child will not be detrimental to its morals, health, safety, welfare or education.

Sec. 11. DUTIES OF BOARD OF ADMINISTRATION.) It shall be the duty of the Board of Administration to prepare all blanks necessary in the administration of this act, to distribute the same to the school officers and authorities of the state, to exercise general supervision over the administration of the provisions of this act, and to enforce the same, with full power of visitation and inspection of all factories, industries and other establishments in which children may be employed, permitted or suffered to work. All violations of the act brought to the attention of the said board shall be referred to the state's attorney of the proper county for prosecution.

Sec. 12 REGULATIONS.) The Board of Administration shall have the power, jurisdiction and authority, in addition to the powers now vested in it, to fix the maximum hours and minimum wage and standard conditions of labor for minors, to investigate, determine and fix reasonable classifications of employments and places of employment for minors, to issue general or special orders, prohibit employment of such minors in any employment or place of employment dangerous or prejudicial to the life, health, safety or welfare of such minors; provided, that

any such regulations made by such board shall be in addition to those specified in this act.

Sec. 13. PENALTY FOR VIOLATION OF THIS ACT.) Each owner, superintendent, manager or overseer of any mine, factory, workshop, or mercantile establishment, or any other person who shall employ any child contrary to the provisions of this act or of the regulations of the Board of Administration as herein provided, or who shall in any manner violate the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense in a sum not less than twenty dollars nor more than fifty dollars and costs. Each person authorized to sign a certificate as prescribed in the preceding sections who certifies to any material false statement therein shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty dollars nor more than fifty dollars and costs.

Sec. 14. PROSECUTION, HOW BROUGHT.) Prosecutions under this act shall be brought in the name of the state of North Dakota before any court of competent jurisdiction, and the fines collected shall be paid over to the county treasurer and by him credited to the general fund of the state.

Sec. 15. REPEAL.) Sections 1404 to 1414 inclusive, Compiled Laws for 1913, and all acts, or parts of acts, in conflict with this act, are hereby repealed.

Approved March 2nd, 1923.

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## CHAPTER 156.

(S. B. No. 185—Baird and Baker.)

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### MOTHERS' PENSIONS.

An Act to Amend and Re-enact Chapter 185 of the Session Laws of 1915, Relating to the Support of Needy Women Who are the Mothers of and Who are Compelled to Support One or More Children under Sixteen Years of Age.

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

Sec. 1. ALLOWANCE TO MOTHERS.) In every county in the State of North Dakota any mother who has one or more children under the age of sixteen years, who are dependent upon her for support, shall receive an allowance of fifteen dollars a month for each such child, or such portion of it as becomes necessary for the support of each such child, such sum to be paid out of the county treasury as hereinafter provided. Said dependency of

child or children must be due to death of father or his inability or unfitness to support them by reason of physical or mental ailment or to his confinement in a penal institution, when such inability extends over a period of at least six months.

Sec 2. CONDITIONS OF ALLOWANCE.) Such allowances shall be made by the county court only with the approval of the county commissioners and only upon the following conditions:

(1) The child or children for whose benefit the allowance is made must be living with the mother;

(2) The allowance shall be made only when in its absence the mother would be unable to maintain a suitable home for her children;

(3) The mother must in the judgment of the county court be a proper person morally, physically and mentally for the bringing up of her children;

(4) When the allowance shall be necessary in the judgment of the county court to save the child or children from neglect;

(5) When the mother has been a resident of the county in which the application is made at least one year previous to the making of such application;

(6) When the mother is a citizen of the United States, or has legally declared her intention to become a citizen;

(7) When it appears that any mother, whose children are dependent by reason of the non-support, abandonment or desertion of her husband for six months or longer, has made criminal complaint against such husband, or father of the children, and has assisted and will continue to assist in all reasonable efforts to locate and to prosecute him.

(8) When it appears that the father of the dependent children is physically or mentally unable or unfit to support them, he must be under proper and reasonable treatment for the possible removal of such defect.

(9) Each applicant under this act shall make a full disclosure of all of her real and personal property, if any, and shall not be eligible for an allowance when in the opinion of the court she has sufficient real and personal property to provide for the needs of her children.

(10) If the county court finds that the funds allowed under this act are not judicially used it may order the allowance made in supplies and provisions in which case it shall be administered

by the county child welfare board, if there be one, or by some proper person appointed by the court.

Sec. 3. WHEN ALLOWANCE SHALL CEASE.) When any child shall reach the age of sixteen years any allowance made to such mother for the benefit of such child shall cease.

Sec. 4. INVESTIGATION.) Before making any order of allowance under this act it shall be the duty of the court, either through the judge in person or a probation officer designated for that purpose, to make inquiry as to all the points necessary to establish the right to such allowance, and particularly to inquire whether the surroundings of the household, including its members, are such as to make for the good character of children growing up therein to ascertain all the financial resources of the family, including the ability of its members of working age to contribute to its support, and if need be to urge upon such members, their proper contribution; to take all lawful means to secure support for the family from relatives under legal obligation to render such support; to ascertain the ability of other relatives to assist the family, and to interview individual societies and other agencies which may be deemed appropriate sources of such assistance. Every family to which an allowance has been made shall be visited at its home by a representative of the court at least once in three months, and after each visit the person making the same shall make and keep on file as a part of the official record of the case a detailed statement of the condition of the home and family, and all other data which may assist in determining the wisdom of the allowance granted and the advisability of its continuance.

Sec. 5. DUTIES OF COUNTY OFFICERS.) In each case where an allowance is made under the provisions of this act and approved by the board of county commissioners an entry to that effect shall be made upon the records of the county court making such allowance, and the county judge shall notify the county commissioners, county auditor and county treasurer that such allowance will be made, and it shall be the duty of such officers to make provision for paying such allowance monthly until notified by the court that it shall be discontinued.

Sec. 6. APPLICATION—HEARING.) Applications shall be made in writing to the county court by a person desiring aid or by some citizen in her behalf, stating her residence, whether the applicant is a citizen or has declared her intention to become a citizen, the number of dependent children, their ages, and a detailed statement of her real and personal property, if any, and of her income, if any, together with an estimate of her probable needs in order to maintain her home. The court shall set a day for a hearing, giving notice in writing to the county commissioner of the district in which such woman resides, and to

the county child welfare board, if there be one. The hearing shall be not less than fifteen days from the date of such notice. Any interested taxpayer, may file a statement with the court, or may appear in person on the day set for the hearing, in support of, or protest against, the granting of such application, and may appeal to the district court for reversal or modification of the action of the county court or the Board of County Commissioners on such application.

Sec. 7. DUTIES OF BOARD OF ADMINISTRATION.) It shall be the duty of the board of administration to promote efficiency and uniformity in the administration of this act, and to that end it shall advise and cooperate with county courts with respect to methods of investigation, oversight and record keeping; shall in cooperation with the county judges advise, recommend and distribute blank forms and shall assist the county judges in such other ways as may be requested by them.

Sec. 8. PURPOSE OF ACT.) The purpose of this act is hereby declared to be to enable the state and its several counties to cooperate with the responsible mothers in rearing future citizens. The court may at any time alter, modify or discontinue any allowance granted whenever it shall appear that such purpose is not being fulfilled. It is the further purpose of this act to provide permanent aid to such mothers and their children as come within its provisions. All temporary aid shall be granted under such laws as exist for that purpose.

Sec. 9. All mother's pensions granted prior to the time of the taking effect of this article, under the laws now enforced, are by this act cancelled and no further payments shall be made thereunder.

Sec. 10. PENALTY FOR VIOLATION.) Any person fraudulently procuring or attempting to procure an allowance under this act shall be guilty of a misdemeanor, unless the fraudulent act shall constitute a felony under the laws of the state.

Approved March 5th, 1923.

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## CHAPTER 157.

(S. B. No. 188—Baird and Baker.)

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### PLACING OF CHILDREN WITH DELINQUENTS.

An Act Prohibiting the placing of children, either for temporary or permanent care, in almshouses, or in Institutions, charitable, penal or reformatory, where delinquent children are kept.

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

Sec. 1. It shall be unlawful for any person, association, cor-

poration, institution, or agency to place any child in any almshouse in this state, or in any other institution, charitable, penal or reformatory, in which delinquent children, or children charged with delinquency, are kept, without the consent of the State Board of Administration; provided, however, that a child may be permitted to remain in an almshouse with his or her parent, or parents, who may be confined therein, if the consent of the State Board of Administration be first obtained.

Sec. 2. Any person, association, corporation, institution or agency violating the provisions of this act shall be deemed guilty of a misdemeanor.

Approved March 1st, 1923.

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## CHAPTER 158.

(S. B. No. 194—Baird and Baker.)

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### DEPENDENT CHILDREN.

An Act to Amend and Re-enact Sections 5109 and 5110 of the Compiled Laws of North Dakota for 1913.

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

Sec. 1. AMENDMENT.) Section 5109 of the Compiled Laws of North Dakota for 1913 is hereby amended so as to read as follows:

Sec. 5109. Any minor child under the age of eighteen years, who shall by reason of the failure of either or both of its parents or custodian to support such child, become dependent upon public charity, or who may be deserted by its parent or parents or custodians without arrangement for its proper care, shall be deemed abandoned and may be cared for at public expense by the overseers of the poor. Such child shall also be subject to the jurisdiction of the juvenile court of this state and may be committed to any reputable person or organization duly licensed for the care of children, or otherwise, as provided for the commitment by that court of dependent and neglected children.

Sec. 2. AMENDMENT.) Section 5110 of the Compiled Laws of North Dakota for 1913 is hereby amended so as to read as follows:

Sec. 5110. Any minor child under the age of eighteen years, who shall have been left for board with any reputable organization incorporated under the laws of North Dakota and licensed by the board of administration, for the care of placing

of children, and whose board shall not have been paid for a period of three months without reasonable excuse, shall be subject to the jurisdiction of the juvenile court and may upon a proper proceeding be committed to the guardianship of such organization, or otherwise, as provided for the commitment by the court of dependent and neglected children.

Approved March 2nd. 1923.

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## CHAPTER 159.

(S. B. No. 178—Baird and Baker.)

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### IMPORTATION AND EXPORTATION OF CHILDREN.

An Act Relating to the bringing of children into the state, or taking children therefrom, for placement in family homes; for the licensing or regulation of persons and corporations engaged in that work; and for the repeal of Sections 5107 and 5108, Compiled Laws for 1913.

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

Sec. 1. IMPORTATION OF CHILDREN.) Any person, partnership, voluntary association or corporation, which undertakes to bring or send children from any state into this state for placement in family homes, shall first procure a license from the board of administration and file with that board a bond to the state in the sum of one thousand dollars, to be approved by the Attorney General, conditioned that no child will be brought into the state who is incorrigible, unsound of mind or body, or likely to become a public charge; that any child so brought in will be promptly removed upon notice from the board; that upon the placing of children brought into the state in family homes a report will be made to the board; and that all the provisions of the statutes relating to the placement of children will be complied with. Provided, however, that this section shall not apply to a resident of the state who personally brings a child into the state for permanent care or adoption into his own family, except that in such case he shall report to the board his own name and address, the name of the child, and the name and address of the person, organization or institution from which the child was received.

Sec. 2. EXPORTATION OF CHILDREN.) No person, partnership, voluntary association or corporation, shall take or send any child out of the state for placement in a family home in another state without first securing the consent of the Board of Administration so to do, and without first reporting to that board the name and address of any child so taken or sent and the name and address of the family which is to receive the child, together with such information concerning the family and the child as the board may



require. Provided, however, that this section shall not apply to a parent who personally removes his child from the state.

Sec. 3. PENALTY.) Any person who violates any of the provisions of this act shall be guilty of a misdemeanor.

Sec. 4. REPEAL.) Sections 5107 and 5108 of the Compiled Laws for 1913, and all acts or parts of acts, inconsistent herewith, are hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 160.

(S. B. No. 180—Baird and Baker.)

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### SOCIETIES FOR CARE OF CHILDREN.

An Act Relating to the powers of certain societies for the care and placement of dependent children, and to amend and re-enact Sections 5100 and 5101, Compiled Laws for 1913.

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

Sec. 1. AMENDMENT.) Section 5100, Compiled Laws for 1913, is hereby amended so as to read as follows:

Sec. 5100. Whenever not less than twenty reputable citizens of the state of North Dakota have associated, or shall associate, themselves into a corporation under the laws of this state, for the purpose of securing homes for orphans, or for homeless, dependent, neglected or grossly ill-treated children, by adoption or otherwise, into family homes, have secured a license from the board of administration to carry on such work of placing children in foster homes, and have filed, or shall file, with the secretary of state, their articles of incorporation, together with a certificate signed by the governor and three or more members of the supreme court of the state of North Dakota, of their confidence in said corporation, it shall have power to receive such children for the purpose above expressed, in the manner herein specified; provided, that at the end of ten years such power shall cease unless a new certificate as provided above, signed by at least three members of the supreme court of North Dakota, shall be filed as above, and such certificate shall be filed every ten years during the continuance of such society. Such society shall have a main office and adopt rules for the transaction of business, which shall be published, and its financial records shall be open to the inspection of the public.

Sec. 2. AMENDMENT.) Section 5101, Compiled Laws for 1913, is hereby amended so as to read as follows:

Sec. 5101. Such society shall have the power to receive into its hands and under its control, and may become the legal guardian of, any child under fourteen years of age without its consent, and over fourteen years and under eighteen years with his consent, who shall be committed as a delinquent, dependent or neglected child, to its guardianship by a court of competent jurisdiction; and such society is hereby authorized and empowered to consent, through its duly authorized agent, in the courts of this state, to the adoption of such child in accordance with the statutes of the state on that subject, and such agent or such society shall have power to administer oaths and acknowledge affidavits in all matters pertaining to the business of such society. Such society shall have the power and authority to enter into agreements with persons taking children which agreements in each case shall provide for the proper care of the child until it shall reach the age of eighteen years, and may also provide that any such child so placed shall be returned to the society upon its request.

Approved March 2nd, 1923.

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## CHAPTER 161.

(S. B. No. 181—Baird and Baker.)

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### CHILDRENS' HOMES.

An Act Providing for the Licensing and Regulation of Homes and Institutions Caring for Children and for the Repeal of Chapter 183 of the Session Laws of 1915.

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

Sec. 1. LICENSE REQUIRED.) Any person, partnership, voluntary association or corporation, which owns or operates a home or institution receiving, during the calendar year, more than three children under the age of eighteen years, shall procure annually from the board of administration a license so to do: provided, however, that this act shall not apply when the children received by such person are related to him by blood or marriage; and provided, further, that this act shall not apply to any home or institution under the management and control of the state.

Sec. 2. LICENSE, HOW GRANTED.) Licenses under this act shall be granted by the board of administration and shall be in force and effect for a period not exceeding one year. Such licenses shall be issued to reputable and responsible persons upon a showing that the premises to be used are in fit sanitary condition and properly equipped to provide good care for all chil

dren who may be received. It shall also appear that the persons in active charge of such a home or institution, and their assistants, are properly qualified to carry on efficiently the duties required of them; that such home or institution is likely to be conducted for the public good in accordance with sound social policy, and with due regard to the health, morality and wellbeing of all children cared for therein; and that the institution or home will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board.

Sec. 3. LICENSE, HOW REVOKED.) The board of administration shall have authority to revoke the license of any home or institution upon a proper showing that any of the conditions set forth in Section 2 as prerequisites for the issuance of the license, no longer obtain, or that the license was issued upon fraudulent or untrue representations; or that the owner or proprietor of such home or institution has violated any of the rules and regulations of the board of administration, or has been guilty of the violation of any law of the state disclosing moral turpitude.

Sec. 4. LICENSE—HEARING WHEN DENIED.) Before any application for a license under the provisions of this act shall be denied, or before revocation of any such license shall take place, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the board of administration, if such hearing is requested within ten days after service of the written charges.

Sec. 5. APPEAL.) There shall be an appeal to the district court from any decision of the board of administration denying an application or revoking a license. The procedure of such appeal shall be the same so far as applicable as in the case of appeal from a decision of the board of county commissioners. The written notices and decisions shall be treated as pleadings. The appeal may be brought on for hearing summarily by an order to show cause. Either party may appeal to the supreme court within five days after notice of filing the decision in the manner provided for appeals in a civil action. No revocation shall be effective until the determination of an appeal.

Sec. 6. AUTHORITY OF BOARD OF ADMINISTRATION.) The Board of Administration may prescribe forms for the registration and record of all children cared for in any home or institution licensed under this act, and shall make such reasonable rules and regulations for the conduct of such place as are necessary to carry out the purposes of this act. The board and its authorized agents, may inspect such licensed premises at any time, and shall have full and free access to every part thereof. All records shall be open for their inspection and they shall have authority to see and interview all children cared for therein.

Sec. 7. RECORDS PROTECTED.) No agent of the board shall disclose the contents of the records of homes or institutions licensed under this act, or of reports which may be received therefrom, except in a judicial proceeding, or to officers of the law or other legally constituted boards or agencies, or to persons having a definite interest in the well-being of the child or children concerned and who are in a position to serve their interests should that be necessary.

Sec. 8. ACTS PROHIBITED.) No licensee under the provisions of this act shall hold himself out as having authority to dispose of any child, or advertise that he will give children for adoption, or hold himself out, directly or indirectly, as being able to dispose of children, unless he shall have been expressly licensed so to do by the Board of Administration in accordance with law.

Sec. 9. PENALTY.) Every person who violates any of the provisions of this act shall upon conviction be guilty of a misdemeanor.

Sec. 10. REPEAL.) Chapter 183, Session Laws of 1915, and all acts or parts of acts inconsistent herewith, are hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 162.

(S. B. No. 179—Baird and Baker.)

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### PLACING OF CHILDREN IN FAMILY HOMES.

An Act Relating to the Placement of Children in Family Homes for Temporary or permanent Care, and Providing for the Licensing and Regulation of Persons or Corporations Engaged in that Work, and for the Repeal of Chapter 183 of the Session Laws for 1915.

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

Sec. 1. LICENSE REQUIRED.) Any person, partnership, voluntary association or corporation, which undertakes to place children in family homes for temporary or permanent care, shall procure annually from the state board of administration a license so to do, and shall be known, and is hereinafter referred to, as a child placing agency.

Sec. 2. LICENSE, HOW GRANTED.) Licenses for the conduct of child placing agencies shall be issued by the board of administration upon application and shall be granted for a period not exceeding one year. Such licenses shall be issued to reputable and responsible applicants upon a showing that they, and their agents, are properly equipped by training and experience to

find and select suitable temporary or permanent homes for children, and to supervise such homes when children are placed in them, to the end that the health, morality and general well-being of children placed by them will be properly safe-guarded.

Sec. 3. LICENSE, HOW REVOKED.) The Board of Administration shall have the authority to revoke the license of any child placing agency upon a proper showing that any of the conditions set forth in Section 2 as prerequisites for the issuance of the license no longer obtain, or that the license was issued upon fraudulent or untrue representations, or that the licensee has violated any of the rules and regulations of the Board of Administration, or has been guilty of the violation of any state law disclosing moral turpitude.

Sec. 4. LICENSE, HEARING WHEN DENIED.) Before any application for license to conduct a child placing agency shall be denied, or before the revocation of any such license shall take place, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the board if such a hearing is requested within ten days after service of the written charges.

Sec. 5. APPEAL.) There shall be an appeal to the district court from any decision of the board denying an application or revoking a license. The procedure on such appeal shall be the same so far as applicable as in the case of appeal from a decision of the Board of County Commissioners. The written notices and decisions shall be treated as pleadings. The appeal may be brought on for hearing summarily by an order to show cause. Either party may appeal to the supreme court within five days after notice of filing the decision in the manner provided for appeals in a civil action. No revocation shall be effective until the determination of an appeal.

Sec. 6. LICENSE, FORM.) The license shall state the name of the licensee and his address, shall set forth the number of children who may be placed by such licensee during the terms for which the license is issued, and shall indicate whether the licensee is authorized to find temporary or permanent homes for children, or both.

Sec. 7. AUTHORITY OF BOARD OF ADMINISTRATION.) The Board of Administration may prescribe the forms for the registration and record of children placed by such child placing agency, and shall make such reasonable rules and regulations in connection with such placements as are necessary to carry out the purposes of this act. All records shall be open to the inspection of the board.

Sec. 8. DUTIES OF LICENSEES.) Every licensee shall keep a full record and social history of each child received for placement and a similar record and history of his family. No child shall be placed in any foster home until adequate investigation has been made as to the suitability of the proposed foster parents and their home surroundings. The licensee shall report to the Board of Administration the name and address of each child to be placed in a permanent foster home, the name and address of the proposed foster parents, and such other facts and information as shall be requested by the board. It shall thereupon be the duty of the board to visit the proposed foster home and make such other inquiries and investigations as may be necessary to ascertain whether the home is a suitable one for the child, and shall continue to visit and supervise in such manner as it may deem necessary. Whenever satisfied that a child has been placed in an unsuitable home the board may order its return to the agency which has placed it, and if such order is not obeyed within thirty days it may revoke the license of the agency so placing and shall itself take charge of, and provide for, the child.

Sec. 9. PLACEMENT CONTRACT.) Every child placing agency upon placing a child in a foster home, shall enter into a written agreement with the persons taking the child, which shall provide that the placing agency shall have access at all reasonable times to such child, and to the home in which he is living, and for the return of the child to the placing agency whenever in the opinion of such agency, or of the board of administration, the best interest of the child shall require.

Sec. 10. PENALTY.) Every person who violates any provision of this act shall upon conviction be guilty of a misdemeanor.

Sec. 11. REPEAL.) Chapter 183 of the Session Laws of 1915, and all acts or parts of acts inconsistent herewith, are hereby repealed.

Approved March 2nd, 1923.

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## CHAPTER 163.

(S. B. No. 182—Baird and Baker.)

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## BABY FARMING.

An Act to Amend and Re-enact Section 9607, and Section 9608, Compiled Laws for 1913.

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

Sec. 1. AMENDMENT.) Section 9607, Compiled Laws for 1913, is hereby amended and re-enacted so as to read as follows:

Sec. 9607. It shall be unlawful for any midwife, or other person or corporation, maintaining a maternity hospital, or lying-in hospital, or for any private midwife or nurse, or any other person or corporation caring for children, to place children in family homes for adoption, or otherwise, without a license so to do from the Board of Administration.

Sec. 2. AMENDMENT.) Section 9608, Compiled Laws for 1913, is hereby amended and re-enacted so as to read as follows:

Sec. 9608. Any person who violates the provisions of Section 9607, Compiled Laws for 1913, shall upon conviction be guilty of a misdemeanor.

Approved February 26th, 1923.

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## CHAPTER 164.

(S. B. No. 184—Baird and Baker.)

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### MATERNITY HOSPITALS.

An Act Defining and Regulating Maternity Hospitals and for the Repeal of Chapter 183 of the Session Laws of 1915.

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

Sec. 1. LICENSE REQUIRED.) Any person, partnership, voluntary association or corporation, which owns or operates a maternity hospital, as hereinafter defined, shall secure annually from the board of administration a license so to do.

Sec. 2. MATERNITY HOSPITAL DEFINED.) A maternity hospital is defined as any hospital, or other premises, where more than one woman is received during any period of six months for shelter, care or treatment during pregnancy, or delivery, or within ten days after delivery, provided, that this act shall not apply to any hospital, or other premises, owned or operated by the state.

Sec. 3. LICENSES, TO WHOM GRANTED.) Licenses for the operation of maternity hospitals shall be issued by the board of administration and shall be in force and effect for a period not exceeding one year. Licenses shall be granted to reputable and responsible persons upon a showing that the premises to be used as a maternity hospital are in fit sanitary condition and properly equipped to provide good care and treatment. It also shall appear that the persons in active charge of the hospital, and their assistants, are qualified by training and experience to carry on efficiently the duties required of them; that the hospital is likely to be conducted for the public good, and in accordance with sound

social policy; and that the health and well-being of the infants born therein, and the health, morality and well being of the parties treated therein, will be properly safe-guarded.

Sec. 4. LICENSE, REVOCATION.) The board of administration shall have authority to revoke a license of any maternity hospital upon a proper showing that any of the conditions set forth in section 3 as prerequisites for the issuance of the license no longer obtain, or that the license was issued upon fraudulent or untrue representations or that the owner or operator of such hospital has violated any of the rules and regulations of the board, or has been guilty of the violations of any law of the state disclosing moral turpitude. Before any application for license to conduct a maternity hospital shall be denied or before revocation of any such license shall take place, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the board, if such hearing is requested within ten days after service of the written charges.

Sec. 5. APPEAL.) There shall be an appeal to the district court from any decision of the board denying an application or revoking a license. The procedure on such appeal shall be the same so far as applicable as in the case of appeal from a decision of the board of county commissioners. The written notices and decisions shall be treated as pleadings. The appeal may be brought on for hearing summarily by an order to show cause. Either party may appeal to the supreme court within five days after notice of filing the decision in the manner provided for appeals in a civil action. No revocation shall be effective until the determination of an appeal.

Sec. 6. FORM OF LICENSE.) The license shall state the name of the licensee, designate the premises to which the license is applicable, and the number of patients who may be received in such premises at any one time.

Sec. 7. REGULATION BY BOARD OF ADMINISTRATION.) The board of administration may prescribe forms for the registration and record of persons cared for in maternity hospitals and shall make such reasonable rules and regulations for the conduct of such hospitals as are necessary to carry out the purposes of this act. The board and its authorized agents may inspect such hospitals at any time and shall have full and free access to every part thereof. The records shall be open for their inspection and they shall have authority to see and interview patients therein.

Sec. 8. ATTENDANCE ON BIRTHS.) Every birth occurring in a maternity hospital shall be attended by a legally qualified physi-



cian or midwife. The licensee of the hospital shall report to the board of administration all births occurring within the hospital. These reports shall be made within twenty-four hours after the birth occurs and on blanks to be provided by the board for that purpose.

Sec. 9. RECORDS PROTECTED.) No agent of the board of administration or of any board of health, or the licensee, shall disclose the contents of the records of maternity hospitals or of the reports received therefrom, except in a judicial proceeding, or to officers of the law or other legally constituted boards or agencies or to persons having a direct interest in the well-being of the patient, or her infant, and in a position to serve their interests should that be necessary.

Sec. 10. DISPOSING OF INFANTS PROHIBITED.) No licensee of a maternity hospital shall undertake, directly or indirectly, to dispose of infants by placing them in family homes for adoption or otherwise. No licensee as an inducement to a woman to go to any maternity hospital for confinement care shall in any way offer to dispose of any child, or advertise that he will give children for adoption or hold himself out, directly or indirectly, as being able to dispose of children.

Sec. 11. PENALTY.) Every person who violates any of the provisions of this act, or who makes any false statements on reports to the board of administration shall upon conviction be guilty of a misdemeanor.

Sec. 12. REPEAL.) Chapter 183 of the Laws of 1915, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

Approved March 2nd, 1923.

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## CHAPTER 165.

(S. B. No. 187—Baird and Baker.)

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### UNIFORM ILLEGITIMACY ACT.

An Act Relating to Children born out of wedlock and to make uniform the law with reference thereto, and for the Repeal of Sections 10483 to 10500 inclusive, Compiled Laws of 1913, and Chapter 70, Laws of 1917.

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

Sec. 1. OBLIGATION OF PARENTS.) The parents of a child born out of wedlock and not legitimated (in this act referred to as "the Child") owe the child necessary maintenance, education and support. The parents are liable for the child's funeral ex-

penses. The father is also liable for the expenses of the mother's pregnancy and confinement. The obligation of the parents to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

Sec. 2. RECOVERY OF MOTHER FROM FATHER.) The mother may recover from the father a reasonable share of the necessary support of the child. In the absence of a previous demand in writing, served personally or by registered mail addressed to the father at his last known residence, not more than two year's support furnished prior to the bringing of the action may be recovered from the father.

Sec. 3. RECOVERY BY OTHERS THAN MOTHER.) The obligation of the father as herein provided creates also a cause of action on behalf of the legal representatives of the mother, or on behalf of third persons furnishing support or defraying the reasonable expenses thereof, where paternity has been judicially established by proceedings brought by the mother by or on behalf of the child, or by the authorities charged with its support, or where paternity has been acknowledged by the father in writing or by the part performances of the obligations imposed upon him.

Sec. 4 . DISCHARGE OF THE FATHER'S OBLIGATION.) The obligation of the father other than under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement. The legal adoption of the child into another family discharges the obligation for the period subsequent to the adoption.

Sec. 5. LIABILITY OF THE FATHER'S ESTATE.) The obligation of the father where his paternity has been judicially established in his life time, or has been acknowledged by him in writing, signed in the presence of two witnesses and the execution of which has been acknowledged by him in addition before an officer authorized to take acknowledgements, is enforceable against his estate and in such an amount as the court may determine, having regard to the age of the child, the ability of the mother to support it, the amount of property left by the father, the number, age, and financial condition of the lawful issue, if any, and the rights of the widow, if any. The court may direct the discharge of the obligation by periodical payments or by the payment of a lump sum.

Sec. 6. COMPLAINANTS.) The proceeding to compel support may be brought by the mother, or, if the child is or is likely to be a public charge, by the authorities charged with its support. After the death of the mother or in case of her disability, it

may also be brought by the child, acting through its guardian or next friend. If the proceeding is brought by the public authorities, the mother if living shall be made a party defendant.

Sec. 7. TIME OF BRINGING COMPLAINT.) The proceeding may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of the person charged with being the father, the trial shall not be had until after the birth of the child, unless such person wishes to admit the truth of the accusation.

Sec. 8. COMPLAINT, WHERE BROUGHT.) The complaint may be made to any judge or magistrate having power to commit for trial.

Sec. 9. FORM OF COMPLAINT.) The complaint shall be in writing or oral, and in the presence of the complainant reduced to writing by the judge or the clerk of court. It shall be verified by oath or affirmation of complainant.

Sec. 10. SUBSTANCE OF COMPLAINT.) The complainant shall charge the person named as defendant with being the father of the child and demand that he shall be brought before the judge to answer the charge.

Sec. 11. PROCESS.) The judge shall issue his warrant for the apprehension of the defendant, directed to any officer in the state authorized to execute warrants, and such warrant may be executed in any part of the state. With the consent of a complainant, a summons may be issued in the first instance as in other civil cases, instead of a warrant, which summons shall be personally served.

Sec. 12. PRELIMINARY HEARING.) Upon the return of the warrant or the summons showing service on the defendant the judge before whom the complaint was made, or any other judge sitting for him, shall proceed to examine the complainant and other witnesses and receive any other evidence that may be produced touching the charge, unless the defendant shall admit the truth of the charge in which case the court shall proceed to hear such evidence as may be necessary and to enter judgment against the defendant declaring paternity and for the support of the child. At any such preliminary hearing the court shall exclude the general public from the room wherein such trial or hearing is had, admitting only the persons interested directly in the case, including officers of the court and witnesses. The defendant shall have a right to be present at the examination and to contravert the charge if he so desires. The examination shall be reduced to writing.

Sec. 13. RESULT OF HEARING.) If the examination fails to show probable cause, the defendant shall be discharged without

prejudice to further proceedings. If the examination shows probable cause, the judge shall bind the defendant in bond or recognizance, with sufficient security to appear at the next term of the District Court to be held in the county on neglect or refusal to furnish such security, he shall commit the defendant to jail to be held to answer the complaint. The warrant, the examination reduced to writing, and the security, shall be returned to the district court.

Sec. 14. CONTINUANCE OF TRIAL.) If the child is not born at the time set for trial, the case shall, unless the defendant consents to trial, be continued until the child is born, and the defendant shall remain bound or held until trial.

Sec. 15. TRIAL.) The trial shall be by jury, if either party demands a jury, otherwise by the court, and shall be conducted as in other civil cases.

Sec. 16.) ABSENCE OF DEFENDANT.) If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied on account of the payment of the judgment, but the trial shall proceed as if he were present; and the court shall upon the findings of the judge, or the verdict of the jury, make such orders as if the defendant were in court.

Sec. 17. EFFECT OF DEATH OR ABSENCE OR INSANITY OF MOTHER.) If after the complaint the mother dies or becomes insane or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant. The testimony of the mother taken in writing at the preliminary hearing, or her deposition taken as in other civil cases, may in any such case be read in evidence, and in all cases shall be read in evidence, if demanded by the defendant.

Sec. 18. DEATH OF DEFENDANT.) In case of the death of the defendant, after the preliminary hearing, the action may be prosecuted against the personal representatives of the deceased with like effect as if he were living, subject as regards the measure of support to the provisions of Section 6, except that no arrest of such personal representative shall take place or bond be required of him.

Sec. 19. FINDING FOR DEFENDANT.) If the verdict of the jury or the finding of the court at the trial be in favor of the defendant and there be a motion for a new trial, he shall be held until such motion be disposed of; and if a new trial is granted, the same course shall be pursued as in case of a continuance.

Sec. 20. JUDGMENT.) If the finding or verdict be against the defendant, the court shall give judgment against him de-

clarifying paternity and for the support of the child from the date of its birth. The judgment shall be for annual amounts, equal or varying, having regard to the obligation of the father under Section 1, as the court directs, until the child reaches the age of sixteen years. The payments may be required to be made at such periods or intervals as the Court directs. In addition to providing for support the judgment may also provide for the payment of the necessary expenses incurred by or for the mother in connection with the birth of the child.

Sec. 21. PAYMENT TO TRUSTEE.) The court may require the payments to be made to the board of administration, or the county child welfare board, if there be one, or to any other suitable and proper trustee or guardian. The trustee shall report to the court annually, or oftener as directed by the court, the amounts received and paid over.

Sec. 22. SECURITY: COMMITMENT: PROBATION.) The court may require the father to give security by bond with sureties, for the payment of the judgment. In default of such security, when required, the court may commit him to jail. After one year the person so committed may be discharged (in accordance with the law relating to the discharge of insolvent debtors), but his liability to pay the judgment shall not be thereby affected. Instead of committing the father to jail, or as a condition of his release from jail the court may commit him to the custody of a probation officer, upon such terms regarding payments and personal reports, as the court may direct. Upon violation of the terms imposed, the court may commit or recommit the father to jail.

Sec. 23. ENFORCEMENT ON DEFAULT.) Where security is given and default is made in any payment, the court shall cite the parties bound by the security, requiring them to show cause why judgment should not be given against them and execution issued thereon. If the amount due and unpaid be not paid before the return day of the citation, and no cause be shown to the contrary, judgment shall be rendered against those served the citation for the amount due and unpaid, together with costs, and execution shall issue therefor, saving all remedies upon the bond for future defaults. The judgment shall be enforceable as other judgments.

Sec 24. CONTEMPT OF PROCESS.) The court also has power, on default as aforesaid, to adjudge the father in contempt and to order him committed to jail in the same manner and with the same powers as in case of commitment for default in giving security. The commitment of the father shall not operate to stay execution upon the judgment on the bond.

Sec. 25. AGREEMENT OR COMPROMISE.) An agreement or compromise made by the mother or child, or some authorized person on their behalf with the father concerning the support of the child shall be binding upon the mother and the child only when adequate provision is fully secured by payment or otherwise and when approved by a court having jurisdiction to compel support of the child. The performance of the agreement or compromise when so approved, shall bar other remedies of the mother or child for the support of the child.

Sec. 26. CONTINUED JURISDICTION.) The court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof, until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine custody in accordance with the interests of the child.

Sec. 27. FAILURE TO SUPPORT.) The failure of the father, without lawful excuse, to support the child where the same is not in his custody, and where paternity has been judicially established, or has been acknowledged by him in writing or by the part performance of his obligations, is a misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail for not exceeding one year, or by both such fine and imprisonment. The failure of the parent to support the child where the same is in his or her custody shall be governed by the laws applicable to the failure to support a legitimate child.

Sec. 28. FAILURE TO CARRY OUT JUDGMENT.) The failure, without lawful excuse, of a father to comply with and carry out a judgment for the support of the child whether the child be a resident in the jurisdiction where the judgment was rendered or not, is a misdemeanor punishable by fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Sec. 29. PROBATION.) Upon a prosecution under the provision of Section 28 or Section 29, on entry of a plea of guilty or after conviction, the court, instead of imposing sentence or of committing the father to jail, or as a condition of his release from jail, may commit him to the custody of a probation officer, upon such terms as to payment of support to or on behalf of the mother or child, and as to personal reports, as the court may direct. Upon violation of the terms imposed, the court may proceed to impose the sentence and commit or recommit to jail in accordance with the sentence.

Sec. 30. CONCURRENCE OF REMEDIES.) A criminal prosecution brought in accordance with the provisions of Section 28 or

Section 29 shall not be a bar to, or be barred by, civil proceedings to compel support; but money paid toward the support of the child under the provisions of Section 30 shall be allowed for and credited in determining or enforcing any civil liability.

Sec. 31. LIMITATION OF ACTIONS.) Proceedings to enforce the obligation of the father shall not be brought after the lapse of more than two years from the birth of the child, unless paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support.

Sec. 32. AVAILABLE DISTRICT.) Jurisdiction over proceedings to compel support is vested in the district court of the county in which the alleged father is permanently or temporarily resident, or in which the mother of the child resides or is found. It is not a bar to the jurisdiction of the court of the county where the complaining mother or child resides in another state. Notice of any such proceeding shall be given by the clerk of the district court to the Board of Administration and such Board thereupon shall advise or assist the complainant or the court in such proceeding.

Sec. 33. JUDGMENT OF OTHER STATE.) The judgment of the court of another state rendered in proceedings to compel support of a child born out of wedlock, and directing payment either of a fixed sum or of sums payable from time to time, may be sued upon in this state and be made a domestic judgment so far as not inconsistent with the laws of this state, and the same remedies may thereupon be had upon such judgment as if it had been recovered originally in this state.

Sec. 34. REFERENCE TO RELATION OF MOTHER AND CHILD.) In all records, certificates, or other papers hereafter made or executed (other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue) requiring a declaration by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such a child, it shall be sufficient for all purpose to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother, and no explicit reference need be made to illegitimacy, and the term natural shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

Sec. 35. CONSTRUCTION OF ACT.) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 36. BRIEF TITLE—NAME OF ACT.) This act may be cited as the Uniform Illegitimacy Act.

Sec. 37. OPERATION AND REPEALING CLAUSE.) This act applies to all cases of birth out of wedlock where birth occurs after this act takes effect, except that section 35 applies to all cases occurring after this act takes effect. As to all such cases all acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 2nd, 1923.

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## CHAPTER 166.

(S. B. No. 186—Baird and Baker.)

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### DESERTION OR NON-SUPPORT OF WIFE OR CHILD.

An Act Relating to the abandonment or neglect of wife or child, and the desertion and non-support of family, and for the repeal of Sections 9589 to 9603 inclusive, Compiled Laws of North Dakota 1913.

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

Sec. 1. Every parent or other person having legal responsibility for the care or support of a child who is under the age of sixteen years, and unable to support himself by lawful employment, who deserts and fails to care for and support such child with intent wholly to abandon him, and every husband, who, without lawful excuse, deserts and fails to support his wife, while pregnant, with intent wholly to abandon her, is guilty of a felony and upon conviction shall be punished therefor by imprisonment in the state prison for not more than five years. Desertion or a failure to support a child or pregnant wife for a period of three months shall be presumptive evidence of intention wholly to abandon.

Sec. 2. Every man, who without lawful excuse, wilfully fails to furnish proper food, shelter, clothing or medical attendance to his wife; and every person having legal responsibility for the care or support of a child who is under sixteen years of age, unable to support himself by lawful employment, who wilfully fails to make proper provision for such child is guilty of a felony, and upon conviction thereof shall be punished therefor by imprisonment in the state penitentiary for not more than five years, but, before the trial, with the consent of the defendant, or at the trial on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, may make an order accepting the bond of the defendant to the state, in such amount and with such sureties as the court prescribes and approves, conditioned to furnish the



wife or child with proper food, shelter, clothing and medical attention, for such a period, not exceeding five years, as the court may order, and in such a case, if there has been a plea of guilty or a conviction, judgment shall be suspended until some condition of the bond is violated. The bond may, in the discretion of the court, be conditioned upon the payment of a specified sum of money at stated intervals. Upon the filing of an affidavit showing the violation of any of the conditions of the bond, the accused shall be heard upon an order to show cause, and if the charge be sustained the court may proceed with the trial of the defendant under the original charge, or pronounce sentence under the original conviction, or enforce the suspended sentence, as the case may be. The wife or child, and any person furnishing necessary food, shelter, clothing and medical attendance to either, may sue upon the bond for a breach of any condition thereof.

Sec. 3. In any prosecution for desertion or for failure to support a wife or child no other or greater evidence shall be required to prove the relationship of the defendant to such wife or child than is or shall be required to prove such relationship in a civil action.

Sec. 4. REPEAL.) Section 9589, 9590, 9591, 9592, 9593, 9594, 9595, 9596, 9597, 9598, 9599, 9600, 9601, 9602 and 9603, Compiled Laws of 1913, and all acts or parts of acts inconsistent herewith are hereby repealed.

Approved March 5th, 1923.

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## CHAPTER 167.

(S. B. No. 192—Baird and Baker.)

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### INDECENT LIBERTIES.

An Act Relating to indecent liberties.

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

Sec. 1. Every person who shall take any indecent liberty with or on the person of any child, which act under law does not amount to rape, or attempt to commit rape, or assault, with intent to commit rape, or sodomy, or other crime against nature, shall be guilty of a felony and shall be punished by imprisonment in the penitentiary not less than one year nor more than two years.

Approved March 2nd, 1923.

## CHAPTER 168.

(S. B. No. 190—Baird and Baker.)

## TRIAL OF MINORS.

An Act Providing for the exclusion of spectators from the trial of minors.

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

Sec. 1. At the trial of a minor under the age of eighteen years charged with any crime, the judge or magistrate, prior to his being brought into the court room, shall clear the same of all persons, except officers of the court, attorneys, witnesses and relatives.

Approved March 2nd, 1923.

## CHAPTER 169.

(S. B. No. 35—Kaldor.)

## PUBLIC DANCES.

An Act Relative to the Admission of Persons under Eighteen Years of Age to Public Dances, and Requiring the posting of a copy of the Law and Prescribing Penalty for its Violation.

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

Sec. 1. No proprietor, lessee, or manager and no employee or agent of any proprietor, lessee, or manager of any hall, room, pavilion, bowery, platform or other structure in or on which dancing is practiced and to which the public generally is invited to participate by paying an admission fee in money or other token of value, shall admit, while dancing is practiced in or on such place, any person under the age of eighteen years, unless such person is accompanied by a parent or guardian.

Sec. 2. A copy of this act shall be posted in a conspicuous place at the entrance of every hall, room, pavilion, bowery, platform or other structure where public dancing is practiced.

Sec. 3. PENALTY.) Whoever violates any of the provisions of this Act shall be punished by a fine not exceeding one hundred dollars and not less than twenty-five dollars or by imprisonment in a County Jail not to exceed thirty (30) days or by both such fine and imprisonment, in the discretion of the court.

Approved February 19th, 1923.

## CITIES

### CHAPTER 170.

(S. B. No. 32—Atkins.)

#### MUNICIPAL BONDED INDEBTEDNESS.

An Act to Amend and Re-enact Section 4016 of the Compiled Laws of 1913 Relating to Bonded Indebtedness of Cities and Villages, and Purposes for which incurred.

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

Sec. 1. AMENDMENT.) That Section 4016 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

Sec. 4016. BONDED INDEBTEDNESS, PURPOSES FOR WHICH INCURRED.) The Board of City Commissioners, or the City Council of any city, or the Board of Trustees of any incorporated village, shall have power to submit to a vote of the electors at any general or special election propositions for the issuing of bonds for the purchase or erection of a Municipal Auditorium, Armory, Gymnasium, Public Baths, or other public places of amusement or entertainment, and for the purchase of suitable sites for such erection or purpose; and that in case a two-thirds majority of the electors voting on any such proposition vote for the same at any regular election or any special election, called for that purpose, it shall be the duty of the Board of City Commissioners, or of the City Council, and the mayor of any city, or of the Board of Trustees of any incorporated village, forthwith to issue such bonds and to proceed to carry out such proposition so submitted.

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

Approved March 1st, 1923.

### CHAPTER 171.

(S. B. No. 226—Kaldor.)

#### CITY ELECTIONS.

An Act to Amend and Re-enact Section 3784 of the Compiled Laws of North Dakota for the year 1913, as Amended and Re-enacted by Chapter 120 of the Session Laws of North Dakota for the Year 1919, Relating to Municipal Elections in Cities.

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

Sec. 1. AMENDMENT.) That Section 3784 of the Compiled

Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 120 of the Session Laws of North Dakota for the year 1919, be amended and re-enacted to read as follows:

Sec. 3784. ELECTION BIENNIAL.) Biennial municipal elections in all cities shall be held the first Tuesday in April at such place or places as the Board of City Commissioners shall designate. The polls of such election shall be opened at nine o'clock A. M., and close at seven o'clock P. M. Ten days previous notice of the time and place of such election and of the officers to be elected, shall be given by the City Auditor by the publication in the official paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election. In all other respects such election shall be conducted as prescribed by general election laws, and for all general and special elections held under the provisions of this Act in the city, for city officers and for other purposes, the Board of City Commissioners shall, at least ten days before any election is held, appoint in each precinct established in the city one inspector and two judges of election.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 172.

(S. B. No. 395—Garberg.)

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### EXCLUDING FARM LANDS FROM MUNICIPALITIES.

An Act to amend and re-enact Section 3969 of the Compiled Laws of North Dakota for the year 1913, as Amended by Chapter 79 of the Session Laws of North Dakota for the year 1919, and Chapter 32 of the Session Laws of North Dakota for the year 1921, relating to excluding farm lands from the limits of city, town and villages.

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

Sec. 1. AMENDMENT.) That Section 3969 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 79 of the Session Laws of North Dakota for the year 1919, and Chapter 32 of the Session Laws of North Dakota for the year 1921, be and the same is hereby amended and re-enacted to read as follows:

Sec. 3969. LIMITS MAY BE RESTRICTED.) On petition, in writing, signed by not less than three-fourths of the legal voters and by property owners of not less than three-fourths in value

of the property in any territory, within any incorporated city, town or village, and being upon the border and within the limits thereof, the city council of the city, or the board of trustees of the town or village, as the case may be, may disconnect and exclude such territory from such city, town or village; provided, that the provisions of this section shall only apply to lands not laid out into city, town or village lots or blocks.

Provided, further, that when the property or lands described in such petition bordering upon and within the limits of any such incorporated city, town or village are wholly unplatted, and no municipal sewers, water-mains, pavements, sidewalks or other city, town or village improvements have been made or constructed therein, except as hereinafter provided, and this is made to appear upon the hearing upon such petition by the city council, commission or board of trustees of the town or village, as the case may be, it shall be the duty of the city council, commission or board of trustees to disconnect and exclude such territory from the city, town or village.

And, provided further, that where a sewer outlet extends upon or over said unplatted lands, it shall be the duty of the city council, commission or board of trustees to disconnect and exclude such territory from such city, town or village, provided, that this Act shall not in any way repeal or otherwise effect the provisions of Section 3697 of the Compiled Laws of 1913.

(Provided, further, that if any interested party is dissatisfied with the findings of fact upon which a decision is made, application may be made to a court having jurisdiction for a Writ of Certiorari and the review upon this writ shall extend only to the determination of whether the inferior court, tribunal, board or officer has regularly pursued the authority of such court, tribunal, board or officer, which shall include the determination of the sufficiency of the evidence to sustain the findings of fact and of law made in the course of the exercise of the authority of such inferior court, tribunal, board or officer and the correctness as a matter of law of the particular order, judgment or act inquired into.)

Provided, further, that in cities having a population of three thousand and over according to the last Federal census the findings of fact and conclusions of the City Council or the City Commission shall be conclusive upon the courts.

Approved March 6th, 1923.

## CHAPTER 173.

(H. B. No. 43—Trubshaw.)

## RECALL OF CITY OFFICIALS.

An Act to Amend and Re-enact Section 3835 of the Compiled Laws of the State of North Dakota for the year 1913 as amended and re-enacted by Chapter 81 of the Session Laws of 1919 relating to recall of City Officials in Cities under City Council or Commission form of Government.

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

Sec. 1. AMENDMENT.) That Section 3835 of Compiled Laws of the State of North Dakota for the year 1913 as amended and re-enacted by Chapter 81 of the Laws of 1919 relating to the Recall of City Officials under City Council or Commission forms of Government.

Sec. 3835. RECALL.) The holder of any elective office in Cities operating under a city council form of Government, or which may adopt or have adopted the Commission plan of Government, including all members of park boards, under any of the laws of this state, may be removed at any time by the Electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for the successor to the incumbent so sought to be removed, equal in number to at least thirty per centum of the entire votes for all the candidates for mayor or president of the City Commission cast at the last preceding general municipal election, demanding the election of the successor of the person sought to be removed, shall be filed with the city auditor, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer, competent to administer oaths, that the statements therein are true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. After the said petition is filed with the city auditor any petitioner shall be allowed to withdraw his name from such petition within five days from the date of filing of the same with the city auditor. Within ten days from the date of filing of such petition, the city auditor shall examine the same and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified voters, and if necessary the board of city commissioners or city council shall allow extra help for that purpose

and he shall attach to said petition his certificate showing the result of said examination and said certificate shall show why the said petition is deemed insufficient, provided said auditor certifies that same is insufficient. If, by the auditor's certificate, the petition is shown to be insufficient it may be amended within ten days of said certificate. The auditor shall within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition of the same effect. If the petition shall be deemed to be sufficient, the auditor shall submit the same to the city council or board of city commissioners without delay. If the petition shall be found sufficient, the city council or board of city commissioners shall order and fix date for said election, not less than thirty nor more than forty days from the date of the auditor's certificate to the city council or board of city commissioners that a sufficient petition is filed. The city council or board of city commissioners shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing the auditor shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify within ten days after receiving the notification of election the office shall be deemed vacant. If the incumbent shall receive the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

Approved February 7th, 1923.

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## CHAPTER 174.

(S. B. No. 220—McLachlin & Rusch.)

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### DEFICIENCY IN SPECIAL ASSESSMENTS.

An Act to Amend and Re-enact Section 3716 of the Compiled Laws of 1913 Relating to Payment of Deficiency in Special Assessments.

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

Sec. 1. AMENDMENT.) Section 3716 of the Compiled Laws

of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 3716. PAYMENT OF DEFICIENCY.) Whenever all special assessments collected for a specific improvement are insufficient to pay the special improvement warrants issued against such improvement with interest, the city council or city commission, as the case may be, shall upon the maturity of the last special improvement warrant, levy a tax upon all the taxable property in the city for the payment of such deficiency, and in case of a balance of such special assessment remaining unexpended, it may be used for repairs of such improvement.

Approved February 26th, 1923.

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## CHAPTER 175.

(H. B. No. 8—Jardine.)

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### CITY ZONING.

An Act to Empower all Cities having a population in excess of six thousand inhabitants, by the Federal Census of 1920, or by any subsequent Federal Census, to Provide for the establishment of Districts or Zones within the corporate limits, and to empower such Cities by ordinance, to regulate within such zones or districts, the use or uses of land, the height, the area, the size and the location of buildings, the required open spaces for the light and ventilation of such buildings and the density of population; to provide for a Board of Appeals, and for the carrying out of such ordinances and to provide a penalty for the violation thereof.

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

Sec. 1. GRANT OF POWER.) For the purpose of promoting health, safety, morals, or the general welfare of the community, the City Council or City Commission of any city having a population in excess of six thousand inhabitants by the Federal Census of 1920, or by any subsequent Federal Census is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be so occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes. Such regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent, and in accordance with general or specific rules therein contained.

Sec. 2. DISTRICTS.) For any or all of said purposes it may divide the City into districts of such number, shape and area as



may be deemed best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Sec. 3. PURPOSES IN VIEW.) Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things as to the character of the district and its peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such City.

Sec. 4. METHOD OF PROCEDURE.) The City Council or City Commission of such City shall provide for the manner in which such regulations and restrictions and the Boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such City.

Sec. 5. CHANGES.) Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred and fifty feet therefrom, or of those directly opposite thereto, extending one hundred and fifty feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council or the City Commission of such City. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments.

Sec. 6. ZONING COMMISSION.) In order to avail itself of the powers conferred by this Act, such City Council or City Com-

mission shall appoint a commission to be known as the Zoning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Zoning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report; and such City Council or City Commission shall not hold its public hearings or take action until it has received the final report of such Zoning Commission. Where a city plan commission already exists, it may be appointed as the Zoning Commission.

Sec. 7. BOARD OF ADJUSTMENT.) Such City Council or City Commission may provide for the appointment of a board of adjustment consisting of five members, each to be appointed for three years. Such board of adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Act. It shall also hear and decide all matters referred to it or upon which it is required to pass under any such ordinance. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. Every decision of such board shall, however, be subject to review by certiorari. Such appeal may be taken by any person aggrieved or by an officer, department board or bureau of the City.

Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rule by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, the board of adjustment shall have the power in passing upon appeals, to vary or modify any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings, or structures or the uses of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

Sec. 8. REMEDIES.) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this Act or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Sec. 9. CONFLICT WITH OTHER LAWS.) Wherever the regulations made under authority of this Act require a greater width or size of yards, or courts, or requires lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under the authority of this Act, the provisions of such statute, or local ordinance or regulation shall govern.

Approved February 23rd, 1923.

## COMMISSIONER OF IMMIGRATION

### CHAPTER 176.

(S. B. No. 197—Van Camp.)

#### COMMISSIONER OF IMMIGRATION.

An Act To Amend and Re-enact Chapter 146 of the Session Laws of 1919 Relating to the Office of Commissioner of Immigration, Prescribing His Powers and Duties, and Making an Appropriation Therefor, and Repealing All Acts and Parts of Acts in Conflict Therewith.

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

Sec. 1. AMENDMENT.) Chapter 146 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

Sec. 1. There is hereby created the office of Commissioner of Immigration for the State of North Dakota. The governor shall appoint a competent person Commissioner of Immigration of the State for a term of two years who shall receive a salary of three thousand (\$3,000.00) dollars per annum. He shall furnish bond in the sum of one thousand (\$1000.00) dollars for the faithful performance of his duties.

Sec. 2. It shall be the duty of the Commissioner of Immigration to advertise the resources of this states; to collect, accumulate and distribute facts, statistics and information with reference to the educational facilities, social conditions, government, industries, and industrial conditions, and natural resources of the state; the advantages and opportunities offered by the state as a place of residence therein for farmers, laborers and mechanics, and especially the advantages for farming, dairying, cattle-raising, mining, manufacturing and all other industries, for the purpose of securing immigration, and settlement and the bringing of settlers, investors and industries to the State. The Commissioner of Immigration shall publish, advertise and distribute facts, statistics, and information concerning the matters herein mentioned, by means of bulletins, pamphlets, correspondence or advertisements in newspapers throughout the United States. The Commissioner of Immigration shall answer all inquiries of persons residing within or without the state upon the subject herein mentioned. The Commissioner of Immigration shall also co-operate with the United States Bureau of Immigration and shall so far as practicable and possible, assist, immigrants and others to find homes in North Dakota.

The Commissioner of Immigration shall also co-operate with the North Dakota Lignite Coal Operator's Association and shall, so far as practical, and possible, assist in the development of the lignite coal industry.

Sec. 3. The Commissioner of Immigration shall be provided with suitable quarters in the Capitol Building. He shall employ and fix salaries of all assistants necessary for the carrying out of this Act. The Commissioner of Immigration shall file with the State Auditing Board, a statement or statements of all salaries and other expenses incurred from time to time in conducting the work herein provided for which statement or statements, upon approval of the State Auditing Board, shall be paid by warrant drawn by the State Auditor upon the State Treasurer against the funds herein appropriated for such purpose, provided that such salaries and other expenses shall not exceed the amount of the appropriation for carrying on the work of said office.

Sec. 4. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of \$18,000.00 or so much thereof as may be necessary to carry out the provisions of this Act. All acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 7th. 1923.

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## CONSTITUTIONAL AMENDMENTS

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### CHAPTER 177.

(S. B. No. 347—Wog.)

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#### COUNTY OFFICIALS.

A Joint Resolution to Amend and Re-enact Section 173 of Article 10 of the Constitution of the State of North Dakota, Providing for the Election of County Officials.

*Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following amendment to Section 173 of Article 10 of the Constitution of the State of North Dakota be agreed to and submitted to the qualified electors of the State for approval or rejection in accordance with the provisions of Section 202 as amended, of the Constitution of the State of North Dakota.

AMENDMENT.) That Section 173 of the Constitution of the State of North Dakota be amended to read as follows:

Sec. 173. At the First general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the State, a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold their office until their successors are elected and qualified; provided in counties having six thousand population or less the county judge shall also be the clerk of the district court. The legislative assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Approved March 2nd, 1923.

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## CHAPTER 178.

(S. B. No. 336—Kaldor.)

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### STATE BOND ISSUES.

Joint Resolution for an Amendment to Section 182, Article 12 of the Constitution of the State of North Dakota, as Amended by Article 31 of the Amendments Thereof, Relating to Issuing or Guaranteeing of Bonds by the State and Providing that such Bonds in Excess of Two Million Dollars shall be Secured by First Mortgage on Certain Classes of Property; and Providing for the Submission of this Amendment to the Voters of the State for Rejection or Approval as Provided by Section 202, as Amended, of the Constitution of the State of North Dakota.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:*

That the following amendment to Section 182, Article 12 of the Constitution of the State of North Dakota, as amended by Article 31 of the Amendments thereof, approved by direct vote of the people at the election held November 5th, 1918, and ratified by the Sixteenth Session of the Legislative Assembly of the State of North Dakota by Chapter 85 of the Session Laws of 1919 be agreed to and submitted to the qualified electors of the state for approval or rejection in accordance with the provisions of Section 202, as amended, of the Constitution of the State of North Dakota.

AMENDMENT.) That Section 182, Article 12 of the Constitution of the State of North Dakota, as amended by Article 31 of the Amendments thereof, approved by direct vote of the

people at the general election held November 5th, 1918, and ratified by the Sixteenth Session of the Legislative Assembly of the State of North Dakota by Chapter 85 of the Session Laws of 1919, be and the same is hereby amended to read as follows:

Sec. 182. The State may issue or guarantee the payment of bonds, provided that all bonds in excess of two million dollars shall be secured by first mortgage upon real estate in amounts not to exceed one-half of its value; or upon real and personal property of state owned utilities, enterprises or industries, in amounts not exceeding its value, and provided further, that the state shall not issue or guarantee bonds upon property of state owned utilities, enterprises or industries in excess of ten million dollars.

No further indebtedness shall be incurred by the state unless evidenced by a bond-issue, which shall be authorized by law for certain purposes, to be clearly defined. Every law authorizing a bond issue shall provide for levying an annual tax, or make other provision, sufficient to pay the interest semi-annually, and the principal within thirty years from the date of the issue of such bonds, and shall specially appropriate the proceeds of such tax, or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid. No debt in excess of the limit named herein shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war or to provide for the public defense in case of threatened hostilities.

Approved March 2nd, 1923.

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## CORPORATIONS

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### CHAPTER 179.

(S. B. No. 266—Kretchmar.)

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#### ASSESSMENTS ON BANK STOCK.

An Act Amending Section 4571 of the Compiled Laws of 1913, providing for the Assessment of Shares of Stock in Corporations.

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

Sec. 4571. AMENDMENT. LIMITATION OF.) No assessment must exceed ten per cent of the amount of the capital stock named in the articles of incorporation, except in the cases in this section otherwise provided for, as follows:

1. If the whole capital of a corporation has not been paid up, and the corporation is unable to meet its liabilities or to satisfy the claims of its creditors, the assessment may be for the full amount unpaid upon the capital stock; or if a less amount is sufficient then it may be for such a percentage as will raise that amount.

2. The directors of railroad corporations may assess the capital stock in installments of not more than ten per cent per month, unless in the articles of incorporation it is otherwise provided.

3. The directors of fire or marine insurance corporations may assess such a percentage of the capital stock as they deem proper.

4. The directors of banking associations may assess such percentage of the capital stock as they deem proper, not exceeding one hundred per cent of the face value thereof, during any three years.

Sec. 2. This Act is hereby declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved: March 2nd, 1923.

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## CHAPTER 180.

(S. B. No. 30—Stevens.)

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### MINING CORPORATION STATEMENT.

An Act to Amend and Re-enact Section 4989, Compiled Laws of 1913, Relating to Filing of Statements by Mining Corporations.

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

Sec. 1. AMENDMENT.) That Section 4989, Compiled Laws of 1913 be Amended and Re-enacted so as to read as follows:

Sec. 4989. MINING CORPORATIONS TO FILE STATEMENT BEFORE OFFERING STOCK FOR SALE.) No shares or certificates of stock in any mining corporation established under the laws of this state, or any state, territory, province, country or government, shall be sold or offered for sale within this state by such corporation, or by any person, firm, association or corporation acting as agent, representative, attorney or broker for such corporation, until such corporation shall have filed in the office of the Secretary of State a statement under oath, showing the financial condition of such corporation, the location of the mine or mines, owned by such corporation, with plans of the same; the amount



of work done thereon; the amount of cash expended for improvements thereon and the condition of the plant and machinery connected therewith. Such statements shall be signed by the president, secretary and treasurer of such corporation and shall be verified by the oath of each of such officers to the effect that the same is in all respects true.

Provided that this Act shall not apply to the sale, or offering for sale, of shares or certificates of stock in mining corporations, the sale of which is authorized under the provisions of Chapter 91, Session Laws of 1915, or amendments thereto.

Approved February 26th, 1923.

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## CHAPTER 181.

(S. B. No. 388—Byrne.)

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### RENEWAL OF CORPORATE EXISTENCE.

An Act Authorizing the renewal of the Period of Corporate existence of certain Corporations whose period of duration has expired without the renewal thereof, and legalizing Acts and Contracts of such Corporations made or done and performed subsequent to the expiration of the original period of existence of such Corporations, and providing that this act shall take effect immediately upon its passage and approval.

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

Sec. 1. RENEWAL OF CORPORATE EXISTENCE.) Any corporation heretofore organized under the laws of this state, whose period of duration has expired and has not been renewed, and which has continued to transact its business, may renew its corporate existence at any time within one year after the approval of this act for a period of twenty years from and after the expiration of the original period for which it was incorporated, with the same force and effect as if renewed prior to the expiration of its term of existence by taking the same proceedings provided by law for the renewal of the corporate existence of corporations in cases where such renewal is made before the end of its original period of existence, and by paying into the state treasury ten dollars (\$10.00) in addition to the fees provided by law for the renewal of the corporate existence of corporations.

Sec. 2. ACTS DECLARED VALID.) When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and en-

tered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

Sec. 3. APPLICATION LIMITED.) This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any corporation as to which there is any action or proceeding pending in any of the courts in this state for the forfeiture of its charter, nor to any corporation whose directors have acted as trustees under the provisions of section 4567, Compiled Laws of 1913.

Sec. 4. EMERGENCY.) This act is declared an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved: March 6th, 1923.

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## CHAPTER 182.

(S. B. No. 162—Rusch.)

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### SECURITIES COMMISSION.

An Act to Prevent Imposition or Fraud in the Sale or Disposition of Certain "Securities" herein Defined by Requiring an Inspection Thereof; Providing for Such Inspection, Supervision and Regulation of the Business of Any Person, Association, Partnership, or Corporation, Engaged or Intending to Engage, Whether as Principal or Agent, in the Sale of Any Such Securities in the State of North Dakota, as May be Necessary to Prevent Imposition or Fraud in the Sale or Disposition of Said Securities, and Repealing Chapter 91 of the Session Laws of 1915.

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

Sec. 1. STATE SECURITIES COMMISSION CREATED.) There is hereby created a commission to be known as the State Securities Commission, hereafter referred to as the "Commission" whose duty it shall be to administer and provide for the enforcement of all provisions of this act, which shall consist of the Governor, Attorney General and Secretary of State. There shall be appointed by the Commission an executive officer who shall also act as ex-officio secretary of the Commission and who shall serve for a term of two years unless sooner removed by the Commission and shall devote his entire time and attention to the duties of his office and shall receive a salary of Two thousand eight hundred (\$2,800.00) Dollars per annum, payable monthly. He shall at the time of his appointment, subscribe and file the usual oath and furnish a bond in the sum of Ten Thousand (\$10,000.00) Dollars, to be approved and filed as are the bonds

of the other state officers. In the absence or disability of any of the members of the Commission the duly appointed deputy or designated assistant of such officer shall act in his stead upon such commission. Each member shall be authorized to swear witnesses and administer oaths in any matter coming before him or said Commission. The Commission shall have the power to employ such assistance as examiners, accountants or investigators as may be necessary to carry out the provisions of this act.

Sec. 2. The term "Securities" as used in this Act shall be taken to mean stock certificates, shares, bonds, debentures, certificates of participation, contracts, service contracts, preorganization certificates and subscriptions, certificates evidencing shares of or interest in trust estates or associations, profit sharing agreements or certificates or any certificate, contract or instrument whatsoever representing or constituting evidence of, or secured by, title to, or interest in, or any lien or charge upon, the capital or any property or assets of the issuer thereof, or any oil, gas or mining lease; and interests, units or shares in any such lease or leases; contracts or bonds for the sale and conveyance of land on deferred payments or installment plan, or other instruments in the nature thereof by whatsoever name known or called. The term "speculative securities" as used in this Act shall be taken to mean and include (1) All securities into the specified par value of which the element of chance, speculative profit, or possible loss equal or predominate over the elements of reasonable certainty, safety, and investment; (2) All securities the value of which materially depends on proposed or promised future promotion or development rather than on present tangible assets and conditions; (3) Any securities based in whole or material part on assets consisting of patents, formulae, good-will, promotion, or intangible assets; (4) Securities made or issued in furtherance or promotion of any enterprise or scheme for the sale of unimproved or undeveloped land on any deferred payments or installment plan when the principal value of such securities depends on the future performance of any stipulation by the promoters of such enterprise to furnish irrigation or transportation facilities, or other value enhancing utility or improvement. The term "speculative enterprise" as used in this Act shall be taken to mean any business undertaking, project, venture or activity for the promotion or furtherance of which "speculative securities" as herein defined are made, issued, sold, or offered for sale.

Sec. 3. It shall be hereafter unlawful for any person, co-partnership, association or corporation, hereinafter called the Investment Company, either as principal, or through agents,

to sell, or offer for sale, or by means of any advertisement, circulars, or prospectus, or by any other form of public offering, to attempt to promote the sale of any speculative securities in this state, unless there first shall have been filed with the Securities Commission: (1) A copy of the securities so to be promoted; (2) A statement in substantial detail of the assets and liabilities of the person or company making and issuing such securities and of any person or company guaranteeing the same, including specifically the total amount of such securities and of any securities prior thereto in interest or lien, authorized or issued by any such person or company; (3) If such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal or valuation of the property covered thereby, with a specific statement of all prior liens thereon, if any; (4) A full statement of facts showing the gross and net earnings, actual or estimated, of any person, or company making and issuing or guaranteeing such securities, or of any property covered by any such mortgage or liens; (5) All knowledge or information in the possession of such Investment Company relative to the character or value of such securities, or of the property or earning power of the person or company making and issuing or guaranteeing the same; (6) A copy of any general or public prospectus or advertising matter which is to be used in connection with such promotion, and no such prospectus or advertising matter shall be used unless the same has been filed hereunder; (7) The names, addresses and selling territory in this state of any agents by or through whom any such securities are to be sold, including a statement giving the qualifications, occupations and business experience of each of such agents for a period of five years prior to the filing, the names and addresses of each employer, the period of employment, and reason for resignation or discharge, and no such agents shall be employed unless such statement with respect to them has been filed hereunder, and there shall have been paid to the Commission a registration fee of Three (\$3.00) dollars for each such agent. The payment of such fee shall be payment in full of all fees for registration of such agent from January 1st to January 1st of the following year; (8) The name and address of such promoter, including the names and addresses of all partners, if the Investment Company be a partnership, and the names and addresses of the directors or trustees, and of any person owning ten per centum, or more, of the capital stock, if the promoter be a corporation or association; (9) A statement showing in detail the plan on which the business or enterprise is to be transacted; (10) The articles of copartnership or association, and all other papers pertaining to its organization, if the securities be insured or guaranteed by a co-partnership

or unincorporated association; (11) A copy of its charter and by-laws if the securities be issued or guaranteed by a corporation; (12) A filing fee of twenty-five (\$25.00). dollars.

Sec. 4. Every foreign corporation before selling or offering for sale any speculative securities, shall also file its written consent, irrevocable, that actions may be commenced against it in the proper courts of any county in this state in which a cause of action may arise, by the service of process on the secretary of state, and stipulating and agreeing that such service of process on the secretary of state shall be taken and held in all courts to be as valid and binding as if due service had been made upon the company itself, according to the laws of this or any other state, and such instrument shall be authenticated by the seal of said foreign corporation, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees, or managers of the corporation authorizing the said secretary and president to execute the same.

Sec. 5. It shall be the duty of the Commission as soon as is practical, to examine the statement and documents so filed and if said Commission shall deem it advisable, they shall make, or have made, a detailed inspection, examination, audit and investigation of the affairs of the makers or guarantors of such securities which said inspection, examination, audit and investigation shall be at the applicant's expense. As a part of the aforesaid inspection, examination, audit and investigation, the Commission may cause an appraisal to be made of the property of the maker or guarantor, including the value of patents, formulae, good-will promotion, and intangible assets and shall furnish a full and complete statement or report of his inspection and investigation aforesaid to the Securities Commission. If the statement shall disclose that any of such securities shall have been or shall be intended to be issued for any patent right, copyright, trademark, process or good-will, or for promotion fees or expenses, or for other intangible assets, the amount and nature thereof, shall be fully set forth, and securities issued in payment of such patent right, copyright, trademark, process or good-will, or for promotion fees or expenses, or for other intangible assets, shall be delivered in escrow to such bank or trust Company as shall be designated by the Commission under an escrow agreement that the owners of such securities shall in case of dissolution or insolvency not participate in the assets of the corporation until after the owners of all other securities have been paid in full. Such escrow agreement shall remain in full force until the securities of the issuer thereof are on a dividend paying basis. The state Securities Commission shall, within ten days thereafter, examine the statements or report,

and give the promoter a hearing if he so desires. If the Securities Commission finds no legal objection to the enterprise, or securities, it shall direct the Secretary to acknowledge compliance with Section 3 of this Act. But if, from the statements, papers and documents on file, and the investigations and report of the Secretary, or from other evidence submitted, it shall appear, and the state Securities Commission shall find: (1) That the makers and guarantors of said securities are insolvent, or that the applicant's plan for business is dishonest, or fraudulent; (2) Or that the applicant's literature or advertising is misleading and calculated to deceive purchasers or investors; (3) Or that the securities offered or to be offered are issued or are to be issued in payment for property, patents, formulae, good-will or promotion and intangible assets, in excess of the reasonable value thereof; (4) Or that the enterprise of the applicant is unlawful or against public policy; (5) Or is a mere scheme of a promoter or promoters to get rich quick at the expense of the purchasers of the aforesaid securities, the said Commission shall reduce its said findings to writing and attest the same by the signature of the chairman and secretary thereof. Notice of such finding, or findings, shall immediately be given to the applicant by registered mail. And it shall thereafter be unlawful for the promoter or any agent of said Company or promoter to sell, offer for sale, or by means of any advertisement, circular, or prospectus, or by any other form of public offering to attempt to promote the sale of any such speculative security or securities in this state.

Sec. 6. The state Securities Commission shall at any time have the authority and jurisdiction to investigate the affairs of any speculative enterprise, the securities of which are being sold or offered for sale in this state, and after giving the Company or promoter a hearing, may if the evidence warrants, make any of the adverse findings enumerated in Section 5 of this Act, and it shall thereafter be unlawful for any person, co-partnership, association or corporation to sell, offer for sale, or by means of any advertisement, circular, or prospectus or by any other form of public offering to attempt to promote the sale of the securities of such speculative enterprise in this state.

Sec. 7. Any person, co-partnership, association or corporation being dissatisfied with any finding or findings of the state Securities Commission, made in accordance with the provisions of this Act, may within thirty days from the making thereof, commence an action in any court of competent jurisdiction against said Commission as defendant, to vacate and set aside said finding or findings on the ground that the said findings are unjust or unreasonable. The rules of pleading and procedure in such action shall be the same as are provided by law

for the trial of equitable actions in the district courts of this state and on the hearing the judge of said court may set aside, modify, or confirm said findings as the evidence and the rules or equity may require. Appeals may be taken from the decision of the district court to the supreme court by either party in the same manner as is provided by law in other civil actions. Pending any such action, the said findings of said Commission shall be prima facie evidence that they are just and reasonable and that the facts found are true, and pending any such action the said findings of the Commission shall remain in full force and effect. If no action be brought to set aside said findings within thirty days, the same shall become final and binding.

Sec. 8. No amendment of the charter, articles of incorporation, constitution or by-laws of any such corporation or the articles of association or by-laws of any unincorporated association subject to this Act, shall become operative until a copy of the same has been filed with the Commission as provided in regard to the original filing of charters, articles of incorporation, or association, constitution and by-laws, and it shall be unlawful for any such person, copartnership, association or corporation to transact business on any other plan than that set forth in the statement required to be filed by Section 3 of this Act, or to make, issue, sell or offer for sale any "security" or "securities" required to be filed by Section 3 of this Act, until a written statement showing in full detail the proposed new plan of transacting business and a copy of the proposed new "security" or "securities" shall have been filed with the Commission, in like manner as provided in regard to the original plan of business and proposed "security" or "securities."

Sec. 9. The provisions of this Act shall not apply to (a) Securities of the United States; or any foreign government; or of any state or territory; or of any county, city, township, district or other public taxing sub-division of any state or territory of the United States or any foreign government. (b) Securities of public or quasi-public corporations, the issues of which are regulated by a state officer of the State of North Dakota, or by a state officer or board of similar authority of any state or territory of the United States; or securities senior thereto. (c) Securities of state or national banks or trust companies, or building and loan associations authorized by the State Banking Board to do business in this state. (d) Securities of any domestic corporation organized without capital stock, charitable or reformatory purposes.

Sec. 10. The general accounts of every person, copartnership, association or corporation, issuing or guaranteeing any securities subject to the provisions of this Act, shall be kept in a business-like and intelligent manner and in sufficient detail

so that the Commission can ascertain at any time the financial condition of such person, co-partnership, association or corporation, and the books of account and affairs of any such person, co-partnership, association or corporation, shall be subject to examination by the Commission or upon their direction by their assistants, accountants, or examiners, at any time said Securities Commission shall deem it advisable, and in the same manner as is now provided for the examination of state banks; and such person, co-partnership, association or corporation shall pay a fee for each of such examinations, of not to exceed fifteen (\$15.00) dollars for each day or fraction thereof plus the actual traveling and hotel expenses of said examiner, assistant, accountant, that he is absent from the capitol of the state for the purpose of making such examination. And it is provided further, that every person, co-partnership, association or corporation making or guaranteeing any securities subject to the provisions of this Act, shall file at the close of business December 31st and June 30th of each year, and at such other times as may be required by the Commission, a statement certified by the oath of some person having actual knowledge of the fact therein stated, setting forth, in such form as may be prescribed by said Commission the financial condition, amount of property and liabilities of such person, co-partnership, association or corporation and such other information as said Securities Commission may require. Each statement shall be accompanied by a filing fee of Five (\$5.00) dollars. It shall be unlawful for any person, co-partnership, association, or corporation subject to the provisions of this Act, failing or refusing to comply with the provisions of this section within ten days after compliance is required, to thereafter sell or offer for sale in this state any speculative stock which said person, partnership, association or corporation is selling or offering for sale in this state.

Sec. 11. Any person, firm, co-partnership, corporation or association whether domestic or foreign, not the issuer, who shall in this State sell or offer for sale any of the stocks, bonds or other securities issued by any foreign or domestic investment company, except the securities specifically exempted in this act, or who shall by advertisement or otherwise profess to engage in the business of selling or offering for sale such securities, shall be deemed to be a "dealer" in such securities within the meaning of this act, and no dealer within the meaning of this Act shall sell or offer for sale any such securities or profess the business of selling or offering for sale such securities unless and until he shall have filed a list of the same in the office of the North Dakota Securities Commission as in this act provided. The term "dealer" shall not include an owner not issuer, of such securities so owned by him when such sale is not made in the course of continued and successive transactions of a



similar nature, nor one who in a trust capacity created by law lawfully sells any securities embraced within such trust.

Sec. 12. Any dealer desiring to sell or offer for sale within this State any stocks, bonds or other securities not exempted under the terms of this act, shall first register with the North Dakota Securities Commission and shall furnish said commission, upon oath, in such form as the Commission shall prescribe, the following information, to-wit: the dealer's name, residence and business address, the general character of the Securities to be dealt in, the place or places where the business is to be conducted within this State, and where the business in this State is not to be conducted by the dealer in person, then the names and addresses of all the persons in charge thereof. Every such dealer shall deposit with the State Treasurer a guarantee fund consisting of such bonds and other evidences of indebtedness, and in such amount as the Securities Commission may require, such securities to be approved by the State Treasurer and held in trust by him for the faithful performance and payment of the obligations of such dealer and his or its agents, and as security for their creditors. Said dealer shall pay to the commission a fee of Fifty (\$50.00) dollars and shall furnish said commission with such other information in addition to that above specified as said commission shall deem necessary in order to thoroughly acquaint such commission with the character of the business of said dealer. All authorized agents of any dealer shall be registered with the commission and the name of any agent shall be stricken from the register by the commission upon the written request of the dealer and additional agents may be registered by the commission upon like request of the dealer; Provided, That no agent shall act as such until his name and address shall be registered with the commission. If the dealer shall be a non-resident of this State or a corporation other than a domestic corporation, he shall at the time he registers with the commission, file with the commission a written duly authenticated appointment of the Secretary of State of this State as his or its agent in North Dakota upon whom process or pleadings may be served for and on behalf of the dealer, which appointment shall be irrevocable. Upon compliance by such dealer with the provisions of this Act, the said Commission shall issue to such dealer a license under the seal of said commission and signed by the secretary thereof, which said license shall be good until revoked by said commission for good cause upon notice to such dealer and a hearing duly had.

Sec. 13. It shall be unlawful for any investment company or dealer, or representative thereof, either directly or indirectly, to sell or cause to be sold, offer for sale, take subscriptions for, or negotiate for the sale in any manner whatever in this state, any stocks, bonds or other securities except as expressly ex-

empted herein, unless and until said commission has approved thereof and issued its certificate in accordance with the provisions of this act, nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statements and papers required to be filed by virtue of the provisions of this act or the rules of the commission. It shall be unlawful for any investment company or dealer or its or his agents, to issue, circulate or deliver any advertisement, pamphlet, circular, prospectus, or other document in regard to its stocks, bonds or other securities in the State of North Dakota differing in any way from the copy filed with said commission as provided by this act. It shall be unlawful for any newspaper published in the State of North Dakota to advertise the sale of any stocks, bonds or securities which have not been approved by said commission or which are not exempt under the provisions of this act, and it shall be unlawful for any newspaper published in the State of North Dakota to advertise the sale or offer of the sale of stocks, bonds or other securities, by any dealer, domestic or foreign, who has not registered with the Securities Commission as provided for in this act.

Sec. 14. No dealer within the meaning of this act shall sell or offer for sale within this State any of the stocks, bonds or other securities of any investment company unless such investment company shall have fully complied with all the provisions of this act, nor until said dealer shall have registered with the commission, under the terms of this act; Provided, however, That should any dealer desire to sell or offer for sale within this State the stocks, bonds or other securities of an investment company, which has not itself complied with the provisions of this act, said dealer shall make application to the said commission for the license as hereinbefore provided for applications by investment companies and shall pay the fee required to be paid by Section 12 of this act.

Sec. 15. The state Securities Commission shall have power upon reasonable notice either upon their own initiative or upon complaint of any responsible person, to make or have made such special inspection or investigation as they may deem necessary, in connection with the promotion, sale, disposal, or offering for sale or disposal in this state, of any certificates, shares, stocks, bonds, securities, contracts, or contracts or bonds for deeds to determine whether the same constitute a violation of this Act or any other statute of this state by any individual, co-partnership, corporation, or association, promoting, offering, selling or pledging the same, and in their discretion may require that the capital to be obtained by such sales, be held intact until the completion of the sale of securities, or so much or such portion of the issue to be sold as may in the opinion of the Commission prevent loss of such capital or fraud upon the pur-

chasers of such securities and for such purpose take bond to the people of the State of North Dakota for the use and benefit of such purchasers with sufficient sureties, or may accept other safe-guards in lieu thereof; and may require financial statements and reports of the issuer so often as circumstances appear to warrant; and the commission shall have the power to issue subpoenas and process compelling the attendance of any person and the production of any papers or books for the purpose of such investigation and examination, and shall have power to administer an oath to any person whose testimony may be required on such examination or investigation; and any person who shall refuse to obey any such subpoena or make answer to any competent and material question propounded to him by said Commission shall upon conviction in any court of competent jurisdiction be deemed guilty of a misdemeanor, and fined in any sum not exceeding five hundred (\$500.00) dollars or be punished by confinement in the county jail for not more than ninety days or both by such fine and imprisonment. Upon the conclusion of any such investigation, the Commission may make findings of fact touching the matter or matters under investigation, and such findings shall be prima facie evidence of the truth of the matters therein found by the Commission in any action, either civil or criminal, instituted under any of the laws or statutes of this state against the person, persons, partnership, corporation, or association. The notice herein provided for may be given by registered letter mailed to the last known address of person or persons, or corporations to be investigated and the Commission's certificate shall be sufficient evidence of such notice and the mailing thereof.

Sec. 16. Every evidence of indebtedness or other contract or obligation incurred, made or given for stock, securities or other obligations sold in violation of any of the provisions of this chapter, are void in the hands of any but a bona fide holder in due course, as defined by the negotiable instruments law, and no action shall be maintained in any Court of this State for the enforcement of any such contract or obligation. Every person, firm or corporation aiding or assisting any investment company or dealer or representative, agent or salesman, either directly or indirectly, taking subscriptions for or negotiating for the sale of any stocks, bonds, investment contracts, service contracts, purchase contracts, membership certificates or other securities, except such as are lawfully permitted to be sold within this State, under the provisions of this chapter, shall be guilty of a violation of this Act in the same manner and to the same degree as his or its principal, and shall be subject to the penalties provided by this act.

Sec. 17. All information obtained by the Commission with reference to any securities and all records of the Commission

relating thereto shall be open to examination by the public, and it shall be the duty of the Commission to preserve such information and to so classify and arrange the same as to facilitate examination by any person affected by matters therein contained, except that the Commission may, in its discretion, withhold information relating to the private affairs of persons or corporations when in its judgment the same shall not be required for public welfare, or any information relative to any matter that may be at issue in any court, unless upon an order of Court.

Sec. 18. The Commission shall adopt a seal with the words "North Dakota Securities Commission" and such design as the Commission may prescribe, engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission certified by the Secretary thereof and authenticated by the seal of said North Dakota Securities Commission shall be received in evidence in all Courts and with like effect as the originals.

Sec. 19. Any person who shall knowingly make or file or cause to be made or filed with the state Securities Commission any statement, document, circular, advertisement or prospectus, required to be filed by this Act, which is false in any material respect or matter, shall be deemed guilty of a felony, and on conviction in any court of competent jurisdiction punished by a fine of not less than one hundred dollars (\$100.00), or more than five thousand dollars (\$5,000.00), or by imprisonment in the state penitentiary for not less than one nor more than five years, or both such fine and imprisonment.

Sec. 20. Any person, partnership, association or corporation who shall commit in this state any Act declared unlawful by Sections 3, 5, 8, 10 of this Act shall be deemed guilty of a felony and on conviction in any court of competent jurisdiction be punished by a fine of not less than one hundred nor more than five thousand dollars, or by confinement in the North Dakota State Penitentiary for a term of not less than one nor more than seven years.

Sec. 21. This Act shall not apply to the owner of any speculative security who is not the maker or issuer thereof, who shall acquire and sell the same for his own account in the usual and ordinary course of business and not for the direct or indirect promotion of any enterprise or scheme within the purview of this Act, providing, that such ownership is in good faith. Repeated or successive sales of any such speculative security or securities shall be prima facie evidence that the claims of ownership is not bona fide, but is a mere shift or devise to evade the provisions of this Act.

Sec. 22. All fees herein provided for shall be collected by the Securities Commission and by them shall be turned into the state treasury, and shall be kept in a special fund for the payment of salaries and the actual and necessary expenses herein provided. All money actually and necessarily paid out by the Commission for traveling or incidental expenses on duties performed under this Act, shall be audited as other claims against the state and paid out of the special fund herein created.

Sec. 23. In any case wherein the value of the securities or contracts herein before enumerated are in any way dependent upon the present or proposed development of land or mines, oil or gas wells, the boards of the Agricultural College or State University shall, on the request of the Securities Commission, cause such investigation thereof as the Securities Commission, may desire to be made by experts from the appropriate departments of the State Agricultural College or State University, or both, as the case may be.

Sec. 24. Any person who shall knowingly or wilfully subscribe to, or make, or cause to be made any false statements or false entry in any book of account of any person, co-partnership, association, or corporation, subject to the provisions of this Act, or exhibit any false paper with intention of deceiving any person authorized to examine into the affairs of such person, co-partnership, association, or corporation, or shall make or publish any false statement of the financial condition of any person, co-partnership, association or corporation subject to the provisions of this Act, or shall knowingly make any false statements materially affecting the value of the stocks, bonds, or other securities offered for sale by any such person, co-partnership, association or corporation, shall be deemed guilty of a felony and upon conviction thereof, shall be fined not less than one hundred (\$100.00) dollars nor more than five thousand (\$5000.00) dollars, or shall be imprisoned not less than one year nor more than ten years in the State Penitentiary.

Sec. 25. Persons, partnerships, associations or corporations holding permits under the statutes hereby repealed shall be deemed to have complied with this Act.

Sec. 26. Should the courts declare any section or clause of this Act unconstitutional, then such decision shall affect only the section or clause so declared to be unconstitutional, and shall not affect any other section or part of this Act.

Sec. 27. REPEAL.) Chapter 91 of the Session Laws of 1915 and all Acts or parts of Acts in conflict therewith are hereby repealed.

Approved February 24th, 1923.

## CHAPTER 183

(S. B. No. 1—Rusch.)

## TERM OF EXISTENCE OF TRUST COMPANIES.

An Act to Amend Section 5205 of the Compiled Laws relating to the term of existence of certain corporations.

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

Sec. 1. AMENDMENT.) That Section 5205 be and the same is hereby amended so as to read as follows:

Sec. 5205. FORMATION.) Any number of persons, not less than nine, not less than three of whom must be residents of this state, may associate themselves, and become incorporated for the purpose of transacting business as an annuity, safe deposit, surety and trust company, upon complying with the provisions of this chapter, and any company so formed or heretofore formed, and now doing business, and its successors, shall be entitled to the rights and privileges, and subject to the duties and obligations herein provided, and its existence shall be perpetual. The provisions of Chapter 12 of the civil code shall be applied to and be observed by persons organizing under this chapter, except as herein otherwise provided, and except as to provisions thereof inconsistent with the provisions of this chapter.

Sec. 2. Whereas there is an apparent conflict between the language of Section 4533 and Section 5205 of the Compiled Laws, and therefore a doubt as to the rights and liabilities of such corporations, therefore this act is hereby declared an emergency measure, and shall take effect immediately upon its passage and approval.

Approved February 9th, 1923.

## COUNTIES

## CHAPTER 184.

(S. B. No. 211—Kelsh.)

## BONDS, MODE OF ISSUE.

An Act to Amend and Re-enact Section 3451, Compiled Laws of North Dakota, relating to county bonds, rate of interest and mode of issue.

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

Sec. 1. AMENDMENT.) That Section 3451, Compiled Laws

of North Dakota for 1913, relating to county bonds, rate of interest and mode of issue, is hereby amended and re-enacted to read as follows:

Sec. 3451. BONDS. RATE OF INTEREST, MODE OF ISSUE.) Said bonds shall be in denominations of not less than one hundred dollars nor more than one thousand dollars, shall bear the date of their issue, and shall be made payable to order or bearer in not less than five nor more than twenty years from their date, and bear interest not to exceed six per cent per annum, payable semi-annually, with coupons attached for each interest installment; said bonds and coupons shall be signed by the chairman of the board of county commissioners and shall be attested by the county auditor. The seal of the county shall be affixed to each bond but not to the coupons. Such bonds shall be printed, lithographed or engraved on bond paper, and each bond shall state on its face that it is issued in accordance with the provisions of this article. Such bonds may be made payable anywhere in the United States. Provided that funding or refunding bonds for the purpose of funding or refunding seed grain or seed and feed grain indebtedness may be issued in installment serial bonds as by law provided.

Approved March 1, 1923.

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## CHAPTER 185.

(H. B. No. 61—Muus.)

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### REPEAL OF SEED AND FEED ACT.

An Act to repeal Sections 3471, 3472, 3473, 3474, 3475, 3477, 3478, 3479, 3480, 3483, and 3486, Compiled Laws, 1913, as amended by Chapter 13 of the Special Session Laws, 1918, and as amended by Chapter 177, Session Laws for 1919, and as amended by Chapter 54 of the Special Session Laws, 1919, relating to the Issuance of Bonds and Warrants to Procure Seed Grain and Feed for Needy Inhabitants.

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

Sec. 1. Sections 3471, 3472, 3473, 3474, 3475, 3477, 3478, 3479, 3480, 3483, and 3486, Compiled Laws, 1913, as amended by Chapter 13 of the Special Session Laws, 1918, and as amended by Chapter 177, Session Laws, 1919, and as amended by Chapter 54 of the Special Session Laws, 1919, relating to the issuance of Bonds and Warrants to procure seed grain and feed for needy inhabitants, are hereby in all things repealed. Provided, however, that nothing herein contained shall in any way or manner make invalid or void any bonds issued, or proceedings had heretofore under and by virtue of the Sections and Laws so repealed.

Approved February 26th, 1923.

## CHAPTER 186.

(H. B. No. 176—Twichell.)

## REFUNDING SEED AND FEED BONDS.

An Act Authorizing the Board of County Commissioners of Any County in North Dakota to Issue Funding or Refunding Bonds for the Purpose of Funding or Refunding Seed Grain or Seed and Feed Grain Indebtedness.

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

Sec. 1. That whenever any county in this state has heretofore incurred or shall hereafter incur any indebtedness for the purchase of seed grain or of seed grain and feed, whether such seed grain or seed grain and feed indebtedness is evidenced by warrants or by bonds or by refunding bonds, the Board of County Commissioners of such county may by resolution authorize the issuance of funding or of refunding bonds to retire such warrants, or bonds, or refunding bonds, or any or all of them.

Sec. 2. The bonds provided for in Section 1 of this Act shall be issued in denominations ranging from one hundred to one thousand dollars. They shall bear interest at a rate not higher than seven (7) per centum per annum, payable semi-annually, with coupons for each interest installment. They shall mature in serial installments beginning not less than two years after date and the last instalment shall mature not later than five years from the date thereof, and no installment shall be more than three times the amount of the smallest installment. They shall be sold at not less than par, or they may be exchanged at par for part of the indebtedness to fund, or to refund which, they are issued. Said bonds shall be signed by the chairman of the Board of County Commissioners and shall be attested by the county auditor under the county seal. The coupon may be executed by the facsimile signatures of said officials. Each bond shall state on its face that it is issued in accordance with the provisions of this chapter, and may be payable as to principal and interest anywhere in the United States.

Sec. 3. A record of each bond issued under the provisions of this Act shall be kept by the county treasurer showing the number of each bond so issued, the date, amount, rate of interest, and when and where payable. If the bonds are sold he shall also note on his record the amount received therefor, to whom sold, and how the proceeds are disposed of. In the event the bonds are exchanged the record of the county treasurer shall disclose the date, number and denomination of the warrants, bonds or refunding bonds surrendered in payment therefor. It shall be the duty of the county auditor to keep a duplicate record of the same.



Sec. 4. Before issuing such new bonds the Board of County Commissioners shall provide for the collection of an annual tax upon all taxable property in the county sufficient to pay the principal and interest of said bonds as the same become payable.

Sec. 5. Said board may at any time with the concurrence of the owners thereof pay and retire any of the bonds issued under the provisions of this Act out of the funds provided for that purpose at not more than the face value thereof and interest accrued to date of payment.

Sec. 6. This Act shall not operate to amend or repeal any existing legislation, but shall be held to be alternative thereto and independent thereof.

Sec. 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Sec. 8. This Act is hereby declared to be an emergency measure and shall be in force from and after its passage and approval.

Approved February 27th, 1923.

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## CHAPTER 187.

(H. B. No. 62—Muus.)

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### COUNTY SEED AND FEED BONDS.

An Act to amend and re-enact Section 3476, Compiled Laws, 1913, as amended by Chapter 13 of the Special Session Laws, 1918, relating to the levying of Tax to Provide for a Sinking Fund to pay County Seed and Feed Bonds.

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

Sec. 1. AMENDMENT.) Section 3476 of the Compiled Laws of North Dakota for 1913 as amended by Chapter 13 of the Special Session Laws for 1918 is hereby amended and re-enacted so as to read as follows:

Sec. 3476. TAX LEVIED FOR SINKING FUND.) For the purpose of securing prompt payment of the principal and interest of all bonds issued by any County for seed and feed under any laws heretofore in force, there shall be levied by the Board of County Commissioners at the time and in the manner other taxes are levied, such sums as shall be sufficient to pay such interest, and in addition thereto a sinking fund tax shall be annually levied sufficient to pay and retire said bonds at their maturity, and it shall be the duty of the county treasurer to pay promptly the interest upon the said bonds as the same shall fall due. No tax or fund provided for the payment of

such bonds, either principal or interest, shall at any time be used for any other purpose; provided, however, that the board of county commissioners may deposit any part or portion of the sinking fund herein provided for, in any bank, which shall furnish to the county a bond of indemnity to be approved by the board, and receive interest on the same which shall be credited to the sinking fund.

It shall be the duty of the treasurer when said bonds or any coupon or coupons attached thereto are paid, to cancel the same by writing upon the face thereof, the word "paid" and the date of payment.

Approved February 26th, 1923.

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## CHAPTER 188.

(H. B. No. 63—Muus.)

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### COLLECTION OF SEED AND FEED ACCOUNTS.

An Act to provide for the collection of Notes, Contracts and indebtedness for Seed and Feed furnished by Counties.

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

Sec. 1. It shall be the duty of the County Treasurer of any county in this state which has heretofore furnished to any of its inhabitants seed and feed under laws then in force, to collect any and all notes, contracts and evidences of indebtedness given to said county, for seed and feed heretofore furnished by said county, as the same shall fall due and upon payment thereof to satisfy any lien therefor held by the county, and return such note, contract, or other evidence of indebtedness to the debtor; and it shall be the further duty of said County Treasurer to deliver to the Board of County Commissioners a statement of all contracts for seed and feed, which remain unpaid on the first day of January in each and every year until all shall have been paid.

Sec. 2. It shall be the duty of the Board of County Commissioners at any time any contracts for seed and feed shall become due, when it deems such action advisable, to order the State's Attorney to immediately commence an action in behalf of and in the name of the county for the placing of such indebtedness in judgment, or for the foreclosure of the lien therefor in accordance with the laws providing for the foreclosure of mortgages by action or advertisement; provided in cases where the enforcement of such payment would work great hardship, the Board of County Commissioners may extend the date for payment of such debtor's contract from time to time. Provided, further, that in no case shall any extension be given

beyond the time stipulated for the last payment of funding or refunding bonds, issued to provide the seed grain, or feed furnished by the county to any such debtor.

Sec. 3. Any act or parts of acts in conflict with this act are hereby repealed.

Approved February 26th, 1923.

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## CHAPTER 189.

(S. B. No. 208—Thorson.)

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### COUNTY BUDGET.

An Act Relating to County Finances; Providing That all County Officials and all Officers in Charge of any Institution, Office or Undertaking Supported in Whole or in Part by the County Shall File an Itemized Statement of Amounts Necessary for Maintenance of Such Office or Institution; Providing That the County Commissioners Shall Annually Prepare a Budget; Providing for Publication of Such Budget and of the Proposed Levy; Providing for a Public Hearing in Regard to the Proposed Expenditures and Levy; Fixing a Date for Levy; Providing That all Expenditures must Conform to the Budget as Adopted, and That all Unappropriated Balances in any Fund at the End of the Fiscal Year shall Become a Part of the General Fund: Repealing Sections 3312, 3313, and 3314, of the Compiled Laws of 1913.

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

Sec. 1. Every officer in charge of any institution, office or undertaking, supported wholly or in part by the county, shall file with the board of county commissioners on or before July sixth of each year, on suitable blanks prescribed by the tax commissioner and furnished by the county commissioners, an itemized statement of the amounts of moneys which, in the opinion of such officer, will be required for the proper maintenance, extension or improvement of such institution, office or undertaking for the fiscal year next ensuing, explaining any difference between the amount of an estimate and the latest appropriation for the same purpose, and citing the laws relating thereto. The local officers who have charge of any poor relief which is supported wholly or in part by the county shall in like manner furnish the board of county commissioners with statements of the estimated amounts required from the county for poor relief during the ensuing fiscal year. It shall be the duty of the board of county commissioners to furnish each officer or person required to make a statement with suitable blanks on or before June first of each year.

Sec. 2. The county auditor shall annually prepare estimates of county receipts and expenditures for the ensuing year in the form prescribed by the tax commissioner and upon blanks

by him furnished. Such annual budget shall specifically set forth:

(1) The aggregate annual expenditures from each fund for each of the last three fiscal years.

(2) The amount of money received from other sources than direct property taxes and available for any purpose in each of the last three fiscal years.

(3) The amount required for each department, public office and public official; for each public improvement; for the maintenance of each public building, structure or institution; for the maintenance of public highways, roads, streets and bridges; and the construction, operation and maintenance of each public utility, and for each and every purpose authorized by law for which it is desired to raise money for the ensuing year, including all contemplated undertakings proposed for the ensuing year.

(4) The balance standing to the credit or debit of the several funds and the aggregate amount in all funds at the end of the fiscal year.

(5) The amount of uncollected taxes standing to the credit of the county.

(6) An estimate of the probable amount that may be received during the incoming or ensuing year from other sources than direct property taxes.

(7) The aggregate amount proposed to be raised for all purposes.

(8) The amount of the bonded indebtedness, setting out each issue and the purpose for which issued; the date of issue and the date of maturity; the original amount issued and the amount outstanding; the rate of interest; the sum necessary for interest and for sinking fund purposes, and the amount required for all interest and sinking fund purposes for the incoming or ensuing year.

(9) The amount required to retire all other indebtedness lawfully incurred and to pay interest thereon.

Sec. 3. The estimates of necessary expenditures and tax levies required in the preceding section of this act, together with a notice that such board of county commissioners will meet on a specified date for the purpose of making tax levies as set forth in said estimates (naming the time and place of holding such meeting), shall be published in the official newspaper of the county, if there be one; if not, then in a newspaper of general circulation in such county, for at least one publication.

It shall be the duty of the county auditor to notify by mail the township, city and village officers in regard to date of such meeting.

Sec. 4. It shall be the duty of the board of county commissioners to meet at the time and place designated in such notice, and any taxpayer who may appear shall be heard in favor of or against any proposed expenditures or tax levies. When such hearing shall have been concluded, such board of county commissioners shall adopt such estimate as is finally determined upon. All taxes shall be levied in specific amounts and shall not exceed the amount specified in such published estimates.

Sec. 5. The amount which the county commissioners shall levy as the county tax shall be computed by adding together the amounts of the annual appropriation and of any special appropriation so far as the money therefor is to be raised by taxation and deducting therefrom so much of the probable receipts from all sources, except loans, and of the unappropriated balance in the county treasury at the closing of the auditor's books for the previous year as the board deems advisable. The board of county commissioners of each county, on or before the fourth Tuesday in July of each year, shall determine the amount of taxes that shall be levied for county purposes and shall levy all such taxes in specific amounts.

Sec. 6. No county expenditure shall be made or liability incurred, nor shall a bill be paid for any purpose in excess of the appropriation therefor, except as provided in the two following sections.

Sec. 7. If the appropriation for any purpose is not sufficient to meet the expenditures required by law, the county auditor may, on the order of the county commissioners, make a transfer to the required fund from any other fund, except from sinking and interest funds set aside to pay the principal or interest on outstanding bond issues, or funds set aside to retire any other outstanding indebtedness. The commissioners shall place on their records a statement of all of such payments with the reasons in detail therefor, and shall report fully and specifically thereon in their published statements of proceedings.

Sec. 8. After July first and before the regular appropriations have been made by the board of county commissioners, the county board of commissioners and other officials who are authorized to incur liabilities payable by the county may incur liability at a rate of expenditure not in excess of that authorized for the same purposes for the preceding year. Payments therefor may be made from any unappropriated balance in the county treasury to be charged to the regular annual appropriations when made. No new or unusual expense shall be incurred

or permanent contract made, or salary increased, until an appropriation therefor has been made by the county board of commissioners.

Sec. 9. The expenditure of money by the several counties shall be in accordance with annual appropriations of the board of county commissioners. All bills in connection with any public office or undertaking shall be approved by the official or officials in charge of such office or undertaking before being allowed by the county board of commissioners. At the closing of the auditor's books on June thirtieth, the balance to the credit of each annual appropriation shall become a part of the general unappropriated balance in the county treasury, but no special appropriation shall lapse until the work for which it was made has been completed, the bills paid, and the account closed.

Sec. 10. At the end of each fiscal year the county auditor shall render to the county commissioners an account of all county receipts and expenditures.

Sec. 11. Any officer or officers violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars.

Sec. 12. Sections 3312, 3313, and 3314 of the Compiled Laws of 1913 and all other acts and parts of acts in conflict with this act are hereby repealed.

Sec. 13. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 2nd, 1923.

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## CHAPTER 190.

(H. B. No. 172—Anderson of Burleigh.)

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### COUNTY CONTRACTS, HOW LET.

An Act Relating to County Commissioners' Powers and Duties with Regard to Contracts Let on Competitive Bids.

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

Sec. 1. CONTRACTS LET ONLY ON COMPETITIVE BIDS.) The Board shall cause an advertisement for bids for the erection of County buildings, for the purchase of fuel, election ballots and election supplies as provided for in Article 13, Chapter 17 of the Compiled Laws of North Dakota for the year 1913, when

the amount to be paid for the same during the current year shall exceed \$300.00, to be published for at least thirty days prior to the opening of bids by at least four publications in official newspapers published in the county, and such other newspaper as may seem to them advisable. Such advertisement shall state where the plans and specifications may be examined and the time allowed for the completion of the same, also the time when bids will be opened and passed upon by the board, which may be at regular or duly adjourned session of the board, or at a meeting duly called by the auditor, as provided in Section 3266 of this chapter. Such bid must contain a certified check in a sum equal to five per cent of the amount of the bid, made payable to the chairman of the Board of county commissioners, as a guarantee that the bidder will enter into contract should it be awarded to him, and furnish a bond as herein provided, and the lowest responsible bid must in all cases be accepted, and the contract for the same shall be so conditioned that not more than seventy per cent of the contract price for the same shall be paid until the contract shall be executed and completed to the satisfaction and acceptance of the board, their architect or authorized superintendent, and payments to the extent of the above mentioned per cent may be made from time to time during the process of construction and divided into such installments as the board may agree upon. In contracts for County buildings the board must further require a bond from the contractor in a sum equal to the contract price, conditioned, the contractor will execute his contract and complete the building according to the plans and specifications and to the full satisfaction of the board, and account for all monies paid to him and pay all bills and claims on account of labor or materials furnished in and about the performance of said contract, including all demands of sub-contractors, and said bond shall stand as security for all such bills, claims and demands. The sureties of such bond shall be as required in Section 4801 (6834), except, however, the board may demand a surety bond, in which case the expense of procuring such bond shall be paid for by the county requiring the same. Contracts for the furnishing of election ballots, election supplies and blank books and supplies generally as provided for herein for all county offices shall be let at the first regular meeting in April in each year to run for a period of one year. All contracts shall be made and set forth in writing and may be signed on behalf of the board by the chairman with the county seal affixed, after such contract has been voted upon and carried by a majority of the board. The board shall, by virtue of this section, be empowered to engage some competent architect to prepare plans and specifications, details, etc., for a sum not to exceed five per cent of the total of the building.

Sec. 2. REPEAL.) All acts and parts of acts in so far as they are in conflict with the provisions of this act, are hereby repealed.

Approved March 8th, 1923.

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## CHAPTER 191.

(S. B. No. 235—Eastgate.)

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### COOPERATIVE AGRICULTURAL EXTENSION WORK.

An Act To Amend and Re-enact Section 2263 of the Compiled Laws of North Dakota for the Year 1913 as Amended and Re-enacted in Chapter 1 of the Session Laws for the year 1917 Relating to the Levy of a Tax by County Commissioners to be Used in Carrying on Cooperative Agricultural Extension Work as Defined by this Act and Providing for Referendum by Ballot, Audit of Funds and Disposition of Accumulated Funds.

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

Sec. 1. AMENDMENT.) That Section 2263 of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted in Chapter 1 of the Session Laws for the year 1917 be amended and re-enacted to read as follows:

Sec. 2263. COOPERATIVE AGRICULTURAL EXTENSION WORK.) The promotion of a permanent and profitable system of farming for North Dakota. Demonstrations and instruction carried to the farmer on his own farm of the best methods for securing efficient production of farm products. The demonstration and teaching of the underlying principles of sound farm finance and economic marketing of agricultural products. The carrying on of organized club work for boys and girls. Assistance in the organization and conduct of Home Demonstration Work for women and girls. ( County Agricultural Extension Agent), popularly known as "County Agent." The person or persons jointly employed by county, state and federal governments to carry on within the county the above defined Cooperative Agricultural Extension Work. (State Extension Division.) The regularly constituted Extension Division of the State Agricultural College vested with authority to supervise work and administer funds raised for cooperative extension work by State and Federal Government. (Taxpayers.) A taxpayer as referred to in this act shall be understood to be any person paying real estate taxes. (General Election.) A general election as referred to in this act shall be understood to be the general election held in November at intervals of two years.

The Board of County Commissioners in any county of this State, upon petition of twenty-five per cent of the taxpayers



of such county, shall submit the question to a vote of the people of said county. The ballot to be submitted to the voters at such election shall be a separate ballot and shall be worded as provided in this act for a referendum in counties carrying on extension work prior to the taking effect of this act.

The petition for institution of such work shall be as follows:

To the Honorable Board of County Commissioners of  
.....County.

Gentlemen:

We, the undersigned real estate taxpayers of.....

.....county, respectfully petition your board to employ a county agricultural extension agent in cooperation with the State and Federal Government; who shall promote and assist in developing a permanent and profitable system of farming in the county; who shall demonstrate and teach methods of efficient production of farm products and the underlying principles of sound farm finance and economic marketing of agricultural products; who shall carry on organized club work for boys and girls; and who shall assist in the organization and conduct of Home Demonstration work for women and girls.

On or before the first regular July meeting of the Board of County Commissioners following the Elections at which said agricultural extension work was adopted, a county extension agent or agents shall be employed and cooperative agricultural extension work begun as hereinafter provided.

It shall be the duty of the State Extension Division to present a candidate or candidates approved by them to the County board for their selection and final approval as county extension agent. At such meeting a budget shall be agreed upon for the ensuing year. There shall be made available annually from county funds a sum of not less than \$2,000.00, but in no case shall the levy made for this purpose exceed .5 of a mill. The budget shall stipulate salary of agent, field and office expense allowance and clerical hire. The State Extension Division shall furnish one half of the salary of the agent and as much more as may be available from Federal and State Funds and shall bear all expenses of administration and supervision. After mutually agreeing upon the budget and after deducting the amount of funds directly contributed by the said Extension Division, the commissioners, shall proceed to make such levy as will cover the county's share of the expense. Each year thereafter until discontinued by referendum vote, as hereinafter provided, a similar budget shall be agreed upon and such levy made by the Board of Commissioners as will meet

the county's share of the cost of such cooperative extension work. In case of a vacancy in the position of agent, the procedure for the selection of a successor shall be similar to that mentioned for the selection of an agent when the work is instituted in the county.

The active direction and supervision of the work of the County extension agents shall be carried on by the State Extension Division of the Agricultural College. The Board of County Commissioners shall, however, have general administrative authority and shall be frequently consulted with reference to general policies and the work of the agents. Their suggestions and directions shall be followed when not in conflict with State and Federal Laws or regulations governing appropriations for extension work. County Extension agents shall file with the County auditor monthly a statement of their work which report shall in turn be presented by the auditor to the County Board of Commissioners. If either the State Extension Division or the Board of County Commissioners become dissatisfied with an agent, a joint meeting shall be arranged at which time detailed information as to misconduct, negligence or inefficiency of the agent will be presented and such joint action taken by both parties as is justified by the evidence.

An accurate itemized account of all expenditures incurred by county extension agents in the regular conduct of their duties shall be submitted monthly by them to the State Extension Division for examination and audit and by them in turn transmitted for audit and recommended for payment to the County Board of Commissioners who shall have authority to approve or disallow expense items.

The County Commissioners in any county levying a tax for Cooperative Extension Work shall submit to a vote the question of continuation of such work upon the filing of a petition worded as follows and signed by at least fifteen per cent of the taxpayers of a county.

To the Honorable Board of County Commissioners of  
.....County.

Gentlemen

We, the undersigned real estate taxpayers of.....  
.....County respectfully petition your Honorable  
Board to submit the question of continuing the levy for the  
support of Cooperative Agricultural Extension work in.....  
.....County to a vote of the people of said County  
at the next general election.

The ballot to be submitted to the voters at such election shall be a separate ballot worded as follows:

For the Support of Cooperative Agricultural Extension work.

Against the Support of Cooperative Agricultural Extension work.

If a majority of the votes cast are against the support of this work, the tax levy and the services of the agent shall be discontinued on December 31st following the date of the election, provided that funds accumulated under the provisions of this act, remaining in the treasury at such date, may be carried into any fund that the county commissioners deem expedient. If a majority of the votes cast are for the support of such work it shall be the duty of the county commissioners to continue said tax levy and said Cooperative Extension work. In case of either a negative or affirmative vote, the commissioners may be again petitioned to submit the question at any succeeding general election. Such petition must, however, carry the signatures of at least fifteen per cent of the taxpayers of the county. The wording of the petitions and ballot and the action taken as a result of such vote shall be in accordance with the referendum provisions of this act.

It shall be unlawful for a Board of County Commissioners in any county which is legally appropriating funds for extension work to submit to vote the question of whether the tax levy provided for in this act shall be continued, without receiving notice at least thirty days before the general election from the County Auditor of the filing of said petitions requesting a referendum vote.

Any acts or parts of acts in conflict herewith are hereby repealed.

Approved March 8th, 1923.

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## CHAPTER 192.

(S. B. No. 344—Garberg.)

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### COUNTY BUILDINGS.

An Act To Amend and Re-enact Section 3294 of the Compiled Laws of the State of North Dakota for 1913, Relating to the Purchase, Erection, Repair and Maintenance of County Buildings.

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

Sec. 1. AMENDMENT.) That Section 3294 of the Compiled Laws of the State of North Dakota for 1913, be amended and re-enacted to read as follows:

Sec. 3294. TO ERECT, REPAIR AND MAINTAIN BUILDINGS FROM CURRENT REVENUE.) The board shall have authority under the provisions of this article to provide for the purchase, erection, repairing and maintaining of court houses, county hospitals, jails and other necessary buildings within and for the county, and to make contracts on behalf of the county for the building, repairing and maintaining of same; but no expenditure for the purpose herein named greater than can be paid out of the annual revenue of the county for the current year shall be made unless the question of such expenditure shall have first been submitted to a vote of the qualified electors of such county and shall have been approved by a majority of the votes so cast; and the board shall determine the amount and rate of taxes to be submitted to a vote for such purpose.

Approved March 8th, 1923.

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## CHAPTER 193.

(H. B. No. 240—Olafson.)

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### BONDS OF COUNTY COMMISSIONERS

An Act to Amend and Re-enact Section 667 of the Compiled Laws of North Dakota for the year 1913, relating to County Commissioners furnishing bonds.

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

Sec. 1. AMENDMENT.) That Section 667 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 667. COUNTY COMMISSIONERS TO FURNISH BOND.) Every person hereafter elected or appointed to the office of County Commissioner of any County within the State of North Dakota is hereby required to give to the county an official bond before entering upon the duties of his or her office, conditioned on the faithful performance and discharge of the official duties of his or her office, and to render a true, accurate and full account of all business transactions, powers and trusts of every kind and nature that shall come before him or her, or into his or her hands as such officer, according to law. Such bond shall include all the business of the County done by him and protect the County against all acts of omission as well as commission including all errors caused by carelessness or inattention in office; such bonds shall be given through the State Bonding Department of the State of North Dakota and which bond shall be in the penal sum of two thousand dollars and the premium for said bond shall be paid out of the general fund of the county.

Approved February 27th, 1923.

## COURTS

### CHAPTER 194.

(S. B. No. 61—Van Camp.)

#### FEES IN SUPREME COURT.

An Act Amending Section 728 of the Compiled Laws of North Dakota for the year 1913; relating to fees in the Supreme Court.

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

Sec. 1. AMENDMENT.) Section 728 of the Compiled Laws of North Dakota for the year 1913 be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 728. FEES IN SUPREME COURT.) The following fees shall be charged and collected by the Clerk: Ten dollars in advance upon the filing of the record in any cause upon appeal, or upon filing a petition in any cause seeking the exercise of the original jurisdiction of the Supreme Court.

Approved February 19th, 1923.

### CHAPTER 195.

(S. B. No. 295—Kretschmar.)

#### SALARY OF SUPREME COURT REPORTER.

An Act to Amend and Re-enact Section 8 of Chapter 211 of the Session Laws of North Dakota for 1919, Relating to Supreme Court Reporter and State Law Librarian.

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

Sec. 1. AMENDMENT.) That Section 8 of Chapter 211 of the Session Laws of North Dakota for 1919, be, and it is, hereby amended and re-enacted to read as follows:

Sec. 8. Such Reporter and State Law Librarian shall receive such annual salary as shall be provided for in the general appropriation bill, and shall have an office in the State Capitol.

Approved March 1st, 1923.

## DAIRYING

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### CHAPTER 196.

(S. B. No. 156—Eastgate.)

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#### REPEAL OF COW BILL.

An Act to Repeal Chapter 31 of the Special Session Laws of 1919 Relating to the Purchase of Dairy Cattle by Counties.

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

Sec. 1. REPEAL.) That Chapter 31 of the Special Session Laws of 1919 be and the same is hereby repealed

Approved March 5th, 1923.

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### CHAPTER 197.

(H. B. No. 145—Anderson of Burleigh.)

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#### LIQUIDATION OF EXPERIMENTAL CREAMERY.

An Act to Provide for the Closing and Liquidation of the Business heretofore conducted by the State of North Dakota in the operation of a State Experimental Creamery; Providing for the Transfer of all Funds to the General Fund of the State and Repealing Chapter 149 of the Session Laws for the year 1919.

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

Sec. 1. LIQUIDATION OF STATE EXPERIMENTAL CREAMERY; TRANSFER OF FUNDS.) The Commissioner of Agriculture and Labor is hereby directed, empowered and required to within thirty days after the taking effect of this act, close up and liquidate all of the business heretofore conducted by the State of North Dakota as the State Experimental Creamery, and to within such period collect and deposit and cover into the State Experimental Creamery Fund all moneys and securities belonging to said fund. Upon the expiration of said thirty day period, the State Treasurer shall transfer all funds and securities in the State Experimental Creamery Fund to the General Fund of the State.

Sec. 2. REPEAL.) Chapter 149 of the Session Laws of the State of North Dakota for the year 1919 is hereby repealed.

Sec. 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in force and effect on and after its passage and approval.

Approved February 27th, 1923.

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CHAPTER 198.(H. B. No. 55—Lackey.)

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## PENALTY FOR VIOLATING DAIRY LAWS.

An Act to Amend and Re-enact Section 2861, Compiled Laws of North Dakota for 1913, Relating to Penalty for Violating Dairy Laws.

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

Sec. 1. AMENDMENT.) That Section 2861, Compiled Laws of 1913 of the State of North Dakota, be, and the same hereby is amended and re-enacted to read as follows:

Sec. 2861. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.) Whoever violates any of the provisions of this article, the punishment of which is not herein otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment of not to exceed thirty days, or both.

Approved February 7th, 1923.

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## DEPOSITORIES

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CHAPTER 199.(H. B. No. 194—Hanson.)

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## DEPOSITORIES OF PUBLIC FUNDS.

An Act Designating the Depositories of Public Funds and Fixing the Minimum Rate of Interest; Requiring Competitive Bids for such Deposits; Providing for Publicity with Reference to such Funds and Depositories; Prescribing Penalties for Violation of this Act; Defining Terms used Herein, and Repealing Sections 147, 147a, 147b, and Sections 370 to 374, inclusive, Sections 1472 to 1488, inclusive, and Sections 3315 to 3329, inclusive, of the Compiled Laws of 1913, and Chapter 59, Session Laws of 1915, and Chapter 56 Session Laws of 1921.

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

Sec. 1. DEFINITION OF TERMS.) (a) The term "public Corporation" shall be construed to include counties, township, school districts, villages and cities, and all bodies corporate, except private corporations.

(b) The term "state" and "State institutions," shall be construed to include, respectively, the State of North Dakota

and all penal, charitable, correctional, educational and industrial institutions, enterprises and business projects.

(c) The term "school district" shall include all common school districts, special school districts, independent school districts, consolidated school districts, and cities and other bodies politic or corporate, organized as school districts under a special law, or operating under a special law.

(d) The term "board," unless otherwise indicated, shall be construed to include the State Board of Auditors, the governing board of school districts as hereinbefore defined, the city council or commission in cities, the board of county commissioners, the board of trustees of villages, the board of township supervisors, the Board of Administration, the Workmen's Compensation Bureau, and any board or commission having control of state industries or enterprises.

(e) The term "clerk," unless otherwise indicated, shall include the clerks of school boards in common school districts, in consolidated school districts, in special school districts, the secretary of the board of education in independent school districts, the clerk or secretary of the school board in special school districts, the city auditor in case of school districts in cities organized under a special act or law, the county auditor in his capacity as clerk of the board of county commissioners, the clerk or secretary of the board of trustees in villages, the clerk or secretary of the board of township supervisors, the secretary of the Board of Administration, the secretary of the Workmen's Compensation Bureau, and the secretary or chief clerk of any board or commission having charge of state industries or enterprises.

(f) The term "public funds," unless the context otherwise indicates, shall be construed to include all funds derived from taxation, fees, penalties, sale of bonds, or from any other source which belong to and are the property of public corporations as defined in section one of this act. It shall include all sinking funds of public corporations, the state, and of state institutions, and all funds from whatever source derived and for whatever purpose to be expended of which public corporations, the state or state institutions have legal custody. It shall include the funds of which any board, bureau, commission or individual, created or authorized by law to have control of such funds as the legal custodian for any purpose whatsoever, whether such funds were derived from general or special taxation or the assessment of persons, corporations or individuals for a specified purpose, or from the sale of bonds.

Sec. 2. In counties where township organization is incomplete, the Board of County Commissioners shall perform all



duties, with reference to the designation of depositories and the deposit of public funds, in townships in such counties which, if the townships were duly organized, would under the provisions of this act devolve upon the board of township supervisors.

Sec. 3. All funds of public corporations, and all funds of the state and of state institutions, as defined herein, shall be deposited in the Bank of North Dakota or in banks which have been duly designated as depositories of public funds as provided in this act. The treasurer of public corporations and the State of North Dakota and all persons by law charged with the custody of public funds, which, according to the provisions of this act, shall be deposited in depositories duly designated as provided herein, shall promptly upon receipt of such funds deposit the same in a duly designated depository in compliance with this act. Checks or drafts on funds deposited as herein provided shall be drawn by the legal custodian thereof in his official capacity only; and no checks or drafts on such deposits shall be paid or honored by such depository unless so drawn. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall, in addition thereto, be liable to the public corporation, the state, and any state institution, in a civil action for all damages caused or suffered thereby.

Sec. 4. Any state bank duly incorporated in this state under and pursuant to the laws governing the incorporation of banking corporations, and any national bank situated and doing business within the State of North Dakota, and the Bank of North Dakota, may be designated a depository of public funds by the proper board as herein defined. The board may select two or more banks in the same county as depositories, but if more than one bank be designated the board shall deal with the banks selected and designated impartially, both as to the deposit of funds and the withdrawal of funds and the requirement as to bonds. The board shall take into consideration in selecting and designating the depository or depositories, the condition of each bank and capital, surplus and general credit thereof.

Sec. 5. In counties where only one bank is located or functioning the board may designate such bank as a depository, or it may designate another state or national bank or banks within the state or the Bank of North Dakota as depository or depositories in the manner and upon the conditions provided in this act. In counties where there is no bank in existence or functioning the board may designate the Bank of North Dakota or any state or national bank or banks outside of such county and within the state as depository or depositories in the manner and upon the conditions provided in this act for the selection of depositories of public funds.

Sec. 6. In no case shall the amount of county funds deposited by the county commissioners in any one bank exceed the combined capital and surplus of such bank. In counties where the deposits to be made by the county commissioners of county funds exceed the combined capital and surplus of all the banks in the county, qualified as depositories, the board of county commissioners may nevertheless deposit such county funds in banks within the county, upon the condition that such banks furnish a sufficient bond as required in this act.

Sec. 7. Before any deposit shall be made in any depository, except the Bank of North Dakota, by or in behalf of any public corporation, such depository shall furnish a bond payable to the public corporation making such deposit in an amount that shall at least equal the largest deposit that may at any time be in such depository; said bond shall be approved as to form by the state's attorney and as to amount and sufficiency by the board. If the board fails or refuses to approve any such bond the same may be presented to the Judge of the District Court, upon three days notice to the clerk of the board of the public corporation to which such bond was submitted, and in case of cities involving deposits of municipal funds, the city auditor, respectively, and the Judge shall forthwith proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond the said bank shall be declared a depository of the funds of such public corporation. The sureties on all bonds required by public corporations according to the provisions of this law shall justify as required by law in arrest and bail proceedings; provided, however, that in lieu of such personal bond, the board of public corporation involved may require such bank designated as a depository to file a surety bond for a sum equal to the amount of funds such bank may receive according to the provisions of this act. The bond, when approved, shall be deposited with the county auditor. This bond shall be a continuing bond and shall continue binding until the proper board of public corporation shall require a new or different bond, but in no case involving the deposit of funds of public corporations shall such bond be continued without a renewal thereof for a longer period than four years.

Sec. 8. The board except the State Board of Auditors shall at its regular meeting in July of each odd numbered year after the taking effect of this act assemble and examine all outstanding bonds and require new bonds whenever necessary in order to comply with the provisions of this law. If there be no regular meeting of the board in July required by any law heretofore in force, the board shall assemble for said purpose not later than the third Tuesday in July. At its first regular meeting in July after this act takes effect the board

shall designate depositories of public funds as herein provided. The clerk of such board shall on the first day of July when this act takes effect, and thereafter, at least ten days before such meeting, notify every bank in the county, both state and national, that at the next regular meeting, or if no regular meeting be required by law, then at a meeting to be called for that purpose, the board will designate a depository or depositories of public funds. Such notice shall be given by registered mail. The notice shall further recite the probable amount of public funds to be deposited indicating separately sinking funds to be deposited on time and call funds to be deposited subject to check or draft; such notice shall advise the bank that proposals will be received for such deposits, and that the interest rate on such deposits shall be not less than two per cent (2%) or over three per cent (3%) on call deposits and not less than four per cent (4%) or over six per cent (6%) on time deposits. It shall further recite that the board expects the depositories to pay interest on public funds at substantially the same rate it pays interest on the funds deposited by private persons. Proposals for deposits shall be sealed and delivered to the clerk and shall state in writing what rate of interest will be paid on average daily balances during the month and what interest will be paid on time deposits, and shall have attached to it a statement showing the financial condition of the bank at that time and as disclosed in the several statements of financial condition made during the last preceding twelve months. This section shall not apply to designating of the depositories by the state Board of Auditors.

Sec. 9. The proposals for public deposits referred to in the preceding section hereof shall be by the clerk laid before the board at the meeting aforesaid, and shall be thereupon opened by such clerk in the presence of the board and the board shall thereupon proceed to designate a depository or depositories of public funds under its control.

Sec. 10. All funds of the state shall be deposited by the State Treasurer in the Bank of North Dakota and other banks within and without the state as is now provided by law. Depositories other than the Bank of North Dakota that are or may be required by law, shall be designated by the Board of Auditors acting in conjunction with the Governor. The Board of Auditors shall advertise in at least three daily newspapers published in this state, not less than thirty days prior to the meeting at which depositories are designated, for proposals; the proposals for the deposit of public funds shall state what interest will be paid on average daily balances of such funds as are subject to check and what interest will be paid on time deposits; the amount deposited in any one designated depository shall not exceed in any case, more than fifty per cent of its

paid up capital and surplus. Interest on funds thus deposited shall be not less than two per cent or over three per cent on daily balances subject to check and not less than four per cent or over six percent on time deposits. Each bank thus designated as a depository shall continue as such until the order of the board designating such bank as a depository shall be revoked and new depositories designated. The Board of Auditors shall designate depositories at its regular meeting held and which shall be held on the second Tuesday in January of every even number year, and at such meeting the board shall re-examine conditions with respect to existing depositories and their bonds and make such new orders with reference thereto as the public interest may require.

Sec. 11. Every National Banking Corporation, designated as a state depository under the provisions of this act for the deposit of the funds of the state or of any state institution, shall be required to permit the examination and inspection by the State Examiner or of any report or reports made to the comptroller of currency, relative to the financial condition of such association. The State Examiner may also call for special reports from any such depository whenever in his judgment the same is necessary in order to obtain full and complete knowledge of the condition of the public funds therein deposited. If any National Banking Corporation fails to comply with a demand of the State Examiner for such inspection, as provided herein, the State Examiner shall certify that fact to the State Treasurer and also the board or boards having charge of the state institutions as herein defined, forthwith, and the State Treasurer shall immediately withdraw from the said depository all funds of the state deposited therein; and in case of deposits of the funds of state institutions in such a National Banking Corporation, the board having charge of such funds shall forthwith withdraw the same therefrom.

Sec. 12. Before any deposit shall be made in any depository other than the Bank of North Dakota by or in behalf of the state or of any state institution, such depository shall furnish a bond, payable to the State of North Dakota, in a penal sum that shall not be less than the largest amount on deposit with such depository at any one time; such bond, if required of a depository of the funds of a state institution, shall be approved as to amount, form and sufficiency by the board having control or charge of such institutions; when such bond is required of a depository of the funds of the state, it shall be approved as to amount, form and sufficiency by the State Board of Auditors and the Governor; all such bonds with the approval endorsed thereon, shall be filed like public documents with the Secretary of State; and after such depositories have been designated and such bonds have been filed and ap-

proved, the Secretary of State shall certify to the State Treasurer, or treasurer of such institution or corporation, a list of depositories and the amount of deposit for which such deposittee shall have qualified; provided, that if a depository of the funds of both the State and of state institutions so elects one bond may be sufficient, if the same otherwise comply with the requirements of this act and has the approval of the authorities designated herein; such bond, must, however, in all cases be in a penal sum that shall not be less than the total amount of funds belonging to the state and state institutions, that may at any one time be deposited in such depository.

Sec. 13. The rate of interest on all public funds deposited as herein provided shall not be less than two per cent (2%) or over three per cent (3%) on daily balances subject to check or draft, credited monthly, and not less than four per cent (4%) or over six per cent (6%) on time deposits. It is the intention of this act that depositories of public funds in this state shall pay substantially the same rate of interest thereon as such banks pay to individual depositors upon individual deposits.

Sec. 14. Each depository shall furnish to the public corporation, the state, or state institution, to whose credit the deposit is held, on the first day of each month, an itemized statement of amount in such deposits subject to check. Such statement shall be verified whenever required by the State Treasurer as to funds of the state or state institutions, or by the treasurer of any public corporation, as to funds of such corporations. All sums of interest accruing on funds so deposited shall be credited to said deposit on the first day of each month for the preceding month.

Sec. 15. All such public funds shall be deposited in the name of the state, state institution or public corporation to which the same belongs, and in case of public corporations, the treasurer shall, between the first and tenth day of the months of January, May and September in each year, publish once in some newspaper in the county the names of such depositories, the amount of money on deposit therein subject to check and on time deposit and the rate of interest thereon, and the amount of the bond furnished by each depository. The State Treasurer shall between the first and tenth day of January, May and September, in each year cause to have printed in pamphlet form a report, showing the balances in all funds, the names of all depositories of such state funds, stating the amount of average daily balances and the amount on time deposit therein, together with the rate of interest paid on each class of deposits, and the amount of the bond furnished by each depository, and mail a copy of said report to each depository, one to each county

auditor and county treasurer in the state and one to each official county paper in the state. On each occasion when the state treasurer causes to be printed a report as herein provided, he shall cause to be published in the official paper in his county a public notice to the effect that such report is ready for distribution and can be had by any voter of the state upon request.

Sec. 16. This act shall not apply to public corporation and school districts unless the amount in the treasury of such corporation equals or exceeds the sum of five hundred dollars. The board of public corporations having on hand less than five hundred dollars, and therefore not within the provisions of this act, shall deposit all the funds of such public corporations and school districts nevertheless in some bank selected by the board thereof under such conditions and restrictions as shall seem adequate to such board to protect the public interest.

Sec. 17. To the extent that public funds are deposited as herein provided, the legal custodian thereof, and the sureties on his bond, shall be exempt from all liability thereof by reason of loss of any such funds from failure or other act of any such depository.

Sec. 18. Any person violating any of the provisions hereof shall be guilty of a misdemeanor, and shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or imprisoned in the county jail not less than ten days nor more than six months or both for each offense.

Sec. 19. Any board, commission, bureau or individual having the legal custody of any public funds that do not expressly or by name come within the provisions of the preceding sections of this act, shall at least thirty days before its first meeting in each odd numbered year advertise in a newspaper for proposals for the deposit of such funds. A bond shall be required of the depository designated, and shall be approved by such board, commission, bureau or individual and filed with the county auditor or Secretary of State as hereinafter provided. Such bonds shall be filed with the county auditor if the funds deposited be the funds of a public corporation as defined in this act; it shall be filed with the Secretary of State if the funds deposited be the funds of the state or of a state institution as defined herein. The provisions of Sections 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, and 17 of this act, with reference to the deposit of public funds in a duly designated depository, the drawing of checks or drafts thereon and the payment thereof, the penalties for violating such provisions as prescribed in Section three hereof, the bank or banks that may be designated

and the consideration entering into such designation, the provision of section five, with reference to counties in which but one bank or in which no bank is located and functioning, the amount to be deposited in each bank designated, the contents of the notice that proposals will be received, including the probable amount to be deposited on time and subject to draft, and the minimum rates of interest on each class of deposits, the inspection of reports of national banking corporations by the bank examiner in which state funds or the funds of state institutions are deposited in case that the funds to be deposited under the previous section be the funds of the state or of a state institution as defined herein, shall govern insofar as applicable to the designation of depositories and the deposit of public funds therein by such board, commission, bureau or individual.

Sec. 20. REPEAL.) Sections 147, 147a, 147b, and 370 to 374, inclusive, Sections 1472 to 1488, inclusive, Sections 3315 to 3329, inclusive, of the Compiled Laws of 1913; Chapter 59 of the Session Laws of 1915; Chapter 56 of the Session Laws of the State of North Dakota for the year 1921, are hereby repealed; and all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 8th, 1923.

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## DEPOSITORS' GUARANTY FUND

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### CHAPTER 200.

(S. B. No. 250—Majority of Banking Committee.)

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#### DEPOSITORS' GUARANTY FUND.

An Act to Amend and Re-enact Chapter 126 of the Laws of 1917, as Amended by Chapter 110 of the Laws of 1919 and as Further Amended by Chapter 21 of the Laws of 1921.

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

Chapter 126 of the Laws of 1917 as amended by Chapter 110 of the Laws of 1919 and further amended by Chapter 21 of the Laws of 1921 is hereby amended and re-enacted to read as follows:

Sec. 1. GUARANTY FUND COMMISSION. DEPOSITORS' GUARANTY FUND COMMISSION. ESTABLISHED. COMPENSATION. EXPENSE.) There is hereby established a Depositors' Guaranty Fund Commission of the State of North Dakota to be com-

posed of five (5) members, viz: The Governor of the State of North Dakota, the Manager of the Bank of North Dakota, and three members to be appointed by the Governor of the State. All appointments to membership of said commission, whether to fill a vacancy or otherwise, shall be made by the Governor of the State of North Dakota from a list of names of nine men furnished by the banks directly affected by the provisions of this Act. All members of this commission shall be residents of the State of North Dakota and all members except the Governor shall have at least five years' experience in the management of some bank or banks located within the State of North Dakota. The present appointive members shall serve out the term for which they were appointed and each succeeding appointment except to fill a vacancy caused by death, resignation or removal of a member shall be for a period of three years. The Governor shall be the Chairman of said Commission, and the Attorney General shall be ex-officio the attorney for the Commission, and the State Treasurer shall be its Treasurer, and the Secretary shall be appointed by the Commission, and the Commission shall have power to fix the compensation of such secretary to be paid from the Depositors' Guaranty Fund, which shall not in any case exceed the sum of \$2,000.00 per annum. The State Examiner may be appointed as such secretary. The members of the Commission, other than the Governor, shall receive for their services five (\$5.00) dollars per day for the time actually served and their actual expenses incurred in the performance of their duties, the same to be paid out of the general fund of the State. Said Commission shall have the supervision and control of the Depositors' Guaranty Fund and shall have power to adopt all necessary rules and regulations, not inconsistent with law, for the management and administration of said fund.

Sec. 2. COMMISSIONERS. QUALIFICATIONS. OATHS AND FILING THEREOF.) The members of the Depositors' Guaranty Fund Commission, other than the Governor, shall take and subscribe the oath of office prescribed by the Constitution, and shall take oath to keep secret all the facts and information obtained in the performance of their duties in like manner as is provided for the State Examiner in the State Banking Laws, and subject to like penalties, and each shall be bonded to the State of North Dakota under the State Bonding Act as elected State Officers, in the amount of ten thousand (\$10,000.00) dollars. The Secretary and all other persons appointed shall take the oath herein prescribed, and be bonded under the State Bonding Act, in amount fixed by the Commission, in no event less than ten thousand (\$10,000.00) dollars. The oath of office of each of such Commissioners and persons appointed by them, shall be filed with the Secretary of State.



Sec. 3. DEPOSITORS' GUARANTY FUND COMMISSION. REGULAR MEETING. DATES FIXED. SPECIAL MEETINGS. HOW CALLED. WHERE HELD.) The Depositors' Guaranty Fund Commission created by the provisions of this Act shall hold at least four meetings during each calendar year at stated intervals as follows, to-wit: On the second Tuesday in January, April, July and October, provided that other meetings of the Commission, may be convened upon written request by any two members of the Commission, served upon the chairman of such Commission, who shall upon receipt of such request give notice to the Secretary of the date when a meeting shall be held in accordance with such request, and the Secretary shall in turn give notice thereof to all members of the Commission of the date of such meetings so to be held, as hereinafter provided; and provided further, that whenever a condition exists affecting the general banking business within the state, or when there is sufficient matter in the office of the Secretary entitled to receive consideration and disposition by the Depositors' Guaranty Fund Commission, as contemplated, herein, or when in the opinion of the Secretary it is advisable to convene such Commission for counsel and direction on contingencies that may arise that would tend to prevent best results from being obtained hereunder as contemplated herein, it shall be within his power to convene the Commission and to that end forthwith give notice of the date of such meeting to all members of the Commission. All meetings of the Depositors' Guaranty Fund Commission shall be held at the Capitol of the State, except that meetings may be held elsewhere within the State by consent of the majority of the members of the Commission.

Sec. 4. DEPOSITORS' GUARANTY FUND COMMISSION. SPECIFIC DUTIES.) It shall be the specific duty of the Depositors' Guaranty Fund Commission to pass upon the qualifications of each and every bank for admission under the Depositors' Guaranty Fund and their actions shall be final, both as to immediate admission or what shall be further required of any bank in order to place it in a condition satisfactory to the Commission so that it may be admitted later. When the conditions of any bank heretofore admitted under the Depositors' Guaranty Fund becomes such as to cause the State Examiner to doubt the advisability of permitting it to continue in business, it shall be within his power to require the advice and opinion of the Commission and for that purpose a meeting of the Commission may be called.

Any regular or called meeting of the Depositors' Guaranty Fund Commission as herein provided, at which there is not a full attendance of the membership, it shall be optional with a quorum whether or not any business shall be transacted, and

such quorum may adjourn from time to time until such time as there shall be a full attendance.

Sec. 5. GUARANTY FUND. ASSESSMENT.) For the purpose of providing a Depositors' Guaranty Fund for the protection of depositors in banks, every institution engaged in the business of banking under the laws of this state, shall be subject to assessment to be levied, collected, administered, kept and applied as hereinafter provided.

The Guaranty Fund Commission shall appoint two persons skilled and experienced in bank accounting to be known and designated as inspectors, who shall take and subscribe the oath of office prescribed by the constitution, and shall take oath to keep secret all facts and information obtained in the performance of their duties, in like manner as is provided for the State Examiner in the State Banking Law, and subject to like penalties. Which two inspectors shall be paid out of the funds appropriated for the conduct of the State Examiner's office, the same salaries that are paid to deputy state examiners.

Provided, however, if the Guaranty Fund Commission is unable to procure the services of inspectors, who, in their judgment, possess the requisite skill and ability as bank accountants, it may pay to either or both of such inspectors, from the funds of the Depositors' Guaranty Fund, such additional compensation, as in its judgment, is necessary, not in any case exceeding Four Thousand (\$4,000.00) dollars per year for any such inspector.

If at any time the amount of work involved in the performance of the duties of the Guaranty Fund Commission, as aforesaid, shall be such as to require, in its judgment, more than two inspectors, it shall have authority to appoint not to exceed two assistant inspectors who shall take like oath, and who shall be paid a salary of not to exceed Two Hundred (\$200.00) Dollars per month; which payment shall be made out of the monies of the Depositors' Guaranty Fund.

Every inspector or assistant inspector who makes an examination of the affairs of a bank, shall make a full report of the result of his examination, with comments upon the condition of the bank examined, to the Secretary of the Commission and the State Examiner, who may accept and adopt the examination and report of any such inspector or assistant inspector, in lieu of an examination by one of his deputies; in which case the Guaranty Fund Commission shall pay over to the State Examiner, the charge made for such examination, to the amount that would be legally chargeable for such examination, if made by the State Examiner's office, less the expense of the inspector in connection with such examination; and the amount so collected by the State Examiner shall be accounted for and cov-

ered into the same fund as collections made for the examination of banks by the State Examiner.

It is the purpose and intention of this Act that the work of the inspectors made available to the State Examiner, shall be of the same value to him as the examining work of at least two deputy state examiners, and that the examining force of the State Examiner's Department may be kept correspondingly smaller.

Sec. 6. The Guaranty Fund Commission may from time to time establish rules and regulations as to the payment by banks of the expense of making examinations by its inspectors, but no charge shall be made against any bank for such examination in excess of the amount of Ten Dollars (\$10.00) per day for the services of an inspector, together with his actual traveling and hotel expenses, and it shall have authority to remit all or any part of the per diem and expense charges against any bank, having at all times due regard to whether the affairs of such bank were such as to have warranted an examination; except that where an examination is adopted by the State Examiner, a charge must be made equal to that allowed by law for an examination of such bank by the State Examiner. Any charges made for examinations not adopted by the State Examiner and not rebated, as aforesaid, shall be kept and retained by the Guaranty Fund Commission for the payment of the salaries and expenses of the inspectors, and any deficiency in such salaries and expenses, after applying such fees, shall be paid out of the Depositors' Guaranty Fund.

Sec. 7. Upon the taking effect of this Act, the Commission shall take the necessary steps to become informed, and to thereafter keep informed as to the financial condition and management of all banks that have been admitted under the Depositor's Guaranty Fund, for the purpose of determining whether the interests of said Guaranty Fund or of the depositors in any of the banks protected thereby, are endangered or likely to be endangered by the further guaranteeing of the deposits of any bank.

Sec. 8. For the purpose of acquiring information as to the condition of any such banks, the Commission, by its members or its inspectors, as provided for in this Act, shall have full access to all the records and files of the Banking Department of the State; and it shall also, by its members or its said inspectors, have full power and authority to enter into any bank admitted under said Fund, at any time, and take charge of its assets, papers, documents and records, for the purpose of examination and investigation, during such time as shall be necessary for the purpose of auditing its affairs, and ascertaining its condition and its methods of conducting business; and either the individ-

ual members of the Commission or the inspectors of the Commission shall have power and authority to call and put under oath, and examine any officer, stockholder or employee, creditor or debtor of any bank, in connection with the examination of its affairs, or to obtain explanation of anything connected with its business, records or management; and in case of the refusal of any such person to appear for the purposes of examination, any Judge, Clerk of Court, or Justice of the Peace, within the jurisdiction of whom such bank is located, shall upon request of such Commissioner or inspector, issue a subpoena for such person, commanding him to appear at a time and place stated, and to submit to such examination, and answer questions and sign his testimony, if reduced to writing, and if any person so subpoenaed shall fail to appear or to obey such order, the Judge of the Court from which such subpoena is issued, or the Justice issuing the same, shall have authority and jurisdiction to punish such person for contempt. The testimony so taken may be, by the Commissioner or inspector, reduced, or caused to be reduced, to writing, and at his direction shall be subscribed by the person examined.

Whenever any member of the Guaranty Fund Commission shall acquire information leading him to believe that the condition of any bank is such that an immediate examination of its affairs should be made, he shall have authority to immediately order an inspector or assistant inspector to enter upon an examination of the same, and if he deem it necessary, he may call upon the State Examiner to furnish a Deputy Examiner to work with such Inspector, and the two officers shall as far as practicable co-operate in the examination of such bank.

Sec. 9. Whenever the Commission shall acquire information leading it to believe that any bank admitted under such Fund is being irregularly or inefficiently, or dishonestly conducted, or is insolvent, as that term is defined by the Banking Laws, it shall be its duty to investigate the same as promptly as possible as in Section 8 hereof provided; and at any time during the progress of such investigation if it appears that such bank is probably insolvent, such commissioner or inspector shall have authority to make an order requiring all deposits received during such examination to be set aside and held intact as "Special Deposits," which shall only be used to reimburse the depositor; and if at the close of such examination the commissioner or inspector shall find such bank to be insolvent within the meaning of the Banking Laws, he shall have authority to extend such order for such further period as shall be necessary to enable the Commission to meet and take action with reference to the affairs of such bank; but such meeting and action must be taken within thirty days from the time of extending such order. Upon completing such examination, such commissioner

or inspector shall immediately prepare a report of the result thereof, and submit the same to the Commission and the State Examiner.

If from such report it shall appear to the Commission that the bank is insolvent within the meaning of the Banking Laws, it shall have authority to immediately institute a proceeding in the district court of the county in which such bank is located, (or in any other court that may be by any law then in force, given jurisdiction of such proceeding) to liquidate such bank as an insolvent corporation, and procure the appointment of a Receiver to wind up its affairs, as provided for by Article 3 of Chapter 27 of the Code of Civil Procedure, and the general equitable jurisdiction of courts of equity to appoint receivers and wind up the affairs of insolvent corporations; or if by any law then in existence the exclusive right to institute such proceedings shall be vested in any particular officer or Board, the Commission shall certify the facts to such officer or Board, as the case may be, who must thereupon institute such proceedings.

In lieu of instituting such proceedings, the Commission may, in its discretion, permit such bank, within a time to be prescribed by it, to comply with such conditions as the Commission shall deem necessary to make it a solvent institution, but as a condition of granting such time, such bank must, by a resolution of its directors, endorsed on its minutes, consent to the continuing of the order aforesaid limiting the right to receive deposits, and to such continued supervision of its affairs as the Commission shall prescribe. The granting of such time to said bank to remedy its condition shall not abridge or limit the right of the Commission to institute such court proceedings, at any time it shall appear to its satisfaction that such bank is hopelessly insolvent, or unable to comply with the conditions prescribed.

Provided, however, the pendency of any proceedings for the liquidation of any such bank shall not be a bar to its reorganization or continuance as a banking institution, but at any time before the final disposition of such proceedings, such bank may make application to the Guaranty Fund Commission for leave to reorganize or remedy its condition, and be re-admitted under the Guaranty Fund, and the Commission may thereupon prescribe the conditions as to assets, payment of liabilities, and the character and competency of the managing officers to be placed in charge of the affairs of such bank upon which it may be re-admitted to said Guaranty Fund, which condition shall be submitted to the Court having jurisdiction, and if it approves thereof, it may make an order to that effect, and thereupon and upon such bank complying with the said conditions to the satisfaction of the Guaranty Fund Commission, it shall make an order re-admitting the said bank, and the liquidation proceedings shall

be thereupon discontinued on such terms as the Court shall direct; but no deposits shall be received by such reorganized bank until final approval of the Court is had, and the said proceedings actually dismissed. All expenses incident to such proceedings incurred by the Commission shall be presented to and audited by the State Auditing Board, and be paid out of the General funds of the State, and there is hereby appropriated for the purpose of meeting such expenses, the sum of one thousand dollars per year, or so much thereof as shall be necessary.

Sec. 10. FILING STATEMENTS. ASSESSMENTS.) On June 30th of each year, every state bank engaged in the business of banking in this state shall make and file with the Depositors' Guaranty Fund Commission, a statement in writing, verified by the oath of its president, vice president or cashier, showing the average daily deposits in its bank for the preceding twelve (12) months.

Immediately after the date fixed for the making and filing of such statements, the Depositors' Guarantee Fund Commission shall levy assessments against the assets of each of said banks as follows:

One-twentieth of one per cent on the average daily deposits as shown by the statement of such average daily deposits to be made and filed by the provisions of this section.

For each and every year thereafter one-twentieth of one per cent of the average daily deposits as shown by the statement required to be made and filed under the provisions of this Act in each year, until the total amount of money in the Guaranty Fund reaches two per cent of the average daily deposits; provided, however, that said Depositors' Guaranty Fund Commission shall have power to make and levy additional assessments of one-twentieth of one per cent, but not to exceed four such additional assessments shall be made in any one year.

Due and legal notice of such assessment or assessments shall be deemed to have been given when such notice as shall be prepared by the Secretary of the Commission has been placed in an envelope, securely sealed, and postage prepaid, directed to each of said banks and deposited, in the United States mail, and said banks shall thereupon set apart, keep and maintain in their said banks the amounts thus levied against them and the amounts shall be and constitute what shall be designated as the Depositors' Guaranty Fund, payable to the Depositors' Guaranty Fund Commission on demand, for the uses, and purposes provided. Provided that when the Depositors' Guaranty Fund reaches the total sum of two per cent of the average daily deposits, said assessments shall cease until such time as the Guaranty Fund is depleted below one and one-half per cent of the average daily deposits, when the necessary assessment may

be again levied at one-twentieth of one per cent per annum until said fund again reaches two per cent of the average daily deposits.

The Guaranty as provided for in this Act shall not apply to a bank's obligation as endorser upon bills re-discounted nor to bills payable, nor to money borrowed from its correspondents or others, nor deposits otherwise secured; nor deposits upon which compensation in any manner or form or by whatever device, has been promised or paid in excess of the rate of interest as limited in this act. All other deposits for which money or its equivalent, and for which full value has been received by the bank wherein such deposit is made, shall be guaranteed by this Act. Each guaranteed bank shall certify under oath to the Depositors' Guaranty Fund Commission at the date of statements as hereinbefore provided, the amount of money it has on deposit not eligible to guaranty under the provisions of this Act, and in assessing such bank this amount shall be deducted from the total deposits.

Sec. 11. INTEREST ON DEPOSITS.) No bank transacting a banking business under this Act shall pay interest on deposits, directly or indirectly at a greater rate than four per cent per annum, unless authorized by the Depositors' Guaranty Fund Commission to pay a greater rate which in no case shall exceed six per cent per annum, and said Depositors' Guaranty Fund Commission is hereby authorized and empowered to grant permission to pay such higher rate; provided, that the rate so granted shall be uniform within any county.

Any officer, director or employee of any bank violating the provisions of this section, directly or indirectly, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the state penitentiary for a term of not less than one year nor more than three years or both, in the discretion of the court.

Sec. 12. FALSE STATEMENTS. PENALTY.) Any person making oath to any of the statements herein required, knowing the same to false, shall be deemed guilty of a felony and be punished by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the state penitentiary for a term of not more than five years or both, in the discretion of the court.

Sec. 13. VOLUNTARY LIQUIDATION OR CHANGE TO A NATIONAL BANK.) If any bank desires to go into voluntary liquidation or change to a National bank before the assessment provided for in section ten becomes due and payable, the provisions of this Act shall not relieve said bank from the payment of any assessments then due from it to the Depositors' Guaranty Fund,

nor from any liability to become due on account of losses in banks which are closed at the time such bank applies to liquidate or change into a National bank.

Sec. 14. NEW BANKS AND REORGANIZED NATIONAL BANKS.) Any bank organized under the state law, subsequent to the taking effect of this act, and admitted by the Commission to participation under the Depositors' Guaranty Fund, shall pay into such fund an amount equal to three per cent of its capital stock, which amount shall constitute a credit fund subject to adjustment on the basis of said bank's average daily deposits as shown by the first annual statement required by Section 10 of this article. And any National bank that has reorganized as a State bank, shall likewise before engaging in business, set apart and credit to the Depositors' Guaranty Fund such an amount as will place them on an equal footing as respects such fund, with other State banks.

Immediately after being passed upon favorably by the Depositors' Guaranty Fund Commission, the Secretary shall notify such new banks and the State Examiner of such admission, which notification shall be in writing, in the form of a certificate, signed by the Chairman and attested by the Secretary of the Commission. Such certificates shall be by the Bank receiving the same framed and kept at all times displayed in a conspicuous place in the lobby of the bank.

The Depositors' Guaranty Fund Commission is authorized and empowered to make an adjustment of the rates of assessment to be paid by any bank which engages in the banking business subsequent to the passage, approval and taking effect of this Act, which shall have been admitted hereunder and shall require such bank to contribute to the Depositors' Guaranty Fund, a just and equitable sum, and for that purpose shall adjust assessments of such bank so that the first two assessments together with the credit fund of three per cent of the capital stock paid by said bank when it begins business, shall at least equal one-half of one percent of the average daily deposits of said bank as shown by the first annual statement required by section ten of this article.

Provided, however, that said three per cent will not be required of the new banks formed by the reorganization or consolidation of banks that have previously complied with the terms of this Act with reference to the payment of assessments.

Sec. 15. ASSESSMENT. FAILURE TO CREDIT.) Whenever any bank, after due notice from the Secretary of the Depositors' Guaranty Fund Commission shall fail to pay over or credit on its books to the Depositors' Guaranty Fund any assessment as herein provided, for a period of twenty days, such bank shall be subject to a penalty of ten (\$10.00) dollars per day for each



day it so refuses or fails to pay over or credit to such Depositors' Guaranty Fund such assessment and penalty, and at the expiration of thirty days from the date of notice of assessment herein provided if said assessment and penalty still remains unpaid, the bank so delinquent may be deemed insolvent, and in the discretion of the Commission may be liquidated and its business wound up as provided for by the State Banking Laws for the liquidating of insolvent banks.

Sec. 16. DEPOSITOR'S GUARANTY FUND. FIRST LIEN. EXCEPTION.) Whenever any bank doing business in this state under the provisions of this Act shall suspend payment or become insolvent, the amount of money standing to the credit of the Depositors' Guaranty Fund on deposit in such bank shall be a first lien upon the assets of such institution; save and except funds deposited in such institution and belonging to the estate of any insolvent bank, deposited therein by the Receiver or other person officially in charge, which shall have preference over all other claims.

Sec. 17. DEPOSITS. PAYMENT. APPROVAL OR REJECTION OF LIABILITY. ISSUANCE OF CERTIFICATES OF INDEBTEDNESS.) When any bank doing business under the provisions of this Act suspends or becomes insolvent and shall have closed, the Commission shall, without unreasonable delay, cause each deposit in such closed bank to be examined, audited and shall determine such as may be qualified for guarantee under this Act and certify the acceptance or rejection of each deposit to the Secretary of the Commission, who shall give notice, by registered mail, to the persons whose deposits have been rejected, at their last known post office address, or to each thereof, in care of the Receiver of such closed bank. The action of the Commission in certifying acceptance or rejection as herein provided shall be final unless, within ninety days from date of mailing notices of rejection, written demand for hearing is served upon the Secretary of the Commission.

Sec. 18. The Commission shall make rules and regulations and shall prescribe the manner by which proof of claims of depositors for allowance of claims guaranteed under this Act shall be made, and shall designate the form and manner of verification of such proof of claim.

Sec. 19. The Commission may provide for hearing upon rejected claims, either before the Commission or any member thereof, or a referee to be appointed by the Commission, at the State Capitol, or elsewhere within the State upon majority vote of the Commission.

Sec. 20. At any hearing where testimony is taken the Commission or its referee shall have authority to administer oaths

and may require a stenographic report to be taken and transcribed, or the testimony reduced to writing and subscribed by the witness. The Commission shall after hearing upon such rejected claims enter their order determining whether such rejected deposits shall be finally rejected or allowed as guaranteed.

Sec. 21. The Secretary of the Commission shall issue a Certificate of Indebtedness upon the Treasurer to the person entitled thereto for the amount of all such accepted deposits.

If there be not sufficient funds available in the fund to pay such Certificate of Indebtedness, the Treasurer shall endorse the same "presented for payment" and date and sign such endorsement, and such Certificate shall thereafter be payable out of money in the Guaranty Fund, by order of the Commission, pro rata, upon all outstanding Certificates of Indebtedness. Notice of the amount of each dividend to be paid upon such certificate, and the date when such payment is to be made, shall be published in a newspaper in the place where the closed bank was located. If no newspaper is published at the place where such closed bank was located, then such notice shall be published in an official newspaper of the county wherein such bank was located. Notice shall be published in like manner of the date upon which payment of any balance due on such certificate of indebtedness will be made.

Sec. 22. SUBROGATION.) To the extent of the deposits accepted and allowed as guaranteed, the Depositors' Guaranty Fund Commission, for the use and benefit of said Fund, shall be subrogated to all the rights of such guaranteed depositors thus accepted, to participate in the assets of such closed bank, and the same shall be enforced and collected by the Secretary of the Commission accordingly; and from time to time as collected shall be distributed pro rata as payment upon the certificates of indebtedness issued to the guaranteed depositors of the closed bank from which such payment had been received, until full payment is made to the holder of such certificate. Any surplus remaining after payment in full to holders of such certificates shall be turned into the depositors' guaranty fund and be thereafter held and distributed as herein otherwise provided.

All monies received shall be deposited in the solvent banks subject to the provisions of the Depositors' Guaranty Fund, proportionate as to the several deposits to the assessment levied against each of said banks.

Sec. 23. REPORTS.) The receiver or other official in charge of any suspended or insolvent bank, possession of which has been taken under the provisions of this Act, shall make to the

Depositors' Guaranty Fund Commission not less than one report quarterly, according to such form as may be prescribed, such report to be verified by his oath.

Sec. 24. NOTICES NOT OTHERWISE PROVIDED FOR.) Whenever notice is required by the provisions of this Act, and such notice is not otherwise provided for as to form or manner of service thereof, the same may be served in the manner now provided for the service of summons in civil action, or by registered mail, and an affidavit of such mailing of such notice by the person giving or serving same, shall be prima facie evidence of the service of such notice.

Sec. 25. FORMS. APPROVAL.) The Depositors' Guaranty Fund Commission shall prescribe all such forms as may be useful, or necessary in carrying out the provisions of this Act.

Sec. 26. PUNISHMENT. WHERE NOT OTHERWISE PROVIDED.) Where no other punishment is provided herein, any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty (\$50) dollars nor more than three hundred (\$300) dollars, or by imprisonment in the county jail for not less than thirty nor more than ninety days, or both, in the discretion of the court.

Sec. 27. SAVING CLAUSE.) Nothing in this act contained repealing any act for the regulation or conduct of banking, shall be construed, to release any person from punishment for any acts heretofore committed violating said act or acts nor affect in any manner any existing indictment or prosecution by reason of such repeal; and for that purpose such acts shall continue in force and effect notwithstanding such repeal.

Sec. 28. FEDERAL GUARANTY LAW.) Whenever by Act of Congress or by decision of the Federal Court, or departmental construction of the National Banking Act, National Banking Associations located and doing business within this State are permitted to avail their depositors of the protection of the Depositors' Guaranty Fund, established by the law of this State for the re-payment of deposits in closed banks, such association, after examination at its expense by the Commission, as in this Act provided for State Banks and, upon its approval as to its financial condition by the Commission, may participate in the assets and benefits of the Depositors' Guaranty Fund upon terms and conditions in harmony with the banking law of this state to be fixed by the said Depositors' Guaranty Fund Commission, provided that in the event national banking associations shall be required by federal enactment to pay assessments to any Depositors' Guaranty Fund of the Federal Government

and thereby the Depositors in such association in this state shall be guaranteed by virtue of the Federal laws, the association having availed themselves of the benefits of this Act, may withdraw therefrom and have paid to them the unused portion of all assessments levied upon and paid by such association.

**Sec. 29. UNAPPROPRIATED ASSESSMENTS REFUNDED. WHEN.)**

If any bank organized under the laws of this State, having paid any assessment or assessments to the Depositors' Guaranty Fund shall liquidate and go out of business, or shall desire to organize as a national bank and withdraw from the protection of the Depositors' Guaranty Fund for its depositors the portion of such assessment or assessments, which shall not have been used under the provisions of this Act shall be refunded to any bank by the Depositors' Guaranty Fund Commission. Provided, that no such bank shall be released from its proper proportion of all outstanding certificates of indebtedness of the Depositors' Guaranty Fund, issued to the depositors of failed banks under the provisions of this Act, nor until it shall have received permission in writing so to do from the Depositors' Guaranty Fund Commission of this State and after an examination of its condition.

**Sec. 30. MAY RESUME BUSINESS.)** Such bank or trust company may upon re-payment of any money advanced by the Depositors' Guaranty Fund to such bank or trust company, with the consent of the Depositors' Guaranty Fund Commission resume business upon such conditions as may be approved by said Commission.

**Sec. 31. DEFINING BANKS AND BANKING FOR THE PURPOSE OF THIS ACT.)** For the purpose of this act every corporation, except national banks whose business, in whole or in part, consists of the taking of deposits or buying and selling exchange shall be held to be and is hereby declared to be a bank, and as thus defined shall be subject to the provisions of this act, provided further, that trust companies doing a general banking business as defined in this section separate and apart from the writing of surety bonds and other general business, and building and loan associations receiving savings deposits, shall be declared to be a bank and shall also be subject to the provisions of this act.

**Sec. 32. ORGANIZING.)** Any banks organized and authorized to do business under the provisions of the State Banking Laws on and after the passage, approval and taking effect of this act shall sell the capital stock thereof at three (\$3.00) dollars per share above par and the amount received as a result of such advance shall be credited on the books of such bank to the Depositors' Guaranty Fund as hereinbefore provided.

Sec. 33. The Depositors' Guaranty Fund Commission shall have the right and authority to examine, by any member or inspector, the affairs of closed banks and investigate the conduct of the receivership thereof and make report thereon to the Commission.

Sec. 34. There is hereby appropriated out of the Depositors' Guaranty Fund twenty thousand dollars (\$20,000.00) per year, or so much thereof as shall be necessary to meet the expenses of the Guaranty Fund Commission herein provided for, and any amount of such appropriation not so used, shall be at the end of each year, covered into the said Depositors' Guaranty Fund.

The expenses of the Guaranty Fund Commission herein provided for shall be presented to the State Auditing Board for allowance, as claims against the State are presented, and when allowed, shall be paid as other claims against the State are paid.

Sec. 35. The term "Special Deposit" used in this Act shall be construed to mean, a deposit received in either cash, check, draft, or other common medium of exchange, but to be kept separate and apart from the general funds of the bank receiving the same; and to be kept on hand in the bank in cash, and not be considered as a part of its cash reserve; and not to be devoted to any purpose other than returning it on demand to the depositor; or permitting it to be withdrawn on order of the depositor, which order may be in the form of a check or other writing; and no part of such deposit shall be used, or the possession thereof parted with by the bank, except the checks, drafts, and other common mediums of exchange included in such deposits, shall be collected and converted into money as in the ordinary course of banking business, and the money so obtained, held in said deposit in lieu of such medium of exchange, and so long as the requirement of receiving Special Deposits continues, the full amount thereof must be kept on hand by the bank, except as paid out to, or on the order of the depositor; or deposited in a bank within the state, as a special deposit therein, as may be designated by the Commission or its Inspector and it shall be a Special Trust Fund not subject to claims of creditors of the bank.

Whenever the term "Commissioner" is used in this Act, it shall be deemed to mean a member of the Guaranty Fund Commission; and whenever the word "Commission" is used, it shall be deemed to mean the Guaranty Fund Commission.

Whenever the term "Fund" is used in this Act, it shall be deemed to mean the Depositors' Guaranty Fund.

Sec. 36. Any officer of any bank who shall receive any general deposit, while an order is in force, as hereinbefore pro-

vided, as to the taking of Special Deposits, or who shall, while such order is in force, after the receiving of any such Special Deposits, mingle the same with the general funds of the bank or pay out, or use, or part with the possession of the same, except as in this Act provided, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than One Thousand (\$1,000.00) Dollars, or by imprisonment in the County Jail for a term of not to exceed one year, or by both such fine and imprisonment, or by being confined in the Penitentiary for not less than one, or more than five years; and in addition thereto, such officer shall be civilly liable to any depositor whose deposit shall be thus unlawfully diverted.

Sec. 37. If any section, provision, clause, sentence or part of this Act shall be declared violative of any "constitutional" provision, the Act shall be deemed and held to have been enacted independent of the part so declared unconstitutional, and any operative part thereof that may remain shall be nevertheless given full force and effect, to the end that the ultimate purpose of the Act shall be as far as possible accomplished; and if that part of the Act which permits the Guaranty Fund Commission to resort to the Depositors' Guaranty Fund to pay any part of the expenses incident to the performance of its duties as herein provided for, shall be declared invalid, it shall nevertheless be lawful for the Guaranty Fund Commission to employ the inspectors herein provided for, and pay their salaries and expenses, and to pay any other expenses herein provided for, out of their own funds, or out of the funds of individuals or banking corporations voluntarily contributed for that purpose; and the official character of such inspectors and their powers and authority shall nevertheless be, in all things, the same as though they were fully paid and compensated out of the funds sought to be appropriated for that purpose.

Sec. 38. TEMPORARY POWERS OF COMMISSION.) The Depositors' Guaranty Fund Commission shall have the power and authority to employ any of the funds under its control for the purpose of paying off the claims of Bills Payable holders in closed banks whenever in its judgment and sound discretion the security behind such Bills Payable is sufficient to pay the same in full, and leave a substantial amount of security of the kind and character that could reasonably be expected to be collected upon and liquidated within one year from the expiration of the time limit of this section.

The Commission is empowered to deposit funds in banks operating under this Act, temporarily in aid of open banks, in such amounts; and upon such terms and conditions, and upon such security as it may determine and designate. And such banks shall be required to conduct their affairs in accordance with and under the direction of the Commission until such

temporary aid has been withdrawn. It shall require the consent of four members of the Commission before funds can be employed as provided for in this section.

This Section of this Act shall continue in force and effect until July 1st, 1927, unless sooner repealed, but at that time it shall expire and cease to be operative without any repeal and the powers and authorities conferred therein shall terminate without in any way limiting any other provisions of the Act.

Sec. 39. FORBIDDING CERTAIN ADVERTISING.) Any officer, director, stockholder, agent or employee, of a Bank whose deposits are guaranteed under the provisions of this Act, who shall state or represent in any advertisement, pamphlet, book, sign, or other manner, in writing or printing, that the deposits of such bank are guaranteed by the State of North Dakota shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars.

Approved March 6th, 1923.

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## ELECTIONS

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### CHAPTER 201.

(H. B. No. 169—Kopp.)

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#### ASSISTING ELECTOR TO MARK BALLOT.

An Act To Amend and Re-enact Section 988 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Disability of Electors in Marking their Ballots.

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

Sec. 1. AMENDMENT.) That Section 988 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted so as to read as follows:

Sec. 988. In case of disability of elector, any voter, who declares to the judges of election or when it appears to the judges of election that he cannot read that by blindness or other physical disability he is unable to mark his ballot shall upon request receive the assistance of either his Father, Mother, Husband, Wife, Son or Daughter in the marking of his ballot; and no one assisting, under this act, any voter in marking his ballot shall give information regarding the same. The judges may in their discretion require such declaration of disability to be made by the voter under oath and they are authorized to

administer such oath. No Elector, other than one who is unable to read or on account of physical disability, is unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or ask or receive the assistance of any person within the polling place in the preparation of his ballot.

Approved March 10th, 1923.

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## CHAPTER 202.

(S. B. No. 317—Carey.)

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### ABSENT VOTERS BALLOTS.

An Act to Amend and Re-enact Section 1003 of the Compiled Laws of North Dakota for 1913, as Amended by Chapter 6 of the Special Session Laws of 1918, Relating to the Printing of Absent Voter Ballots.

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

Sec. 1. AMENDMENT.) That Section 1003 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 6 of the Special Session Laws of 1918, be, and the same is hereby, amended and re-enacted to read as follows:

“Sec. 1003. BALLOTS FURNISHED AUDITOR, WHEN.) It shall be the duty of the secretary of state, county auditor, or any other officer by law required to prepare any general or primary election ballots, to prepare and have printed and delivered to the county auditor at least twenty days prior to the holding of any general or primary election, a sufficient number of absent voter ballots provided for in Section 994 of the Compiled Laws of North Dakota for 1913 for the use of all voters likely to be absent from such county on the day of such election.”

Approved March 1st, 1923.

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## CHAPTER 203.

(H. B. No. 204—Jackson.)

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### BALLOTS FOR MEASURES.

An Act To Amend and Re-enact Section 959 of the Compiled Laws of the State of North Dakota for the year 1913, Relating to the Preparation of Ballots for Constitutional Amendments and Extending the same to cover Initiated and Referred Measures.

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

Sec. 1. AMENDMENT.) That Section 959 of the Compiled Laws of North Dakota for 1913, be, and the same is hereby, amended and re-enacted to read as follows:



Sec. 959. **BALLOTS FOR CONSTITUTIONAL AMENDMENTS. INITIATED AND REFERRED MEASURES: HOW PREPARED.)** Constitutional amendments, duly certified to the auditor by the secretary of state, or any question, including initiated and referred measures, to be voted for aside from the election of public officers, shall be printed on a separate ballot and shall be deposited in a box separate from that provided to receive the ballots for public officers. Such ballots must embrace each constitutional amendment in full, and there shall be printed at the bottom of each proposed amendment the word "yes" and underneath the same the word "no," and opposite each of said words, a square form of blank lines. The electors shall designate by a cross or other mark within one of such squares, below each proposed measure, how he desires his vote recorded. If the question be other than a constitutional amendment, it shall be stated fully and fairly on each ballot, and the words "yes" and "no" shall be printed on the ballot at the close of the statement of each such question in separate lines with a square formed of blank lines and after each of said words in one of which squares the voter may indicate by a cross or other mark how he desires to vote on each such question. Where two or more amendments or questions are to be voted on they shall be printed on the same ballot.

Approved March 5th, 1923.

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## CHAPTER 204.

(H. B. No. 285—Jackson.)

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### PARTISAN ELECTIONS.

An Act to Provide for the Nomination and Election of Candidates for the Offices of Presidential Electors, United States Senator, and Members of Congress; For Electing Delegates to National Party Conventions, National Committeeman and for the Apportionment and term of Office and the Nomination and Election of Party Precinct Committeemen; To Provide for Forms of Ballots and Requirements of new Parties with Reference thereto; And to Repeal Sections 501 of the Revised Code of 1899, Section 601 of the Revised Code of 1905 and Sections 857, 859, 889, 901a, 910, 912, 917, 918, 919 and 971a of the Compiled Laws of North Dakota for the year 1913, and All Other Acts or Parts of Acts that Are in Conflict with the Provisions Hereof.

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

Sec. 1. **PARTY PRIMARY ELECTION.)** On the third Tuesday of March in each Presidential Election year, there shall be held an election at which the qualified electors of political parties existing within the state shall have opportunity to nominate by their votes, candidates for their respective parties for the offices of Presidential Electors and to elect Delegates to the National Party Convention, National Committeeman, and Party Precinct Com

mitteemen. On the last Wednesday in June (Primary Election Day) of each even numbered year, there shall be held an election at which the qualified electors of national political parties existing in the state shall have opportunity to nominate party candidates for United States Senator, when there are any to be elected, and for Members of Congress, Provided, that in the event this act should, because of the referendum or for other cause, not become operative until after the holding of the presidential primary election to be held in March, 1924, then the precinct committeemen to be elected for the term ending on the third Tuesday in March, 1928, shall be elected at the statewide primary election to be held on the last Wednesday in June, 1924.

Sec. 2. PARTY PRIMARY BALLOT.) The names of candidates for the various offices and positions in each of the political parties that are to be voted on at said election to be held on the third Tuesday in March under the provisions of this law, shall be printed on separate ballots for each party as follows: One with the title "United States Ballot" and with the words "Primary Election" and the party designation below the title line in the form shown in Section 9 (a) hereof: and one with the title "Precinct Ballot" with the party designation below the title line as shown in Section 9 (b) hereof. The names of candidates shall appear in the following order on the United States Ballot: Presidential Electors, Delegates to the National Convention, National Committeeman. The names of all aspirants for each of the various offices and positions shall be grouped below each of the above titles.

The precinct ballot shall contain only the names of candidates for Party Precinct Committeemen for whose nomination petitions have been filed with the county auditor as is hereinafter provided. If no nominating petitions have been filed for any candidate in any precinct the ballot shall contain blank lines and spaces on which names may be written on a sticker pasted.

The names of candidates for nomination for the offices of United States Senator, when one is to be elected, and for Members of Congress to be nominated on the last Wednesday in June under the provisions of this law, shall be printed on a separate ballot for each party with the title "United States Ballot" and with the words "Senatorial and Congressional Nomination" and the party designated below the title in the form shown in section 9 (c) hereof. The names of the candidates shall be grouped under their proper titles in the following order: United States Senator, Member of Congress.

Sec. 3. PETITION REQUIREMENT.) Aspirants for the positions of candidates for Presidential Electors, National Committeeman and Delegates to the National Party Convention shall be entitled

to have their names printed on the proper ballot for their respective parties by filing with the Secretary of State not more than sixty days nor less than thirty days prior to the date of election, petitions for their nomination bearing the signatures of duly qualified electors within the State equal to five per cent of the number of votes cast for the candidate of their respective parties for President at the last preceding Presidential election.

Candidates for United States Senator and for Members of Congress within their respective Congressional Districts, shall be entitled to have their names printed on the ballots of their respective parties by filing with the Secretary of State not more than sixty days nor less than thirty days prior to the date of election, petitions for nomination bearing signatures of duly qualified electors within their respective Congressional Districts equal to five per cent of the number of votes cast for the Candidate of their respective parties for President within their respective districts at the last preceding Presidential election.

Candidates for precinct committeemen shall have their names placed on the ballots of their respective parties within their respective precincts by filing with the county auditor not less than twenty-five days prior to the election, petitions bearing the signatures of not less than five per cent of the last vote in the precinct for the Candidate for President to the Party to which the candidates for Precinct Committeemen belong and with which they vote.

Sec. 4. PRECINCT COMMITTEEMEN, NUMBER, TERM OF OFFICE, PREPARATION AND DISTRIBUTION OF BALLOT.) The county auditor shall certify to the inspector of election in each voting precinct or district in the county the names of candidates for precinct committeemen that are entitled to a place on the ballots and the number of precinct committeemen to which each party is entitled in each voting precinct or district. Each party in a voting precinct or district shall be entitled to one precinct committeeman for each one hundred votes or major fraction thereof, cast for President by such party in said precinct or voting district at the last preceding Presidential election, provided that every precinct or voting district shall be entitled to at least one precinct committeeman for each National party. All precinct committeemen shall be elected to serve for a term of four years.

The ballot to be used for the election of precinct committeemen shall be prepared for each voting precinct or district in the county by the county auditor and distributed by him with other election supplies and in the same number for each party as the number of party primary election ballots that are supplied to each voting precinct or district.

The official returns made by the election Board from each precinct shall show the name and address of each such precinct

committeeman thus chosen by each party. Upon the canvass of the returns the county auditor shall immediately send a notice in writing of his election to each precinct committeeman so elected, and of the date of the meeting of the county central committee.

Every petition for the party nomination provided for herein shall require that the signers thereof are members of the party whose nomination the candidates mentioned therein is seeking.

No organization, political or otherwise, shall be entitled to a party ballot in the elections hereinbefore provided for unless said organization nominated and had printed upon the ballot, at the last preceding Presidential election, the names of a set of Presidential Electors pledged to the election of the candidates of said party for President and Vice-President, and further that such candidates for Presidential electors received at least five per cent of the total vote cast for President within the state at said election.

Petitions for nomination to be used under this law shall conform with the now existing requirements of law in all matters not specifically provided for herein. If no petitions are filed for nomination for any of the various places to be filled on the ballot, the names of candidates may be written in or inserted by pasting stickers and for this purpose as many blank lines as there are candidates to be voted for in each group shall be provided for under each group of names of candidates on each ballot.

Sec. 5. HIGHEST VOTE GOVERNS.) The candidates for Presidential Electors equal to the number to be nominated, and the candidate for United States Senator, and for Member of Congress receiving, respectively each for himself, the highest number of votes for such nomination, shall be the nominees of their respective parties for the respective offices and shall be entitled to have their names placed upon the ballot for the general election. The Candidates for Delegates to the National Convention equal to the number of delegates to be elected and the candidates for National Committeeman and Party Precinct Committeemen receiving respectively, each for himself, the highest number of votes for their respective offices, shall be declared elected.

Certificates of Nomination showing the number of votes received by each such candidate shall be issued to those who are nominated as the party candidates for Presidential Electors, United States Senator, and Members of Congress and a certificate of election shall be issued to each person who is elected as a delegate to a National Party Convention or as National Party Committeeman or as Party Precinct Committeeman.

Sec. 6. GENERAL ELECTION BALLOT.) At the General Election there shall be a ballot entitled "United States Ballot" with the words "General Election" below the title as shown in Sec-

tion 9 (d) hereof. Upon this shall be placed in one column the names of all candidates for whose nomination at a party primary election, provision is made in this act. Provided, however, that any political organization that did not nominate a group of candidates for Presidential Electors in the primary election may have space, on the general ballot, for a set of Presidential Electors, candidates for United States Senator, if any is to be elected, and for candidates for Members of Congress in the respective congressional districts, by complying with the following requirements. The candidates for which space is asked must be nominated in a convention composed of not less than one delegate for every thousand votes cast for President in the State at the last preceding Presidential election. Among such delegates must be resident voters from at least one-half of the counties in the state. The chairman and secretary of such convention shall file with the Secretary of State, not less than thirty-five days before the general election, a certificate setting forth the fact that such convention has been held, giving the time, place and names of the officers of the convention, names of candidates nominated and a statement of principles of government sought to be promoted by the participants in such convention, together with a list of the delegates in attendance giving the name, postoffice and county residence of each. A petition shall also be filed by or in behalf of the candidates nominated in such convention asking that the names of such candidates be properly placed upon the ballot. Such petition shall have upon it the signatures of voters in the state, representative of not less than one-half of the counties in the state and not less in number than the equivalent of ten per cent of the total vote cast, in the state, for President in the last preceding Presidential Election. Such petition, whether in one sheet or in several sheets, shall have the names of all candidates nominated in such convention included in each sheet or sheets and shall be one petition for all of the candidates. Such petition shall be filed with the Secretary of State not less than thirty days before the general election.

The names of all candidates for each office shall be grouped under the titles for the respective offices and shall have the party affiliation of each candidate printed after his (or her) name in not more than three words. The various groups of candidates shall appear on the ballot in the following order: "For Presidential Electors," "For United States Senator," "For Member of Congress."

Sec. 7. HIGHEST VOTE ELECTS.) The candidate or candidates for each of the various offices to be voted for at the general election, under the provisions of this law, who received the highest vote shall be declared elected.

Sec. 8. GENERAL FORM OF BALLOTS) On the Primary Election Ballots, a square shall be placed following the name and to the right of every candidate, and the voter shall place an (X) in such square following the name of each person he desires to vote for. On the general election ballot a square shall be placed following the name at the right of each group of Presidential Electors and of each candidate other than the candidates for Presidential Electors and the voter shall place an (X) in such square following the group of Presidential Electors and the name of each other person he desires to vote for. In the space between the square and the name of the candidates for Presidential Electors for the respective parties shall be printed in 12 point caps, black face type, the names of the candidates for President and Vice-President of the respective parties. As many blank lines as the number of candidates to be voted for in each group shall be provided for below the names in each group on which may be written or placed by means of a printed sticker a name or names to express the vote of the individual elector; Provided, however, that on the general ballot there shall be only one space with blank lines for Presidential Electors and it shall be immediately below the groups of candidates for Presidential Electors whose names are printed on the ballot. The use of a "Blanket" sticker or any sticker larger in size than any blank space left below any group of names on the ballot for writing in names of candidates, is expressly prohibited under this act. Within the space of each group shall be printed instructions as to the number of candidates to vote for in each group. At the top of both Primary and General Election ballots there shall be printed the following: "To Vote This Ballot Place an (X) in the square to the right of the names of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste the name in the blank space provided for that purpose." The ballots to be used under this law shall be in the form shown in section 9 hereof, but when printed for official use shall be enlarged sufficiently to contain the names of all candidates that properly shall go on each ballot; said names to be printed in 10 point type. The title line and sub-heads shall be printed in larger than 10 point type; squares to be 12 point.

John Doe	
John Doe	
John Doe	
John Doe	
John Doe	
John Doe	
John Doe	
John Dce	
John Doe	
John Doe	

FOR ELECTION OF PARTY DELEGATES TO  
NATIONAL CONVENTION

Vote for five

John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>
.....	<input type="checkbox"/>

FOR ELECTION OF PARTY  
NATIONAL COMMITTEEMAN

Vote for one

John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
.....	<input type="checkbox"/>

SECTION 9 (b)

# PRECINCT BALLOT

(Insert Party Name)

PARTY

To vote this ballot mark an (X) in the square after the name of each of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste the name in the blank space provided for that purpose.

FOR PRECINCT COMMITTEEMEN

(Vote for )

John Doe .....	<input type="checkbox"/>
John Doe .....	<input type="checkbox"/>
.....	<input type="checkbox"/>



## SECTION 9 (c)

# United States Ballot

## Senatorial and Congressional Nomination

(Insert Party Name)

**PARTY**

To vote this ballot mark an (X) in the square after the name of each of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste the name in the blank space provided for that purpose.

### FOR NOMINATION OF CANDIDATES FOR UNITED STATES SENATOR

Vote for one

John Doe ..... ☐  
John Doe ..... ☐  
..... ☐

### FOR NOMINATION OF CANDIDATES FOR MEMBER OF CONGRESS

.....District

Vote for one

John Doe ..... ☐  
John Doe ..... ☐  
..... ☐

## SECTION 9 (d)

# United States Ballot

## GENERAL ELECTION

To vote this ballot mark an (X) in the square to the right of one group of Presidential Electors and after the name of each of the persons for whom you wish to vote to fill the offices of U. S. Senator and Member of Congress. To vote for a person whose name is not printed on the ballot, write or paste the name in the blank space provided for that purpose.

### FOR PRESIDENTIAL ELECTORS

Vote for one group

John Doe

John Doe (Name)

Republican

John Doe President

☐

John Doe (Name)

John Doe Vice President

John Doe

John Doe (Name)

Democrat

John Doe President

☐

John Doe (Name)

John Doe Vice President

(Name)

President

☐

(Name)

Vice President

### FOR UNITED STATES SENATOR

Vote for one

John Doe

(Republican) ☐

John Doe

(Democrat) ☐

☐

### FOR MEMBERS OF CONGRESS.....District

Vote for one

John Doe

(Republican) ☐

John Doe

(Democrat) ☐

☐

Sec. 10. **PRESENT LAWS CONTROLLING.**) Excepting as herein otherwise provided, the ballots herein provided shall be prepared, printed, distributed, voted, canvassed and returned in the manner now provided for primary and general elections, respectively; likewise, as to notice of election, depositing of ballots, certifying election, filing of affidavits by candidates, filing fees, and all other matters not specifically provided for in this act.

If any section, provision, clause, sentence or part of this act shall be declared violative of any constitutional provision, the act shall be deemed and held to have been enacted independent of the part so declared unconstitutional, and any operative part thereof that may remain shall be nevertheless, given full force and effect, to the end that the ultimate purpose of the act shall be, as far as possible accomplished.

Sec. 11. **REPEAL.**) Section 501 of the Revised Code of 1899, Section 601 of the Revised Code of 1905, and Sections 857, 859, 863, 889, 910, 912, 917, 918, 919 of the Compiled Laws of North Dakota for the year 1913, and all other acts or parts of acts that are in conflict with the provisions hereof are hereby repealed.

Approved March 2, 1923.

NOTE: Referendum petition has been filed against House Bill No. 285, Chapter 204 herein, requesting that said measure be submitted to the electors at the general election November 4, 1924.

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## CHAPTER 205.

(S. B. No. 233—Carey.)

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### NONPARTISAN ELECTIONS.

An Act to amend and Re-enact Chapter 117 of the Laws of North Dakota for the year 1919, Relating to the Nomination and Election of all Elective County Officers, Judges of the Supreme and District Courts, State Superintendent of Public Instruction, and County Superintendent of Schools, Without Requiring a Declaration as to Party Affiliation, and a Separate Ballot for County Officials; Extending the Law so as to Apply to all State Officials and Members of the Legislature and County Official Newspaper, Changing Petition Requirement; Providing for Filling of Vacancies and for Designation of Principles supported by Candidates for State and Legislative Office, and repealing Sections 904, 905, 906, 907, 908, 909, 917, 918 and 919 of the Compiled Laws of 1913 and Chapter 117 of the Session Laws of 1919.

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

Sec. 1. **AMENDMENT.**) That Chapter 117 of the Session Laws of North Dakota for the year 1919, be, and the same hereby is amended and re-enacted to read as follows:

Sec. 1. NO REFERENCE TO PARTIES.) In all petitions and affidavits to be filed by, or in behalf of, any candidate for nomination in the primary election to all elective state and county office, the Justice of the Supreme Court and Judges of the District Courts, and the office of State Superintendent of Public Instruction, and the office of County Superintendent of Schools, no reference shall be made to a party ballot or to the political affiliation of such candidates having reference to national affairs."

'Sec. 2. SEPARATE STATE AND COUNTY PRIMARY NOMINATION BALLOT.) At all primary elections there shall be a separate ballot in the form shown in Section 11 (a) which is entitled "State and County Primary Nominating Ballot." The names of all candidates for all state offices shall be placed in the first or left hand column thereon. The names of all candidates for county offices shall be placed in the second or right hand column thereon. The names of all candidates for county official paper shall also be printed in the right hand column on the County Primary Nominating Ballot.

Sec. 3. ORDER OF APPEARANCE UPON PRIMARY NOMINATING BALLOT.) The names of candidates for the various offices to be printed in the first column upon the "State and County Primary Nominating Ballot" shall appear in groups under proper titles in the following order: State Officers: Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Commissioner of Insurance, Commissioner of Agriculture and Labor, Superintendent of Public Instruction, Commissioners of Railroads, Legislature.....  
District: State Senator, Members of House of Representatives.  
Judiciary: Judge of Supreme Court, Judges of District Court.

The names of candidates for various offices to appear in the right hand column "State and County Primary Nominating Ballot" shall appear in the following order: Auditor, Treasurer, Register of Deeds, State's Attorney, Sheriff, Clerk of District Court, County Judge, Superintendent of Schools, Public Administrator, County Surveyor, County Coroner, County Justices of the Peace, County Constable, County Commissioners, Assessor and County Official Newspaper.

Sec. 4. PERSONS NOMINATED.) The candidate or candidates receiving the highest number of votes, to the extent of double the number that are to be elected to any office, shall be declared the duly nominated candidates for the respective offices. This shall also apply to candidates for official paper. Provided that in case there are not twice as many candidates for nomination for any office as the number to be elected, then the candidates whose names appear on the ballot shall be declared the duly nominated candidates for the respective offices. No candidate for

nomination shall, however, be declared a duly nominated candidate unless he or she receives at least as many votes as the number of signatures required to be obtained on the petition to have the candidate's name placed on the primary ballot.

Sec. 5. STATE AND COUNTY GENERAL ELECTION BALLOTS.)

At the general election there shall likewise be a separate state and county ballot upon which there shall appear the names of all candidates for the various state and county offices which have been nominated as hereinbefore provided; Which ballot shall be entitled "State and County General Election Ballot." Such ballot shall be in the same form as herein provided as per Section 11 of this Act, except that the number of names to be printed thereon as candidates for each office shall be limited to twice the number of officers to be elected, and such names shall be the names of the two candidates who received the highest vote in the primary election. The names of all candidates shall be printed on the general election ballot, as hereinbefore provided for the primary ballot. There shall also be printed upon the General Election Ballot the names of the candidates for county official paper.

Sec. 6. DESIGNATION OF PRINCIPLES.) Every candidate for office who is entitled to have his or her name printed upon either the primary or general election state and county ballots, except candidates for county office and candidates for Judge of the District or Supreme Court may have printed, immediately following his or her name and on the same line a statement, in not more than five words and in not more than two lines 6 point type, which statement shall correctly designate or indicate the principles of government which the candidate is supporting and will support if nominated and elected. Provided that in such statement the use of the words "Republican" or "Democrat" shall not be permitted except in combination with another word or words which shall correctly indicate the faction, within either of such parties with relation to state issues, to which the candidate belongs; Provided that the words "Republican and Democrat" may be so used co-jointly.

No such designation or indication of political principles shall be printed on the ballot following the name of any candidate for any state office or for the legislative assembly or for any other office, unless such designation or indication shall have been adopted and its use authorized by a state-wide delegate convention, composed of delegates from at least two-thirds of the counties in the state. The right to adopt a designation or indication of principles and to authorize its use may be delegated to a campaign committee organized by such convention; Provided, that any legislative district convention, held pursuant to a call issued by any such state wide campaign committee operating under this act and authorized by such state wide convention so

to do, may itself determine, or it may delegate to a district campaign committee, which it may create, the right to determine which candidate or candidates for legislative office in such district, shall have the right to use the designation or indication of principles adopted by such state wide convention or by such state wide campaign committee.

Notice of intention to have such statement printed upon the ballot by those entitled thereto shall be given to the Secretary of State and County Auditor not less than thirty days before the date of any election and when such notice has been so filed in writing together with approval of any set of candidates for state office or any campaign organization that may already have become authorized to use such statement, in the pending campaign, such statement shall be printed upon the ballot following the names of the candidates that are included in the notice and no other candidate or set of candidates shall have a right to use such statement on the ballot, in literature or otherwise in the same campaign.

The term "set of candidates for state offices" as used in this section shall be construed so as to include all candidates for offices to be filled by election and for which offices the salaries are paid out of the State Treasury except the Superintendent of Public Instruction, candidates for Judicial positions and members of the Legislature. Candidate for Superintendent of Public Instruction may with the approval of such candidate be included under the provisions of this section.

All petitions required under this law to have the name of a candidate or candidates printed upon the Primary Nominating ballot shall indicate by quotation what statement of principles if any are to be printed following the candidate's name on the ballot.

Sec. 7. GENERAL FORM OF BALLOT.) A square shall be placed following and to the right of the name of every candidate and the voter shall mark an (X) in such square following the name of each person he desires to vote for. As many blank lines as the number of candidates to be voted for in each group shall be provided for below the names in each group, on which may be written or placed, by means of a printed sticker, a name or names to record the vote of the elector. The use of a "blanket" sticker or any sticker larger in size than any blank space left below any group of names on the ballot for writing in names of candidates is expressly prohibited under this act. Within the space of each group shall be printed instruction as to the number of candidates to be voted for in each group.

The ballots to be used under this law shall be in the form shown in Section 11, but when printed for official use shall be enlarged sufficiently to contain the names of all candidates and

five words expressing principles of government upon which the candidate seeks nomination, that properly shall go on each ballot. Said names to be printed in 10 point lower case type. The title line and subheads to be printed in larger than 10 point type, squares to be 12 point. Each column of names to be separated by a blank space of one-half inch in the center of which blank space shall be printed, two 2 point rules, with one 6 point slug between the rules.

At the top of the ballot there shall be printed the following: "To vote this ballot mark (X) in the square to the right and after the name of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste the name in the blank space provided for that purpose."

Such ballots shall be delivered to each elector by the proper election officer and no declaration of party affiliation shall be required.

Sec. 8. HIGHEST VOTE ELECTS.) The candidate or candidates to the number to be elected for each office receiving the highest number of votes shall be duly elected to such office.

Sec. 9. VACANCIES.) A vacancy occurring in any candidacy that originated in an endorsing convention or that is supported by a campaign committee or organization that is fairly representative of those who signed the petition to have the name of the candidate printed upon the ballot shall be filled in such manner as shall be provided for by such endorsing convention, or by the campaign committee or organization supporting such candidacy.

A vacancy occurring in a candidacy that did not originate in an endorsing convention or that is not supported by a campaign committee or organization constituted by, or fairly representative of, those who signed the petition or petitions to have the name of the candidate placed upon the ballot shall be filled by a mass convention of those who signed the petition to have placed upon the ballot the name of the candidate that has caused the vacancy.

The name of a candidate so selected to fill a vacancy shall be substituted on the ballot for the name of the original candidate if the notice of the filling of such vacancy reaches the officer who has charge of the preparation of the ballots before the ballots are printed. If in the case of a candidate for state office the ballots for some counties have been printed before such notice of the filling reaches the Secretary of State it shall be incumbent upon the County Auditor upon notice from the Secretary of State to have the name of the candidate to be substituted either printed above the name of the original candidate and the other name blotted out, or the name of the substituted candidate may be printed on gummed stickers and by the Auditor pasted on all ballots over the name of the original candidate.

If such notice of vacancy filled in the case of a county office shall reach the County Auditor after the ballots are printed but before they are distributed among the inspectors of elections, it shall be the duty of the County Auditor to have the name of the candidate to be substituted either printed above the name of the original candidate and the other name blotted out, or the name of the substituted candidate may be printed on gummed stickers and by the County Auditor pasted over the name of the original candidate.

Sec. 10. PRESENT LAWS CONTROLLING.) Except as herein otherwise provided, the ballot herein provided for shall be prepared, printed, distributed, voted, canvassed and returned in the manner now provided for primary and general elections, respectively. Likewise, as to notice of election, posting of ballots, certifying election, filing of affidavits and nominating petitions by candidates, and all other matters not specifically provided for in this act. Provided, however, that no person shall be entitled to have his or her name printed on the State and County Primary Nominating Ballot unless the nominating petition required to be filed for such candidate shall contain the names of voters who are entitled to vote, equal to five per cent of those who voted for Governor at the last preceding election within the civil subdivision or unit of government in which the candidate seeks office.

This law shall not be construed to apply in any manner to the nomination or election of United States Senators, Congressmen, Presidential Electors, Delegates to National Party Convention or Party Precinct Committeemen.

Two or more candidates for different offices may seek signatures on the same nominating petition.

If any section, provision, clause, sentence or part of this Act shall be declared violative of any constitutional provision, the Act shall be deemed and held to have been enacted independent of the part so declared unconstitutional, and any operative part thereof that may remain shall, nevertheless, be given full force and effect, to the end that the ultimate purpose of the Act shall, as far as possible, be accomplished.



## SECTION 11 (a)

## State and County Primary Nominating Ballot

To vote this ballot mark an (X) in the square to the right of the name of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste his name in the blank space provided for that purpose.

### STATE OFFICERS

For GOVERNOR  
(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

For LIEUTENANT  
GOVERNOR  
(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

For SECRETARY of  
STATE  
(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

For STATE AUDITOR  
(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

For STATE TREASURER  
(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

### COUNTY OFFICERS

For COUNTY AUDITOR  
(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

For COUNTY TREASURER  
(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

For REGISTER of DEEDS  
(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

For STATES ATTORNEY  
(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

For SHERIFF  
(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

### State and County Primary Nominating Ballot---Continued

#### For ATTORNEY GENERAL (Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For COMMISSIONER of INSURANCE (Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For COMMISSIONER of AGRICULTURE and LABOR (Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For SUPERINTENDENT of PUBLIC INSTRUCTION (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For COMMISSIONERS of RAILROADS (Vote for three)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐  
 ..... ☐  
 ..... ☐

#### For CLERK of DISTRICT COURT (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For COUNTY JUDGE (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For SUPERINTENDENT of SCHOOLS (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For PUBLIC ADMINISTRATOR (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For COUNTY SURVEYOR (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For COUNTY CORONER (Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

# **State and County Primary Nominating Ballot---Continued**

## **LEGISLATURE**

.....District

### **For SENATOR**

(Vote for One)

John Doe (space for five words) ☐

John Doe (space for five words) ☐

John Doe (space for five words) ☐

..... ☐

### **For HOUSE of REPRESENTATIVES**

(Vote for )

John Doe (space for five words) ☐

John Doe (space for five words) ☐

John Doe (space for five words) ☐

John Doe (space for five words) ☐

..... ☐

..... ☐

## **JUDICIARY**

### **For JUDGE of SUPREME COURT**

(Vote for )

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

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..... ☐

### **For JUDGES of DISTRICT COURT**

(Vote for )

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

..... ☐

..... ☐

..... ☐

### **For JUSTICES OF PEACE**

(Vote for Four)

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

..... ☐

..... ☐

..... ☐

### **For CONSTABLES**

(Vote for Four)

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

..... ☐

..... ☐

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..... ☐

### **For COUNTY COMMIS- SIONER (.....) DISTRICT**

(Vote for One)

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

### **For ASSESSOR**

(Vote for One)

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

## **OFFICIAL PAPER**

### **For COUNTY OFFICIAL NEWSPAPER**

(Vote for One)

..... ☐

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..... ☐

## SECTION 11 (b)

## State and County General Election Ballot

To vote this ballot mark an (X) in the square to the right of the name of the persons for whom you wish to vote. To vote for a person whose name is not printed on the ballot, write or paste his name in the blank space provided for that purpose.

### STATE OFFICERS

#### For GOVERNOR

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For LIEUTENANT GOVERNOR

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For SECRETARY of STATE

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For STATE AUDITOR

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For STATE TREASURER

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

#### For ATTORNEY GENERAL

(Vote for One)

John Doe (space for five words) ☐  
 John Doe (space for five words) ☐  
 ..... ☐

### COUNTY OFFICERS

#### For COUNTY AUDITOR

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For COUNTY TREASURER

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For REGISTER of DEEDS

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For STATES ATTORNEY

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For SHERIFF

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

#### For CLERK of DISTRICT COURT

(Vote for One)

John Doe..... ☐  
 John Doe..... ☐  
 ..... ☐

### State and County General Election Ballot---Continued

#### For COMMISSIONER of INSURANCE

(Vote for One)

John Doe (space for five words) ☐John Doe (space for five words) ☐..... ☐

#### For COMMISSIONER of AGRICULTURE and LABOR

(Vote for One)

John Doe (space for five words) ☐John Doe (space for five words) ☐..... ☐

#### For SUPERINTENDENT of PUBLIC INSTRUCTION

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For COMMISSIONERS of RAILROADS

(Vote for Three)

John Doe (space for five words) ☐John Doe (space for five words) ☐John Doe (space for five words) ☐John Doe (space for five words) ☐John Doe (space for five words) ☐John Doe (space for five words) ☐..... ☐..... ☐..... ☐

#### LEGISLATURE

.....District

#### For SENATOR

(Vote for One)

John Doe (space for five words) ☐John Doe (space for five words) ☐..... ☐

#### For COUNTY JUDGE

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For SUPERINTENDENT of SCHOOLS

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For PUBLIC ADMINISTRATOR

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For COUNTY SURVEYOR

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For COUNTY CORONER

(Vote for One)

John Doe..... ☐John Doe..... ☐..... ☐

#### For JUSTICES of PEACE

(Vote for Four)

John Doe..... ☐John Doe..... ☐John Doe..... ☐John Doe..... ☐John Doe..... ☐John Doe..... ☐John Doe..... ☐John Doe..... ☐..... ☐..... ☐..... ☐..... ☐

### State and County General Election Ballot---Continued

#### For HOUSE of REPRESENTATIVES (Vote for       )

John Doe (space for five words) ☐

John Doe (space for five words) ☐

John Doe (space for five words) ☐

John Doe (space for five words) ☐

..... ☐

..... ☐

..... ☐

..... ☐

#### JUDICIARY

#### For JUDGE of SUPREME COURT (Vote for       )

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

..... ☐

..... ☐

..... ☐

#### For JUDGES of DISTRICT COURT (.....) DISTRICT.... (Vote for       )

John Doe (space for three words) ☐

John Doe (space for three words) ☐

John Doe (space for three words) ☐

John Doe (space for three words) ☐

John Doe (space for three words) ☐

John Doe (space for three words) ☐

..... ☐

..... ☐

..... ☐

#### For CONSTABLES (Vote for Four)

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

John Doe..... ☐

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..... ☐

#### For COUNTY COMMIS- SIONER (.....) DISTRICT (Vote for One)

John Doe..... ☐

John Doe..... ☐

..... ☐

#### For ASSESSOR (Vote for One)

John Doe..... ☐

John Doe..... ☐

..... ☐

#### OFFICIAL PAPER

#### For COUNTY OFFICIAL NEWSPAPER (Vote for One)

..... ☐

..... ☐

Sec. 12. REPEAL.) Sections 904, 905, 906, 907, 908, 909, 917, 918, 919 of the Compiled Laws of North Dakota for the year 1913, and Chapter 117 of the Session Laws of 1919 are hereby repealed in whole or in part insofar as they conflict with the provisions of this law. All other acts or parts of acts which are in conflict with the provisions of this act are also hereby specifically repealed.

Approved February 24th, 1923.

NOTE: Referendum petition has been filed against Senate Bill No. 233, Chapter 205 herein, requesting that said measure be submitted to the electors, at the general election November 4, 1924.

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## CHAPTER 206.

(S. B. No. 6—Stevens.)

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### SEPARATE BALLOT BOXES, REPEAL.

An Act to Repeal Section 991 of the Compiled Laws of North Dakota for the year 1913, Requiring Ballots of Women to be Deposited in Separate Boxes.

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

Sec. 1. REPEAL.) That Section 991 of the Compiled Laws of North Dakota for the year 1913, requiring ballots of women to be deposited in a separate box, is hereby repealed.

Approved January 24th, 1923.

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## CHAPTER 207.

(S. B. No. 8—Stevens.)

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### BALLOT BOXES.

An Act to Amend and Re-enact Section 968 of the Compiled Laws of North Dakota for the Year 1913, Relating to Ballot Boxes.

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

Sec. 1. AMENDMENT.) That Section 968 of the Compiled Laws of North Dakota for the year 1913, relating to ballot boxes, is hereby amended and re-enacted to read as follows, to-wit:

Sec. 968. BALLOT BOXES TO BE PROVIDED BY BOARD OF COUNTY COMMISSIONERS.) The Board of County Commissioners shall, at the expense of the county, provide suitable ballot boxes for each election precinct in its county.

Approved January 24th, 1923.

## CHAPTER 208.

(H. B. No. 282—Jackson.)

## PARTY CENTRAL COMMITTEES.

An Act to Amend and Re-enact Section 890 of the Compiled Laws of North Dakota for 1913, Relating to Selection, Organization, Time and Place of Meeting of County and State Central Committees of Political Parties.

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

Sec. 1. AMENDMENT.) That Section 890 of the Compiled Laws of North Dakota for 1913 be, and the same is hereby, amended and re-enacted to read as follows:

Sec. 890. The County Committee of each party shall be composed of all the precinct committeemen of each party in each County, and they shall meet in the Court House at the County Seat of each County at two o'clock p. m. on the second Wednesday in July of each even numbered year and organize by selecting a chairman, a secretary and a treasurer; by adopting rules and modes of procedure, and by selecting an executive committee consisting of from five to nine persons chosen from the county committee, of which the chairman and secretary shall be members. Each county committee shall, at the same time, select as members of the State Central Committee of their respective parties, one resident voter for every two thousand votes or major fraction cast for the party's candidate for president within the County at the last preceding presidential election; provided, that every County shall be entitled to one member of the State Central Committee. Provided, further, that in all counties that are entitled to more than one member the number of members to which the county is entitled shall be equitably distributed among the several commissioner's districts within the county. Each party's candidate for United States Senator and the party's candidate for a Member of Congress shall each, on or before the same day that the committee meets and selects members for the State Central Committee, appoint a voter at large to serve as a member of the State Central Committee. Each member so appointed shall be the Representative of the candidate who appointed him or her on the State Central Committee. The persons so selected and appointed shall constitute the State Central Committee for their respective political parties for the ensuing biennium. The members so selected as State Central Committeemen shall meet at the State Capitol on the third Wednesday in July and organize by selecting a chairman, a secretary and a treasurer, and shall adopt rules and modes of procedure and promulgate and publish a platform of principles upon which its candidates shall stand. Each member of



any committee shall retain such position until his successor is chosen. Each member so selected shall be a duly qualified elector. Vacancies in the State Central Committee of any party shall be filled by a majority of the State Central Committee by appointment from the County in which such vacancy exists. Vacancies in the County Committee of any party shall be filled by a majority of the County Committee by appointment from the precinct in which such vacancy exists.

Approved February 27th, 1923.

NOTE: Referendum petition has been filed against House Bill No. 282, Chapter 208 herein, requesting that said measure be submitted to the electors, at the general election November 4, 1924.

## CHAPTER 209.

(S. B. No. 318—Carey.)

### CERTIFICATION OF NOMINATIONS.

An Act to Amend and Re-enact Section 974 of the Compiled Laws of North Dakota for 1913, Relating to the Certification of Nominations.

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

Sec. 1. AMENDMENT.) That Section 974 of the Compiled Laws of North Dakota for 1913, be, and the same is hereby, amended and re-enacted to read as follows:

Sec. 974. SECRETARY OF STATE TO CERTIFY NOMINATIONS FOR STATE OFFICE.) Not less than thirty days nor more than thirty-five days before an election to fill any state or district office, the secretary of state shall certify to the county auditor of each county within which any of the electors may by law vote for candidates for such office, the name and post office address of each person nominated for such office as specified in the certificates of nomination filed with him; provided, that in the case of a special election called to fill a vacancy the secretary of state shall so certify the names of such candidates not less than twenty days before such special election.

Approved March 1st, 1923.

## CHAPTER 210.

(S. B. No. 319—Carey.)

## CERTIFICATE OF NOMINATION.

An Act to Amend and Re-enact Section 973 of the Compiled Laws of North Dakota for 1913, Relating to the Filing of Certificates of Nomination.

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

Sec. 1. AMENDMENT.) That Section 973 of the Compiled Laws of North Dakota for 1913, be, and the same is hereby amended and re-enacted to read as follows:

Sec. 973. CERTIFICATE OF NOMINATION. WHEN TO BE FILED.) Certificates of nomination to be filed with the secretary of state, shall be filed not less than forty days before the day fixed by law for election of persons in nomination, and certificates of nomination herein directed to be filed with the county auditor, shall be filed not less than thirty-five days before the day of election; provided that in the case of nominations for special elections called to fill vacancies caused by death, resignation or otherwise, such certificates shall be filed not less than twenty-five days before the day of election. Certificates of nomination to be filed with the secretary of state may be sent by registered letter deposited in the post office on or before the last day, and the receipt therefor filed with the county auditor. The secretary of state and the several county auditors shall cause to be preserved in their respective offices for six months all certificates of nomination filed therein under the provisions of this article. All such certificates shall be open to public inspection under proper regulations to be made by such officers.

Approved March 1st, 1923.

## CHAPTER 211.

(S. B. No. 50—Porter.)

## OFFICIAL NEWSPAPERS.

An Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year 1919, Relating to the Qualifications of Official and Legal Newspapers and Providing for the Method of Selection of Official Newspapers.

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

Sec. 1. AMENDMENT.) That Section 3 of Chapter 187 of the Session Laws of North Dakota for 1919 relating to official and legal newspapers is hereby amended and re-enacted to read as follows, to-wit:

Sec. 3. At least thirty days prior to any primary election held throughout the state, any person, persons, or co-partnership or corporation, owning or operating a newspaper which has been established for at least one year and has been admitted to the United States mails and has complied with the requirements of federal laws governing second class mail matter for at least a period of one year, and at least one page of which newspaper is actually printed at the place designated in the date line thereof, and has been in regular and continuous circulation during said period of one year with a bona fide subscription list of at least 150 regular and continuous subscribers, may apply in writing to the county auditor of the county in which such newspaper is located for the placing of the name of such newspaper upon the ballot to be voted upon for nomination as official newspaper of said county at said primary election. Such application shall be filed with the county auditor and by him endorsed showing the name of the newspaper for which application is made and the date said application is presented to his office. The names of all newspapers for which application is so made shall be placed by the county auditor at the bottom of the ballot upon which appear the names of candidates for county offices, the names of such newspapers to be rotated as is now required by law for the names of candidates on the primary election ballots.

The names of the two newspapers receiving the highest number of votes, at the primary election as determined by the general provisions of law relating to the canvass of votes at the primary election shall be placed upon the ballot at the general election by the county auditor on the ballot used in said election and upon which appear the names of candidates for county offices in the same place and in the same manner as at the primary election. The newspaper receiving the highest number of votes as determined by the official canvass according to the general provisions of law relating to the canvass of votes at general elections, shall be declared elected the official newspaper until the next biennial election or until a successor is chosen, and the county auditor shall issue a certificate of election to such newspaper receiving the highest number of votes cast at said election, and said newspaper shall thereupon become the official newspaper beginning on the first Monday in January following said election.

Approved February 19th, 1923.

## CHAPTER 212.

(S. B. No. 11—Carey.)

## POLLS OPEN WHEN.

An Act to Amend and Re-enact Sections 869 and 983 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 119, Session Laws of 1919, Relating to the Opening and Closing of Polls in Primary and General Elections.

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

Sec. 1. AMENDMENT.) That Section 869 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 119, Session Laws of 1919, be amended and re-enacted to read as follows:

Sec. 869. POLLS. OPEN WHEN AT PRIMARY ELECTIONS. CANVASS.) The polls shall be opened at nine o'clock a. m. and remain open continuously until seven o'clock p. m. Twenty minutes prior to the hour of closing the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed. When the polls are closed the judges and inspectors of such primary election shall open the ballot boxes, count the ballots and compare the same with the clerk's lists, and should any irregularities appear they shall proceed as now provided by law. When the ballots compare with the clerk's lists, they shall proceed to canvass and place those of each political party in separate piles. The tally of the votes shall be separate for each political designation or principle and so returned by the judges and inspectors of election, giving the full vote for every candidate.

Sec. 2. AMENDMENT.) Section 983 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 119, Session Laws of 1919, is hereby amended and re-enacted to read as follows:

Sec. 983. WHEN POLLS ARE TO BE OPENED OR CLOSED AT GENERAL ELECTIONS:) At all general and special elections held under the provisions of this Chapter, the polls shall be opened at nine o'clock a. m. and closed at seven o'clock p. m. Twenty minutes prior to the hour of closing the inspector shall proclaim to the electors outside, the number of minutes before the polls will be closed.

Approved March 5th, 1923.

## CHAPTER 213.

(H. B. No. 90—Lynch.)

## PUBLICITY PAMPHLET.

An Act Providing When the Publicity Pamphlet shall be Printed, and What Matter Shall be Excluded Therefrom, and Repealing all Acts or Parts of Acts in Conflict Therewith.

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

Sec. 1. PUBLICITY PAMPHLET, WHEN TO BE PRINTED.) The Secretary of State shall cause the Publicity Pamphlet, as now provided by law, to be printed and distributed only in the event, that at the election to be held, there shall be submitted to the electors of the State an initiated or referended law, or proposed amendment to the Constitution of the State of North Dakota.

Sec. 2. PUBLICITY PAMPHLET, WHAT PRINTED MATTER TO BE EXCLUDED THEREFROM.) Advertising matter having no bearing upon the candidacy of any candidate or upon any measure to be submitted to the vote of the electors of the state is hereby prohibited.

Sec. 3. REPEAL.) All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1st, 1923.

## CHAPTER 214.

(S. B. No. 7—Stevens.)

## QUALIFICATIONS OF ELECTORS.

An Act to Amend and Re-enact Section 948 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Qualifications of Electors.

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

Sec. 1. AMENDMENT.) That Section 948 of the Compiled Laws of North Dakota for the year 1913, relating to the qualifications of electors, is hereby amended and re-enacted to read as follows, to-wit:

Sec. 948. WHO ENTITLED TO VOTE.) Every person of the age of twenty-one years or upwards, belonging to either of the following classes who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. First, citizens of the United States; second, civilized persons of Indian

descent who have severed their tribal relation two years next preceding such election; provided, that where a qualified elector moves from one precinct to another within the State, he shall be entitled to vote in the precinct from which he moves, until he establishes his residence in the precinct to which he moves.

Sec. 2. All Acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. **EMERGENCY.**) Whereas there is a conflict between existing statutes and the Constitution relating to the qualification of electors, an emergency is declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved January 24th, 1923.

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## CHAPTER 215.

(S. B. No. 67—Van Camp.)

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### REGISTRATION.

An Act to Amend and Re-enact Section 1104 of the Compiled Laws of the State of North Dakota for the year 1913, Relating to what Cities and Villages shall register before any general election or annual City Election.

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

Sec. 1. **AMENDMENT.**) That Section 1104 of the Compiled Laws of North Dakota for 1913, be and the same is hereby amended to read as follows:

Sec. 1104. **WHAT CITIES AND VILLAGES GOVERNED BY THIS ARTICLE.)** All cities and villages containing fifteen hundred or more inhabitants, according to either the last State or Federal Census, shall be subject to the provisions of this article.

Approved February 24th, 1923.

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## CHAPTER 216.

(S. B. No. 43—Gardiner.)

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### VOTING DISTRICTS.

An Act to Amend and Re-enact Section 2 of Chapter 33 of the Laws enacted by the Special Session of the Legislature of 1919 Relating to the formation and Division of voting districts.

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

Sec. 1. **AMENDMENT.)** Section 2 of Chapter 33 of the Laws enacted by the Special Session of the Legislature of 1919 is hereby amended and re-enacted to read as follows:

Sec. 2. VOTING DISTRICTS—How FORMED.) The board of county commissioners of each county in the state shall, at its first session after the taking effect of this Act, divide its county into voting districts and establish the boundaries of the same. The entirety of civil townships, cities or villages as voting districts shall be preserved when possible, except when such preservation would be in conflict with the provisions of this Act. In such case the civil township, city or village, except as hereinafter provided, shall be divided into two or more voting districts, but in no case shall a voting district be composed of parts of two civil townships, or part of a township and city or village, except as hereinafter provided. No voting district shall contain more than five hundred electors. The board of county commissioners of each county in this state shall, at its first session after the taking effect of this Act, in dividing the county into voting districts, use as a basis for determining the number of electors residing in any given territory, the total number of electors within such territory who voted at the general election held in November, 1922. If, at such election, or at any election hereafter held more than five hundred votes are cast in any voting district, it shall be the duty of the inspector in such voting district, to report such fact to the board of county commissioners, which board shall, at its next regular meeting, divide such voting district into two districts as nearly equal to each other in voting strength as may be. If, at the last election before the taking effect of this Act, more than three hundred votes were cast in any voting district in any city or village, or if, at any future election, more than three hundred votes are cast in any voting district in any city or village, the county commissioners upon request, officially expressed, of the city council or other governing body in any voting district or city or village, may divide such district into two voting districts as nearly equal to each other in voting strength as may be.

Approved February 9th, 1923.

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## FAIRS

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### CHAPTER 217.

(S. B. No. 70—Bond.)

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#### NORTH WEST AGRICULTURAL, LIVE STOCK AND FAIR ASSOCIATION.

An Act to Incorporate and Establish the North West Agricultural, Live Stock and Fair Association, and Making an Appropriation therefor.

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

Sec. 1. PURPOSE OF AND LOCATION PERMANENTLY FIXED AT MINOT.) For the purpose of promoting and improving the con-

dition of agriculture, live stock breeding, horticulture, mechanical manufacturing and household arts, a North West Agricultural, Live Stock and Fair Association Fair or exposition shall be held annually at or adjacent to the city of Minot in the state of North Dakota, subject to the conditions hereinafter named, and the location of the North West Agricultural, Live Stock and Fair Association, as herein provided, is hereby declared to be permanent.

Sec. 2. CONDITIONS TO BE COMPLIED WITH BY THE WARD COUNTY FAIR ASSOCIATION.) If the Ward County Fair Association now existing and conducting a fair at Minot, N. Dak., by proper resolution duly passed by it and approved by the County Commissioners of Ward County, to the effect that it accepts all the conditions of this act, then and in that event such Association shall become entitled to receive the appropriation hereinafter named upon the conditions set forth in this act, and therefore to be called The North West Agricultural, Live Stock and Fair Association, and this without forfeiting or otherwise affecting its rights to such county aid as may now or hereafter be provided. The said Association may acquire the title to not less than seventy acres of land at or adjacent to the city of Minot in said state, and such Association may, and it is hereby empowered and authorized, to convey the title of the land so held and acquired by it unto the State of North Dakota, which property, when so conveyed, shall be held by the State of North Dakota for the following purposes and no other: For the purpose of exhibiting thereon, under the management of such Association, or its successors, annually, the agricultural, stock breeding, horticultural, mining, mechanical, industrial and other products and resources of the State of North Dakota including proper exhibits of the arts, sciences and all other public displays pertinent to and dependent upon exhibitions and expositions of human art, industry and skill. The said Association may use such portion of its funds as may be necessary for the acquisition of title to the land so held or to be purchased by it for use as fair grounds, and the balance thereof shall be and constitute a fund towards the construction of buildings and other permanent improvements thereon.

Sec. 3. CUSTODY AND CONTROL OF GROUNDS.) The custody and control of the premises upon which said fair is located shall be vested in the North West Agricultural, Live Stock and Fair Association, and the general offices thereof shall be located and maintained either upon the premises so acquired or at some suitable place in the City of Minot, and said Association is hereby authorized, required and empowered to maintain its said offices as aforesaid wherein shall be contained the property and records of such Association, and the entire care, custody, man-



agement and control of said premises and the structures thereon shall be vested in said Association.

Sec. 4. GOVERNOR AND ATTORNEY GENERAL TO ACCEPT TITLE. FAILURE OF STATE APPROPRIATIONS, LAND REVERTS TO ORIGINAL OWNERS. BOARD OF DIRECTORS.) When the State of North Dakota accepts the title to the land so acquired by said Association, which acceptance shall be made by the Governor and Attorney General, thereupon, and not before such time, shall the deed of conveyance of said property to the state be accepted and recorded. Should the state of North Dakota cease to appropriate the sum of at least \$2,500.00 annually in connection with said fair, then the title of said premises shall revert to and become the property of the Association that transferred the same to the state; provided, further, that the state shall never become liable for any of the debts and liabilities of said Association save as appropriations shall be made therefor from time to time by the Legislative Assembly. The provisions of this article shall not become binding upon the state as to said fair association until such association shall adopt and file with the Secretary of State an irrevocable bylaw consenting to the provisions hereof and providing that its board of directors shall consist of eleven persons; and that said Association shall appoint an advisory committee consisting of the Governor, Commissioner of Agriculture and Labor and State Auditor together with one resident freeholder from each judicial district of the state; which said committee is privileged to attend the meetings of the Association, and is at all times to be fully advised in regard thereto.

Sec. 5. APPOINTMENT AND DUTIES OF EXECUTIVE COMMITTEE.) The board of directors of said Fair Association shall appoint an executive committee consisting of five members who shall keep an accurate account of the expenditures and all monies appropriated to it by the state, and all other receipts and expenditures, and shall collect, arrange and collate all the information available in relation to the nature and preparation of soils, the cultivation and growth of crops, the breeding and management of stock, the application and character of manure and fertilizer, the introduction of new cereals and other grains, and other agricultural subjects, and report the same together with a statement of their doings and such account of their expenditures to the Governor on or prior to the first day of January of each year following the holding of a fair; such report to be audited by the Governor, Commissioner of Agriculture and Labor and the State Auditor, and by the Governor laid before the Legislative Assembly. All monies hereby appropriated shall be paid over to the treasurer of the Association upon the order of the president, attested by the secretary.

Sec. 6. GENERAL APPROPRIATION.) There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$2,500.00 annually to be expended by and under the supervision of the directors of said association thereafter.

Sec. 7. CONDITIONS BINDING ON THE STATE.) The provisions of this article shall not become binding or effective upon the state as to such Association until the Association shall adopt a by-law expressly accepting and agreeing to all of the conditions hereof and file a certified copy of said by-law with the Secretary of State.

Approved March 2nd, 1923.

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## FARMERS' INSTITUTES

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### CHAPTER 218.

(H. B. No. 205—Larson.)

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#### FARMERS' INSTITUTES.

An Act to Amend and Re-enact Chapter 119 of the Session Laws of 1917, Relating to Farmers' Institutes.

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

Sec. 1. AMENDMENT.) Chapter 119 of the Session Laws of 1917 is hereby amended and re-enacted to read as follows:

Sec. 1. The President of the Agricultural College, the Dean of the Department of Agriculture and the Director of the Extension Department of such College at Fargo shall constitute the Board of Directors of Farmers' Institutes. It shall be their duty to engage such lecturers as may be deemed necessary and conduct at least fifty farmers' institutes each year, the same to be of such a nature as to instruct the farmers of the state in maintaining the fertility of the soil, the production and improvement of cereal and forage crops in the state, principles of breeding as applied to domestic animals, the making and handling of dairy products, the destruction of noxious weeds and injurious insects, forestry, and the growing of various fruits, feeding and management of live stock, and especially such instruction as will tend to promote the best marketing conditions, home life, and comfort of the farming population.

They shall be allowed in addition to their regular salary, their actual and necessary traveling expenses when engaged upon

business connected with the proper discharging of their duties under this article.

Sec. 2. All charges, accounts and expenses authorized by this article shall be paid by the treasurer of the State, upon the approval of the President of the Agricultural College.

Approved March 1st, 1923.

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## FIREMEN'S PENSIONS

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### CHAPTER 219.

(S. B. No. 91—Rusch.)

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#### FIREMEN'S PENSIONS.

An Act to Amend and Re-enact the Third Subdivision of Section 3999; and Section 4001, of the Compiled Laws of North Dakota for the year 1913 Relating to Firemen's Relief Association Fund.

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

Sec. 1. AMENDMENT.) That the Third Subdivision of Section 3999 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 3999. SUBDIVISION THIRD.) For the payment of service pensions as hereinafter provided in such amounts and in such manner as its articles of incorporation and by-laws shall designate. Every such fire department relief association organized under any laws of this state may pay out of any funds received from the state, or other source, a service pension, in such amounts, not exceeding Eighty Dollars per month, as may be provided by its by-laws to each of its members who have heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty years, and who has done, or hereafter shall do, active duty for twenty years or more as a member of a volunteer, paid or partially paid and partially volunteer fire department in the municipality where such association exists, and who has been, or shall hereafter be a member of such fire department relief association at least ten years prior to such retirement, and who complies with such additional conditions as to age, service and membership as may be prescribed by the by-laws of such association. Such pension shall be uniform in amount, but all may be decreased or increased, within the amount above specified, whenever the amount of funds on hand renders such action advisable. No such pensions shall be paid to any person while he

remains a member of said fire department, and no person receiving such pension shall be entitled to other relief from such association.

Sec. 2. AMENDMENT.) That Section 4001 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 4001. ASSOCIATION TO REDUCE SUCH AMOUNT OF PENSIONS.) Every such Association shall at all times have and retain the right to reduce the amount of pensions or to increase them whenever the amount of funds on hand or for other good reasons, such reductions or increase seems advisable or proper to such relief association, but said pension shall not exceed the amount of Eighty Dollars per month to any pensioner or to any one family.

Sec. 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 5th, 1923.

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## FOOD COMMISSIONER AND CHEMIST

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### CHAPTER 220.

(S. B. No. 335—Lynch.)

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#### FOOD COMMISSIONER AND CHEMIST.

An Act to create the office of State Food Commissioner and Chemist; Providing for his appointment, Term of Office, Removal and salary; defining his powers and duties; defining the powers and duties of the State Board of Administration relating thereto; creating a state regulatory fund and providing for payments therefrom and repealing Acts and parts of Acts in conflict with this Act and especially repealing Sections 2 and 5 of Chapter 200 of the Session Laws of 1915.

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

Sec. 1. STATE FOOD COMMISSIONER AND CHEMIST, CREATION OF OFFICE, ASSISTANTS.) The office of the State Food Commissioner and Chemist is hereby created. It shall be the duty of the State Board of Administration, or such other body as may hereafter by law be designated as the governing body of the North Dakota Agricultural College, to appoint the said State Food Commissioner and Chemist. The term of office of such appointee shall be two years but shall be subject to removal for cause

without appeal by the governing body of the North Dakota Agricultural College. The said State Food Commissioner and Chemist shall receive an annual salary of Four Thousand (\$4,000.00) dollars and shall qualify by taking an oath of office, the same to be filed in the office of the Secretary of State and by furnishing a bond in the sum of Ten Thousand (\$10,000.00) dollars conditioned for the faithful performance of the duties of his office. The said State Food Commissioner and Chemist may require any person employed by or responsible to him to furnish a bond for the faithful performance of his duties. The premiums on all such bonds shall be charged against the State Regulatory Fund hereinafter created.

The State Food Commissioner and Chemist shall, with the approval of the State Board of Administration, employ and fix compensation of such other chemists, scientific experts, agents, inspectors and employees; provide for adequate laboratories and offices, supplies and equipment for the same and provide such other facilities as may be necessary for the proper enforcement of any acts of which he may by law be charged. When in this Act the term "agents" of the State Food Commissioner and Chemist or similar terms are used, said terms shall be construed to refer to the chemists, scientific experts, agents, inspectors and employees provided for in this section.

The compensation and all necessary expenses of the State Food Commissioner and Chemist and all other persons herein referred to for services rendered in connection with the enforcement of the provisions of any act, of which he may by law be charged, shall be paid out of the State Regulatory Fund and shall be apportioned among the various individual funds, making up the State Regulatory Fund, in proportion to the service rendered under each act and such apportionment shall be approved by the State Board of Administration.

The State Board of Administration shall annually and on or before the first day of July of each year, prepare an annual budget covering the expenditures to be made during the next ensuing year from each of the several funds comprising the State Regulatory Fund, and such budget, as so made, shall be adhered to during such ensuing year.

The State Food Commissioner and Chemist shall keep records showing the amount of money derived as fees under the provisions of each act under his enforcement and said records shall show the apportionment of all approved items of expense chargeable to the funds derived from each individual act.

Sec. 2. STATE FOOD COMMISSIONER AND CHEMIST, POWERS AND DUTIES.) The duties of the State Food Commissioner and Chemist shall be such as may be prescribed by law. Wherever in the laws of the State of North Dakota the Food Commissioner, the

State Food Commissioner, Director of the North Dakota Government Agricultural Experiment Station, Director of the Regulatory Division of the North Dakota Agricultural College, Director of the Experiment Station, Food Commissioner and State Chemist, Inspector of Oils, Inspector of Hotels, or Chief Sanitary Inspector or similarly designated officers shall be granted any powers or charged with the performance of any duties in connection with the enforcement of any of the laws hereinafter specified or any acts amendatory thereof, said powers so vested in said officers shall be vested in the State Food Commissioner and Chemist, and he shall perform all the duties required by these laws to be performed by any of said officers in connection with the enforcement of any of the following acts:

Chapter 200 of the Session Laws of 1915.—Pure Food Law.

Chapter 38, Article 48, Political Code, Compiled Laws of 1913; Sections 2939 to 2951, inclusive.—Drug Law.

Chapter 38, Article 46, Political Code, Compiled Laws of 1913; Sections 2926 to 2932, inclusive.—Formaldehyde Law.

Chapter 38, Article 53, Political Code, Compiled Laws of 1913; Sections 2962 to 2971, inclusive.—Sanitary Inspection Law.

Chapter 38, Article 78, Political Code, Compiled Laws of 1913; Sections 3149 to 3161, inclusive.—Cold Storage Law.

Chapter 216 of the Session Laws of 1917; Sections 1 to 5, inclusive.—Soda Fountain Law.

Chapter 72, Article 1, Penal Code, Compiled Laws of 1913; Sections 9989 to 9991, inclusive.—False and Misleading Advertising Law.

Chapter 38, Article 60, Political Code, Compiled Laws of 1913; Sections 3010 to 3013, inclusive.—Net Weight Lard and Bread Law.

Chapter 60, of the Session Laws of 1921; Sections 1 to 9, inclusive.—Egg Law.

Chapter 85, Article 1, Penal Code, Compiled Laws of 1913; Sections 10155 to 10169, inclusive.—Beverage Law.

Chapter 37, of the Session Laws of 1921; Sections 1 to 13, inclusive.—Feeding Stuffs Law.

Chapter 97, Article 1, Penal Code, Compiled Laws of 1913; Sections 10210 to 10224, inclusive.—Insecticide and Fungicide Law.

- Chapter 38, Article 41, Political Code, Compiled Laws of 1913; Sections 2890 to 2897, inclusive.—Fertilizer Law.
- Chapter 91, Article 1, Penal Code, Compiled Laws of 1913; Sections 10180 to 10183, inclusive.—Snuff Law.
- Chapter 185 of the Session Laws of 1919; Sections 1 to 25, inclusive.—Oil Inspection Law.
- Chapter 38, Article 45, Political Code, Compiled Laws of 1913; Sections 2923 to 2925, inclusive.—Paint Law.
- Chapter 1 of the Session Laws of 1921; Sections 1 to 6, inclusive.—Varnish Law.
- Chapter 38, Article 57, Political Code, Compiled Laws of 1913; Sections 2979 to 2994, inclusive; and Chapter 133 of the Session Laws of 1917; Sections 1 and 2.—Hotel Inspection Law.

Sec. 3. STATE REGULATORY FUND, CREATION OF, EXPENSES, HOW PAID.) All fees and monies received by the State Food Commissioner and Chemist under the provisions of any acts with the enforcement of which he may by law be charged, shall be properly recorded by him as herein provided and forwarded monthly to the Treasurer of the State of North Dakota as provided by law. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund." All salaries and items of expense of whatever nature incurred in the enforcement of any act, as herein provided, shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of any act, shall be approved by said State Food Commissioner and Chemist and shall be forwarded monthly to the State Board of Administration for audit and approval, and the same shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 4. REPEALS.) All acts and parts of acts in conflict with this Act, and especially Sections two and five of Chapter 200 of the Session Laws of North Dakota of 1915, are hereby repealed.

Approved March 8th, 1923.

## CHAPTER 221.

(S. B. No. 373—Lynch.)

## BEVERAGES.

An Act To Prevent Fraud and Deception in the Manufacture and Sale of Beverages; to Prevent Adulteration and Misbranding Thereof; to Provide Licensing, Payment and Disposition of License Fees; to Define the Duties of the State Food Commissioner and Chemist; to Provide for the Enforcement of the Provisions of the Act and to Provide Penalties for Violations Thereof and to Repeal Existing Laws Relating Thereto.

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

Sec. 1. NAME OF ACT.) The following Act shall be known and may be cited as the North Dakota Beverage Inspection Act.

Sec. 2. CERTAIN BEVERAGES UNLAWFUL TO SELL.) It shall be unlawful for any person, firm or corporation, their agents or employees to sell, offer or expose for sale or to have in their possession with intent to sell within this State, any beverage of whatever nature that contains any ingredient or ingredients injurious to health or is adulterated, misbranded, insufficiently or improperly labeled within the meaning of the Food and Drugs Act of this State, or that is not licensed as hereinafter provided.

Sec. 3. LABEL, STANDARDS.) The requirements for labeling and standards of purity and quality of all beverages included in this Act shall be the same as those required under the Food and Drugs Act of this State, together with such other standards, rules and regulations as the State Food Commissioner and Chemist is herewith empowered to make to carry out the intent of this Act, and such standards, rules and regulations shall have the force and effect of law.

Sec. 4. WHAT IS INCLUDED.) There shall be included as coming under the provisions of this Act all beverages, as soda water, carbonated and non-carbonated, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made and mineral or spring water sold under private label.

Sec. 5. LICENSE REQUIRED.) Before any beverage, concentrate or essence from which any beverage is to be made can be sold, exposed for sale or held with intent to sell within this State, the manufacturer, importer, jobber or retailer shall submit a suitable sample of each and every product to the State Food Commissioner and Chemist for inspection and chemical analysis. If, after examination, it shall be found to comply with all require-



ments of law it shall be licensed and may then be sold within this State. If it does not meet all requirements of law, the State Food Commissioner and Chemist shall refuse to license it and prevent its sale. Said sample shall be submitted to the State Food Commissioner and Chemist and the license fee paid annually during the month of December of every year or prior to placing such beverage on the market, and said license shall expire December 31 next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his own use from a product already licensed. At the time of submitting the sample for analysis there shall be paid to the State Food Commissioner and Chemist a license fee according to the following schedule:

Soda Water, Ginger Ale, Root Beer, Pop—Brand or Class,	\$10.00
Concentrated Extracts, Essences, Nectars, Cordials—Brand or Class .....	50.00
Fruit Juices, Apple Cider, Grape Juice, True Brand .....	20.00
Fruit Juices, Apple Cider, Grape Juice, Imitation Brand ....	10.00
Cereal Beverages and Malts—Brand .....	50.00
Mineral and Spring Water—Brand .....	20.00

Sec. 6. FEES, DISPOSITION OF, EXPENSES, HOW PAID.) All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded by him and forwarded monthly to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund." All salaries and items of expense of whatever nature incurred in the enforcement of this Act shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature, incurred in the enforcement of this Act shall be approved by the State Food Commissioner and Chemist and be forwarded monthly to the State Board of Administration for audit and approval and when so audited and approved shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 7. STATE FOOD COMMISSIONER AND CHEMIST TO ENFORCE.) The State Food Commissioner and Chemist, his agents and inspectors, as provided for in the Food and Drugs Act of this State, is hereby, charged with the enforcement of all the provisions and intent of this Act and is hereby authorized to inspect and collect samples of the various beverages as defined under the pro-

visions of this Act and on sale in this State or being shipped into the State at such times and places and to such extent as he may determine. The State Food Commissioner and Chemist and his agents, inspectors and deputies shall have access, ingress and egress to all places of business, factories, buildings, carriages, cars, vessels and containers used in the sale or transportation of beverages coming under the provisions of this Act. He shall have power and authority to open any package, container or vessel containing such article and upon paying or offering to pay the value thereof may take suitable samples for analysis therefrom, and shall have the authority to prevent the sale or manufacture of products not complying with the provisions of this Act.

Sec. 8. FACTS, HOW TRANSMITTED.) Whenever said State Food Commissioner and Chemist shall find by analysis or otherwise that adulterated, misbranded, insufficiently labeled or an unlicensed product is being sold in violation of this Act, he shall forthwith transmit the facts so found to the State's Attorney of the county in which the product was found and it shall be the duty of said State's Attorney to institute appropriate proceedings in the proper court of jurisdiction.

Sec. 9. PENALTIES FOR VIOLATION.) Any person, firm or corporation violating any of the provisions of this Act or any rule or regulation issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five (\$25.00) Dollars and not more than One Hundred (\$100.00) Dollars at the discretion of the court.

Sec. 10. PUBLICITY.) The State Food Commissioner and Chemist shall have authority to publish analyses of all products coming under the provisions of this Act and to gather useful information for the benefit of the public and users of the articles designated herein.

Sec. 11. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 12. REPEALS SPECIFIC, REPEALS IMPLIED, SAVING CLAUSE.) The laws hereafter, enumerated shall be expressly repealed and all other acts or parts of acts inconsistent with the provisions of this Act are hereby repealed from and after the taking effect of this Act:

Chapter 85, Compiled Laws of 1913, Sections 10155 to 10169, inclusive.

Approved March 8th, 1923.

## CHAPTER 222.

(S. B. No. 371—Lynch.)

## FOOD AND DRUGS.

An Act For the Protection of Health and Prevention of Fraud and Deception in Articles of Food and Drugs; For the Prevention of Adulteration and Misbranding thereof; Requiring Labeling thereof; Providing for Sales by Weight, Measure or Numerical Count; Providing for Fixing of Standards of Purity and Quality and Fitness for Consumption; Prescribing the Duties of the State Board of Administration and Providing for the Appointment of a State Food Commissioner and Chemist and Prescribing his Duties and Powers; Providing for the Enforcement of the Provisions of the Act; Defining Certain Offenses in Connection Therewith; Providing Penalties for the Violation Thereof and Repealing Certain Acts Relating Thereto.

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

Sec. 1. NAME OF ACT.) This Act shall be known as the North Dakota Food and Drugs Act and may be so cited in any pleading, complaint, indictment or information.

Sec. 2. THE STATE FOOD COMMISSIONER AND CHEMIST, DUTIES AND POWERS.) The State Food Commissioner and Chemist shall hereby be charged with the enforcement of all the provisions of this Act. He shall be appointed by the State Board of Administration and shall with the approval of said State Board of Administration, employ and fix the compensation of such other chemists, scientific experts, agents, inspectors and employees, provide for adequate laboratories and offices, supplies and equipment for the same, and provide such other facilities as may be necessary for the proper enforcement of this Act. When in this Act the term "agents" of the State Food Commissioner and Chemist or similar terms are used, said terms shall be construed to refer to such chemists, scientific experts, agents, inspectors and employees provided for in this section.

Sec. 3. UNLAWFUL TO SELL CERTAIN FOODS AND DRUGS.) It shall be unlawful for any person to manufacture, sell, offer or expose for sale or delivery or to have in possession for sale or delivery any article of food or drug which is adulterated, misbranded or otherwise violates any provisions of this Act or any rule or regulation issued pursuant thereto.

Sec. 4. DEFINITIONS.) The term "food" as used herein shall include all articles, whether simple, mixed or compound, used for, or entering into the composition of, or intended for use in the preparation of food, drink, confectionery or condiment for man. The term "drug" as used herein shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use,

and any substance or mixture of substances intended or designed to be used for the cure, mitigation, prevention or treatment of disease of either man or other animals.

Sec. 5. ADULTERATION, WHAT CONSTITUTES.) For the purpose of this Act a food or drug shall be deemed to be adulterated:

A. In the case of drugs:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of sale of such drug.

Second. If, when a drug is sold under or by a name not recognized by the United States Pharmacopoeia or National Formulary, its strength, quality, or purity falls below the professed standard of strength, quality or purity under which it is sold.

Third. If it contains any methyl alcohol.

B. In the case of Foods:

First. If any substance has been mixed or packed with it so as to lower, reduce or injuriously affect its quality, strength, or fitness for consumption.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, stained or otherwise treated in a manner whereby damage or inferiority is concealed, or the article is made to appear better than it really is, or if such treatment be for the purpose of imitating another article of recognized quality.

Fifth. If it contains any poisonous or deleterious substance which may render the article injurious or detrimental to health. The word "substance" as used herein shall include ingredients naturally present or added.

Sixth. If it consists in whole or in part of filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, or if it be the product of a diseased animal, or one that has died otherwise than by slaughter.

Seventh. If it does not conform to the standard of purity or quality established for the article.

Sec. 6. MISBRANDING, WHAT CONSTITUTES.) That the term "misbranded" as used herein shall apply to all drugs or foods or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained

therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to locality, state or country of origin, or in which it was manufactured or produced, or if the package or label of which does not contain the true name and address of the manufacturer, jobber or other person responsible for its being placed in commerce.

That for the purposes of this Act an article shall also be deemed to be misbranded:

**A. In the Case of Drugs:**

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package.

Third. If the package or label of which fails to bear a statement of the quantity or proportion of alcohol or any narcotic or habit forming drug.

Fourth. If the package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which as misleading, false or fraudulent.

**B. In the Case of Food:**

First. If it be offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

Third. If the label fails to bear the quantity or proportion of alcohol.

Fourth. If, in package form, the name of the article, together with the quantity of the contents in terms of weight, measure or numerical count, be not plainly and conspicuously marked on the outside of the package.

Fifth. If, in package form, the package be not filled with the food it purports to contain, irrespective of whether the quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count.

Sixth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or substances contained therein, which statement, design or device shall be false or misleading in any particular.

Seventh. If it be an imitation of another article and it be not marked with the word "imitation" equally conspicuous with and immediately adjoining the name of the imitated article.

Eight. If it be a compound for which no standard of purity or quality has been established and it be not marked with the word "compound" equally conspicuous with and immediately adjoining the name of the article: Provided, however, That imitations, compounds, blends, mixtures or products sold under their own distinctive names shall, where necessary to prevent fraud or deception or to convey to the purchaser the true nature of the product, bear on the label a plain statement of the ingredients. If such statement of the ingredients alone be insufficient for the purpose herein designated the percentage of each ingredient shall in addition be required.

Sec. 7. LARD, HOW SOLD.) Every lot of lard, or of lard compounds, or of lard substitutes, unless sold in bulk, shall be sold in pails or other containers holding one, three or five pounds net weight, or some whole multiple of these numbers and not any fractions thereof.

Sec. 8. BREAD, HOW SOLD.) It shall be unlawful for any person to sell, offer or expose for sale or to have with intent to sell or transport any bread, the loaf of which is not one of the following weights: sixteen ounces; twenty-four ounces avoirdupois or any whole multiple of sixteen ounces avoirdupois. The weights shall apply alike to each unit of twin or multiple loaves. Any loaf shall be of the required weight at any period from the time of baking until twelve hours thereafter. The above required weight standards shall apply alike to wheat bread, white bread, milk bread, rye bread, raisin bread, currant bread, brown bread, graham or whole wheat bread and other similar kinds of farinaceous substances baked in loaves and known and designated by the trade as bread. The average weight of loaves shall be as often above as below any permissible weights; Provided, That the weight standards defined in this section shall not be construed to apply to cake, buns, biscuits and similar small unit products.

Sec. 9. SPECIAL WEIGHTS AND SIZES.) It shall be unlawful for any person, firm or corporation to manufacture, sell or expose for sale, any article of food or drug in any package or container, the size or shape of which may deceive or tend to deceive the purchaser of such product as to the contents of said package or container, and that for the purpose of preventing fraud and deception, the State Food Commissioner and Chemist shall hereby be authorized to establish, publish and enforce rules and regulations relative to the size, weight or style of package or other specific food or drug commodities than those specifically named in Section 7 and Section 8 of this Act, and such rules and regulations shall have the force and effect of law.

Sec. 10. MEATS.) The meat of an animal shall not be sold for human consumption unless it be the product of a healthy animal, and no meat of any animal slaughtered during the period of heat, advance pregnancy or immediately preceding or following parturition shall be sold for human food. The meat of no calf less than four weeks old shall be sold as food. Hogs or other animals to be slaughtered for food shall not be permitted to eat filthy, diseased or decomposed food, nor shall they be kept in a filthy or unsanitary place; Provided, Nothing in this section shall be construed to conflict with the law relating to the sale of affected meat or the rules and regulations issued pursuant thereto by the State Livestock Sanitary Board.

Sec. 11. DAIRY PRODUCTS.) Butter, dairy butter, creamery butter, oleomargarine, butterine, renovated butter or compounds of or substitutes for any of these, whether compounded or prepared from animal or vegetable fats or oils, and homogenized, reconstructed, filled or manufactured products from which the natural butter fat has been abstracted in whole or in part and other animal or vegetable fats or oils substituted therefor, or compounds of or products prepared from any of these shall be appropriately labeled so as to clearly advise the purchaser of the true nature of the product.

Sec. 12. STORAGE. COLD STORAGE PRODUCTS.) For the purpose of this Act a cold storage shall be defined as a place artificially cooled to a temperature of forty degrees Fahrenheit or below, but shall not include such a place within a private home, hotel, restaurant or a refrigerator car. No food shall be sold as fresh when held in storage or cold storage for a longer period than has been shown by good practice to improve the quality of the particular food, or when there is any deterioration in such article, or when the storage product is not as desirable as the fresh. If storage or cold storage or other than fresh products are sold they must be labeled so as to fully advise the purchaser of the nature of the product entering into the transaction. All storage or cold storage products shall be stamped, labeled or tagged with the date when they were received in storage and removed therefrom. Said stamp, tag or label shall not be removed by any subsequent seller.

Sec. 13. SANITATION OF FOOD.) Every building or other structure or vehicle of transportation in which any food or drug or product to be used in the preparation of either of these is manufactured, prepared, held, sold, used or transported, shall at all times be kept and maintained in a clean and sanitary condition. Food at all times shall be kept covered or enclosed or by other means fully protected from avoidable contamination by any agencies that might serve to bring about or hasten its

decomposition or that might render it infectious, poisonous, deleterious, injurious to health or filthy.

All buildings, shelves, counters, storage bins, floors, walls, ceilings, scales, stoves, machines, refrigerators and other facilities used therein for storing, handling, displaying or preparing of food products shall be designed and well adapted for the purpose with strict regard for the principles of sanitation.

The person and clothing of all employes in or about any food establishment shall be clean and when possible the personnel of such places shall be provided with special outer garments, aprons, white coats or other apparel for use during the hours of their employment.

No person shall be employed in or permitted to remain as an employee in any food establishment who is affected with any contagious or infectious disease in a communicable form. For the proper enforcement of this provision any inspector or agent of the State Food Commissioner and Chemist may require a medical examination and certificate of health from any employer for any employee whom he may have reason to suspect is so affected. Such examination shall be made by a physician approved by the State Food Commissioner and Chemist or his agent and the cost thereof shall be borne by the employer of said person. When notified to do so any employer who fails to provide such a health certificate for himself or employee within a reasonable time thereafter, shall be deemed guilty of a misdemeanor.

The provisions for ventilation and lighting, toilet and wash-room facilities, such as towels, washbowls and soap, cuspidors and other facilities for the convenience, health and safety of employees and patrons of such places as herein defined shall be ample therefor and subject to the approval of the State Food Commissioner and Chemist or his agent as to their sufficiency, location and condition.

All doors and windows that may be opened or closed at will shall, during the fly season, be kept properly screened and fly proof. All foods kept, displayed, prepared or offered for sale in any such place shall at all times be protected from contact with flies, roaches, ants, mice, rats and other vermin or household pests, the presence of any of which in any food establishment shall be deemed to render the same unsanitary and the proprietor thereof liable to prosecution under this Act.

No room or rooms used for the storage, display, preparation, use or sale of food shall be used as a sleeping, dressing or living room, nor shall any sleeping, dressing or living room be adjacent to and open into any such place, nor shall dogs, cats or other domestic animals be permitted to occupy such rooms.



**Sec. 14. RIGHT OF INSPECTION.)** For obtaining information regarding suspected violations of this Act, the State Food Commissioner and Chemist, his assistants, inspectors or agents shall have free access, ingress and egress to all places where articles of food, drug or beverage or other articles designated in this Act are manufactured, sold, exposed for sale or transported or held in possession with intent to use, sell or transport, or where food is prepared, cooked or held in any capacity whatever, except in a private home; and that agents, bookkeepers, transportation officers and other employees shall render all assistance and aid within their power to inspectors to effectuate the provisions of this Act; that said inspectors or agents upon paying or offering to pay to the person entitled thereto the full value thereof, may open any package, receptacle or container containing any article coming under the provisions of this Act and may take a sample therefrom, sufficient for inspection and analysis. Any person obstructing such entry or inspection or failing upon request to assist therein shall be deemed guilty of a misdemeanor.

**Sec. 15. SEIZURE. SEARCH WARRANT.)** The State Food Commissioner and Chemist may seize any article of food or drug, the manufacture, transportation, sale or use of which is prohibited by this Act or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation or had in possession with intent to use, sell or transport in violation of any provision of this Act or in violation of any rule, regulation, standard or definition issued pursuant thereto, and for this purpose he and his several assistants, inspectors, agents and employees shall have the powers of a constable. Such seizure may be made without a warrant but in such case as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary a search warrant may be issued by any magistrate of the State, Justice of the Peace or Police Magistrate whenever probable cause is shown by testimony under oath by way of affidavit or deposition, that any article of food or drug which is adulterated, misbranded, insufficiently or improperly labeled or otherwise in violation of any provisions of this Act or any rule, regulation, standard or definition issued pursuant thereto, or any food which is unwholesome, poisonous, deleterious or detrimental to health, is being kept or is present upon certain premises, particularly describing such premises, or in the possession of any person, naming or describing the person, the said magistrate shall issue a search warrant, signed by him with the name of his office, directed to any Peace Officer in his County, or to the State Food Commissioner and Chemist, or any of his duly authorized agents, commanding him or them to forthwith search the person or place named and to seize all and any articles of food or drug which may be held in violation of any provision of this Act

and to bring such articles of food or drug before the Magistrate. The search warrant issued shall be substantially the form prescribed in Section 11134 of the Code of Criminal Procedure, Compiled Laws of North Dakota, 1913.

The provisions of Article 11 of the Code of Criminal Procedure, Compiled Laws of North Dakota, 1913, as to service of search warrant, return of warrant, hearing, and return to District Court, shall govern in cases of search warrant issued pursuant to the provisions of this Act, except that the testimony of the witnesses need not be reduced to writing, and where the magistrate finds that the property seized is property of the kind described in the search warrant, and that there is probable cause to believe that the grounds on which the search warrant was issued existed, he shall send said property so seized under the search warrant to the District Court, together with his return. In case he shall find there is not probable cause to believe that the grounds on which the search warrant was issued existed, he shall order the property returned to the person from whom it was taken.

Sec. 16. DISPOSITION OF SEIZED ARTICLES.) Any article of food or drug which is adulterated, misbranded, insufficiently or improperly labeled, or any article of food which is poisonous, deleterious or detrimental to health or is held, used or transported in violation of any of the provisions of this Act or of any rule, regulation, standard or definition issued pursuant thereto, is hereby declared to be a nuisance, and the Attorney General, any of his assistants, the State's Attorney of any County or the State Food Commissioner and Chemist may maintain an equitable action in the name of the State for the abatement of any such nuisance. In said action any person in whose possession any such nuisance as herein described may be found or the occupant, tenant, owner, manager or person in charge of any building, vehicle of transportation or other property in which any such nuisance may have been found, shall each or all be made defendant. Said action shall be instituted and tried in the same manner in which other civil, equitable actions are tried. In case judgment is rendered in favor of the plaintiff in an action brought under the provisions of this section, the Court in rendering judgment shall provide for the destruction of such adulterated, misbranded, insufficiently or improperly labeled article of food or drug or article of food which is unwholesome, poisonous, deleterious, or detrimental to health, or make such other judgment and decree with reference to the same as shall be proper in the premises, and such as shall prevent said articles from being used, sold or transported in violation of this Act. In case of perishable food or drugs, the Court may at any time on the motion of any party upon ten days notice to the other parties to the action, in his discretion order the destruction

of the same, or may at any time in his discretion order that said property be returned to the person from whom it was taken upon furnishing a bond conditioned that said article will not be sold, used or transported in violation of any of the laws of this state, and further conditioned for the payment of any judgment for costs which may be entered in said action. In case judgment is rendered in favor of the plaintiff in any action brought under the proceedings in said action, the Court or Judge rendering the same shall also render judgment for a reasonable attorney's fee in said action in favor of the plaintiff and against the defendants therein, which attorney's fee shall be taxed and collected as other costs therein; and when collected paid to the attorney or attorneys of the plaintiff therein; Provided, That if such attorney is the Attorney General, one of his assistants, or the State's Attorney of the County in which the action is instituted, such attorney's fee shall be paid into the County Treasury in the same manner in which other costs in the action are paid.

Sec. 17. AUTHORITY TO RENDER CERTAIN FOODS UNSALABLE.) Whenever the State Food Commissioner and Chemist or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure or place, any meat, sea food, poultry, vegetable, fruit or other perishable articles intended to be sold or used for human consumption which are or contain filthy, decomposed or putrid animal or vegetable substance or that may be unsafe, unwholesome, poisonous, deleterious or detrimental to health, the same being hereby declared to be a nuisance, he shall forthwith seize, condemn and destroy the same or in any other manner render the same unsalable as human food.

Sec. 18. DEFINITIONS, RULES, REGULATIONS AND STANDARDS.) For the purpose of securing uniformity as far as practicable among the laws of this State, municipalities within this State, and the Federal Government, to prevent fraud and deception in the manufacture, use, sale and transportation of food, and to protect and preserve the public health and to carry out the intent of this Act, it shall be the duty of the State Food Commissioner and Chemist to fix, adopt, publish and enforce definitions, rules, regulations and standards of quality, purity and strength of articles of food and drugs for which no definitions, rules, regulations and standards are prescribed by law, and such definitions, rules, regulations and standards so fixed, adopted and published shall be lawful in this State and shall have the force and effect of law.

Sec. 19. ANALYSES, PUBLICATION.) It shall be the duty of the State Food Commissioner and Chemist to make or cause to be made analyses, examinations and inspections of all articles included under the provisions of this Act to determine whether

such articles are adulterated, misbranded, insufficiently or improperly labeled or unwholesome, poisonous or deleterious within the meaning of this Act, and whether such articles have been manufactured, used, sold, transported, offered for sale or transportation or had in possession with intent to use, sell or transport in violation of any provisions of this Act or any definition, standard, rule or regulation issued pursuant thereto and for other reasons, and a copy of the result of the examination or analysis of any such article duly authenticated by the chemist making such analysis or examination when given under oath shall be prima facie evidence in all courts of the matters and facts therein contained. The said State Food Commissioner and Chemist shall have authority to make such analysis, inspection and investigations and to carry on research and to publish the reports of such analysis, inspections and research for the information of the public.

Sec. 20. LOCAL INSPECTION.) The governing authority of any municipal corporation may by ordinance provide for the inspection of milk, cream and butter sold within its limits, and of dairy and dairy herds kept for the production of such milk, cream and butter, and may prescribe the terms upon which such sales may be made, and fix penalties for violation thereof; they may provide for a municipal abattoir, provide for its operation and may prescribe regulations for the slaughtering of animals to be sold as meat, and other sanitary and regulatory provisions as applied to food products, but no such ordinance or ordinances, rules or regulations shall conflict with any law of this State or any standard, rule or regulation fixed pursuant thereto.

Sec. 21. DUTY TO PROSECUTE.) It shall be the duty of any State's Attorney to whom the State Food Commissioner and Chemist or his agent shall report any violation of this Act, to cause, without delay, appropriate proceedings to be instituted in the proper court of jurisdiction for the enforcement of the penalties as, in such case, is herein provided.

Sec. 22. PENALTIES.) Any person violating or failing to comply with any of the provisions of this Act or any rule, regulation, definition or standard issued pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five (\$25.00) dollars or more than One Hundred (\$100.00) Dollars or by imprisonment for not less than ten days or more than thirty days or both at the discretion of the Court.

Sec. 23. DISPOSITION OF FUNDS, EXPENSES, HOW PAID.) All monies appropriated or otherwise authorized for the enforcement of this Act shall be entered on the records of the State Food Commissioner and Chemist and the State Treasurer shall enter

such monies and carry them in a special revolving fund to be designated the State Regulatory Fund. All salaries and items of expense of whatever nature incurred in the enforcement of this act, as herein provided, shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of this act, shall be approved by said State Food Commissioner and Chemist and shall be forwarded monthly to the State Board of Administration for audit and approval and the same shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 24. CONSTRUCTION, INTENT OF ACT.) The fact that certain weight, size and style of package are fixed in this Act and that specific forms of adulteration and misbranding are specifically defined and other specific provisions are made in this Act, it shall not be construed to limit the operation of the Act to such forms of adulteration and misbranding as are specifically mentioned, it being the intention of the Act to prevent deception and fraud in all articles of food, drugs, or beverages and to prohibit the manufacture, sale, offering for sale or transportation or having in possession with intent to use, sell or transport any adulterated, misbranded, insufficiently or improperly labeled article of food or drug or any article of food which is unwholesome, poisonous, deleterious or detrimental to health, whether the adulteration, misbranding insufficient or improper labeling, unwholesomeness or poisonous or deleterious qualities are referred to specifically in this Act or not.

Sec. 25. DEFINITIONS, EVIDENCE OF INTENT.) The word "person" as used in this Act shall be construed to import both the singular and plural, as the case demands, and shall include corporation, co-partnerships, companies, societies and associations or two or more individuals having a joint or common interest. No person who shall commit or assist in committing any offense herein defined shall be exempt from conviction and punishment therefor, for the reason that he acted as an agent, employee or representative of another. When construing and enforcing the provisions of this Act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, co-partnership, company, society, or association within the scope of his employment or office shall in every case be also deemed to be the act, omission or failure of such corporation, co-partnership, company, society or association as well as that of the person.

The words "sell" and "sale" as used herein shall be construed as including the keeping, offering or exposing for sale, use, transportation or exchange of the restricted, regulated or prohibited article; the having of any such article in possession with intent to sell, use, transport or exchange the same, and the storing, carrying or handling thereof in aid of traffic therein, whether done or permitted in person or through others; the having in possession of any article, the manufacture, sale, use or transportation of which is restricted, regulated or forbidden by this Act, shall be deemed prima facie evidence of intent to sell, manufacture, transport or use the same in violation of law.

Sec. 26. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable, and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 27. SPECIFIC REPEALS.) The laws hereafter enumerated shall be expressly repealed from and after the taking effect of this Act.

Chapter 38, Article 40, Political Code of the Compiled Laws of 1913; Sections 2879 to 2889, inclusive.

Chapter 38, Article 53, Political Code; Sections 2962 to 2971, inclusive.

Chapter, 38, Article 48, Political Code; Sections 2939 to 2951, inclusive.

Chapter, 38, Article 46, Political Code; Sections 2926 to 2932, inclusive.

Chapter 216 of the Session Laws of 1917; Sections 1 to 5, inclusive.

Chapter 38, Article 78, Political Code; Sections 3149 to 3161, inclusive.

Chapter 240 of the Session Laws of 1919; Sections 1 to 4, inclusive.

Chapter 38, Article 60, Political Code; Sections 3010 to 3013, inclusive.

Sec. 28. IMPLIED REPEALS, SAVING CLAUSE.) All acts and parts of acts inconsistent with the provisions of this act and not herein expressly repealed are hereby repealed from and after the taking effect of this Act.

Approved March 8th, 1923.

## CHAPTER 223.

(S. B. No. 379—Lynch.)

## OIL INSPECTION.

An Act to Regulate the Sale of Petroleum Products; To Provide for the Inspection of Kerosene and Gasoline; To Provide Specifications Therefor; To Prevent Adulteration and Misbranding Thereof; To Provide for Inspection Fees, Collection and Disposition of Same; To Define the Duties of the State Food Commissioner and Chemist; To Provide for the Inspection of Lubricating and Power Oils; To Provide for the Enforcement of the Act; To Provide Penalties for the Violation Thereof and to Repeal Existing Acts Relating Thereto.

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

Sec. 1. NAME OF ACT.) That the following Act may be known and cited as the North Dakota Petroleum Products Inspection Act.

Sec. 2. DUTIES AND POWERS OF THE STATE FOOD COMMISSIONER AND CHEMIST.) That it shall be the duty of the State Food Commissioner and Chemist to enforce all the provisions and intent of this Act and for this purpose he shall employ such chemists, deputies, inspectors, assistants and employees and provide office equipment and supplies, chemicals, laboratories, laboratory equipment and supplies and provide other facilities that he shall deem necessary for the proper enforcement of all the provisions and intent of this Act.

The State Food Commissioner and Chemist shall have authority to designate ports of entry of all transportation companies carrying petroleum products into this State for sale or consignment and shall have authority to hold or delay any car or other vehicle of transportation so entering this State carrying petroleum products for sale or consignment until the State Food Commissioner and Chemist or his deputies or inspectors may secure a sample for inspection and analysis and other information regarding said petroleum products contained in such shipment, and the failure on the part of any transportation company or any of its officers or employees to hold for inspection such car or other vehicle of transportation shall be deemed a misdemeanor: Provided, That the State Food Commissioner and Chemist or his deputies shall not hold or delay any shipment or consignment of petroleum products at the port of entry, if the transportation company carrying such products will permit proper inspection and sampling of shipments or consignments at convenient designated points without the State, and permit the inspection of transportation records and provide adequate information regarding the records of such cars carrying petroleum products at division points or other places within or without the

State where such cars in normal practice are stopped and held for switching and re-arrangement or at other points where ample opportunity is provided for proper inspection and sampling.

The State Food Commissioner and Chemist shall at all times be under bond to the benefit of the State of North Dakota and he may require an adequate bond for each or any of his employees. Premiums on such bonds shall be charged as an expense against the funds hereinafter provided.

The State Food Commissioner and Chemist shall have authority to promulgate rules and regulations for the interpretation of the provisions and intent of this Act and the same shall have the force and effect of law.

Sec. 3. ADULTERATION, MISBRANDING.) It shall be unlawful to sell, offer or expose for sale any kerosene, gasoline or other petroleum product intended to be used as such which is adulterated or misbranded within the meaning of this Act. Kerosene or gasoline shall be deemed to be adulterated if it does not fall within the limits of the standard specifications hereinafter provided. Kerosene or gasoline shall be deemed to be misbranded if it is not labeled as hereinafter required.

Sec. 4. LABELING GASOLINE—KEROSENE.) Every package, barrel, filling station pump and every tank wagon, truck or car containing gasoline for sale or consignment or held with intent to sell or consign within this State or being transported into this State, shall be clearly and distinctly stamped, labeled or tagged with the word "gasoline" and said stamp, label or tag must show that the gasoline therein contained falls within the specifications for North Dakota Class One or Two, as the case may be: Every can, barrel or other container of less than sixty gallons capacity used for storage or delivery of gasoline shall, unless made of glass, be painted bright red and such containers shall not be used for the storage or delivery of kerosene. Every package, barrel, filling station pump and every tank wagon, truck or car containing kerosene for sale or consignment when held within this State or being transported into this State, shall be clearly and distinctly stamped, labeled or tagged with the word "Kerosene" and must show that the kerosene therein contained conforms to North Dakota Class Three.

Sec. 5. SPECIFICATIONS, GASOLINE—KEROSENE.) The following specifications are those prepared, adopted and published by the United States interdepartmental Committee on Specifications for Petroleum Products and adopted by the Federal Specifications Board as official at this time for United States government purchases, and the same shall hereby become the specifications for kerosene and gasoline adopted by the State of North Dakota. If modifications are made in the Federal speci-



fications, the State Food Commissioner and Chemist may, after due publication and notification, incorporate such modifications in the specifications herein contained and the same shall become the specifications for gasoline and kerosene sold in North Dakota.

For the purpose of this Act the Federal Grade known as Aviation Gasoline, Fighting Grade, shall be known as North Dakota Class one, Household Gasoline; the Federal Grade, Motor Gasoline, shall be known as North Dakota Class Two, Motor Gasoline; and the Federal Grade, Water White Kerosene, shall be known as North Dakota Class Three, Kerosene for illuminating and Fuel Purposes.

**Class 1. Household Gasoline.**

**A—The gasoline shall be free from undissolved water and suspended matter.**

**B—Color—The color shall not be darker than No. 25 Saybolt.**

**C—Doctor Test—The doctor test shall be negative.**

**D—Corrosion Test—One hundred c. c. of the gasoline shall cause no gray or black corrosion and the amount of deposit when evaporated in a polished copper dish shall not exceed three milligrams.**

**E—Unsaturated Hydrocarbons—No more than one per cent of the gasoline shall be soluble in concentrated sulphuric acid.**

**F—Distillation range—The temperature limits for the distillation are as follows:**

When five per cent of the sample has been recovered in the graduated receiver the thermometer shall not read more than 65 degrees C. (149 degrees F.) or less than 50 degrees C. (122 degrees F.)

When 50 per cent has been recovered in the receiver the thermometer shall not read more than 95 degrees C. (203 degrees F.)

When 90 per cent has been recovered in the receiver the thermometer shall not read more than 125 degrees C. (257 degrees F.)

When 96 per cent has been recovered in the receiver the thermometer shall not read more than 150 degrees C. (302 degrees F.)

The end point shall not be higher than 165 degrees C. (329 degrees F.)

At least 96 per cent shall be recovered as distillate in the receiver from the distillation.

The distillation loss shall not exceed 2 per cent when the residue in the flask is cooled and added to the distillate in the receiver.

G—Acidity—The residue remaining in the flask after the distillation is completed shall not show an acid reaction.

Class 2. Motor Gasoline.

A—Color—The color shall not be darker than No. 16 Saybolt.

B—Corrosion rate—A clean copper strip shall not be discolored when submerged in the gasoline for three hours at 122 degrees F.

C—Distillation range—When the first drop has been recovered in the graduated receiver, the thermometer shall not read more than 55 degrees C. (131 degrees F.)

When 20 per cent has been recovered in the receiver, the thermometer shall not read more than 105 degrees C. (221 degrees F.)

When 50 per cent has been recovered in the receiver, the thermometer shall not read more than 140 degrees C. (284 degrees F.)

When 90 per cent has been recovered in the receiver, the thermometer shall not read more than 200 degrees C. (392 degrees F.)

The end point shall not be higher than 225 degrees C. (437 degrees F.)

At least 95 per cent shall be recovered as distillate in the receiver from the distillation.

Class 3. Kerosene.

A—The oil shall be free from water, glue and suspended matter.

B—Color—The color shall not be darker than No. 21 Saybolt.

C—Flash point—The flash point shall not be lower than 115 degrees F. ("Tag" closed tester.)

D—Sulphur—The sulphur shall not be more than 0.075 per cent.

E—Floc—The floc test shall be negative.

F—Distillation—The end point shall not be higher than 600 degrees F.

G—Cloud point—The oil shall not show a cloud at 0 degrees F.

H—Doctor test—The doctor test shall be negative.

I—Burning test—The oil shall burn freely and steadily for eighteen hours.

When kerosene is tested photometrically the following test shall be made:

After burning for one hour in a lamp fitted with a No. 1 sun hinge burner it shall be tested photometrically. Five hours

later another photometric test will be made to determine any change in intensity of the light; the maximum allowable loss shall be 5 per cent. The flame shall show at least six candle-power when compared photometrically with an incandescent lamp which has been standardized by the Bureau of Standards. The official methods of testing the above petroleum products shall be those adopted by the Federal Interdepartmental Petroleum Specifications Committee.

Sec. 6. FEES, REPORTS REQUIRED.) Every person, firm or corporation shipping or transporting kerosene or gasoline into this State for sale or consignment or with intent to sell or consign the same, shall pay to the State Food Commissioner and Chemist an inspection fee of one-twentieth ( $1/20$ ) cent per gallon for each and every gallon of kerosene or gasoline so shipped or transported into the State, or that is held for sale within this State; Provided, Nothing in this section shall be construed to require the payment of an inspection fee on any shipment or consignment of gasoline or kerosene when such inspection fee has already been paid by another dealer.

On the first day of each calendar month it shall be the duty of each and every receiver or consignee of any of the aforementioned products to send to the State Food Commissioner and Chemist a correct report of all shipments, consignments or receipts during the preceding month, and such report shall include the following: (a) the number of gallons of gasoline or kerosene received; (b) the grade or class of each shipment or consignment; (c) the date received; (d) consignor and (e) the person, firm or corporation transporting or delivering the same to consignee. Such monthly report shall be accompanied by the fees herein required due the State on such gasoline or kerosene. Failure on the part of the consignee or receiver of such gasoline or kerosene to send such report and remittance as above specified shall be a violation of the Act and punishable under it.

Sec. 7. BOND REQUIRED.) Every person, firm or corporation importing any gasoline or kerosene for sale or consignment within this State or having same in his possession with intent to sell, shall, before so doing, deposit with the State Food Commissioner and Chemist a surety bond payable to the State of North Dakota in the penal sum of Five Hundred (\$500.00) Dollars or twice the amount of inspection fees due for any calendar month to guarantee to this State a truthful report of receipts of gasoline and kerosene herein required and the payment of fees herein required in Section 6 of this Act. The said bond shall be approved as to its sufficiency by the State Food Commissioner and Chemist.

All inspection fees shall be due on the first of each calendar month for the preceding month, and said fees shall become

delinquent when ten days past due, and the person, firm or corporation bonding such delinquent may, after twenty days, be called upon to make good the bond for the fees so delinquent.

Sec. 8. LUBRICANTS, FUEL AND POWER OILS.) The State Food Commissioner and Chemist shall have authority to collect samples of petroleum products used for lubrication, fuel, power and other purposes and shall have authority to analyze and submit the same to trial tests and publish the results of such investigations for the benefit of the public and users thereof.

Sec. 9. RIGHT OF INSPECTION.) The State Food Commissioner and Chemist, his deputies or inspectors shall have free access, ingress and egress to all places or vehicles of transportation where petroleum products are stored, transported, sold, exposed for sale or held with intent to sell or transport for the purposes of inspection and securing adequate samples of the same for chemical analysis; and agents, bookkeepers, transportation officers and other employees in charge of such places shall render all assistance and aid within their power to inspectors to effectuate the provisions of this Act; that said inspectors or agents may open any package, receptacle or container containing any petroleum product and upon paying or offering to pay to the person entitled thereto the full value thereof, may take a sample therefrom, sufficient for inspection and analysis under whatever condition the inspector may deem proper.

Sec. 10. EVIDENCE OF VIOLATION, COMPLAINT, HOW MADE.) It shall be the duty of the State Food Commissioner and Chemist and his assistant chemists to make analyses and examinations of such articles coming under the provisions of this Act as he shall deem necessary for the purpose of determining from such examinations whether adulterated, misbranded or insufficiently labeled petroleum products are sold, transported, offered for sale or held with intent to sell or transport in violation of the provisions of this Act. It shall be the duty of the State Food Commissioner and Chemist when he finds by chemical examination or otherwise that adulterated, misbranded, insufficiently or improperly labeled petroleum products are being sold within this State or in violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto, to transmit the evidence so found to the State's Attorney, and it shall be his duty to institute appropriate proceedings in the proper court of jurisdiction.

Sec. 11. PENALTIES.) Any person, firm or corporation violating or failing to comply with any of the provisions of this Act or any rule or regulation issued pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof

shall be punished by a fine of not less than Twenty-Five (25.00) Dollars and not more than One Hundred (100.00) Dollars or by imprisonment for not less than ten days and not more than thirty days or both at the discretion of the court.

Sec. 12. FEES, DISPOSITION OF, EXPENSES, HOW PAID.) All revenues derived under authority of this Act shall be used for the enforcement of the provisions thereof. All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded by him and forwarded to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund," out of which all bills and expenses of whatever nature incurred in the enforcement of this Act shall by said Treasurer be paid.

Vouchers for all expenses of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of this Act when approved by said State Food Commissioner and Chemist shall be forwarded monthly to the State Board of Administration for the audit and approval, and when audited and approved shall be certified to the State Auditor, who shall draw warrants upon the State Treasurer for said expenses, specifying that said warrants are to be paid from the State Regulatory Fund. The State Treasurer shall thereupon pay said expenses out of the State Regulatory Fund.

Sec. 13. DEFINITIONS, EVIDENCE OF INTENT.) The word "person" as used in this Act shall be construed to involve both the singular and plural, as the case demands, and shall include corporations, co-partnerships, companies, societies and associations or two or more individuals having a joint or common interest. No person who shall commit or assist in committing any offense herein defined shall be exempt from conviction and punishment therefor, for the reason that he acted as the agent, employee or representative of another. When construing and enforcing the provisions of this Act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, co-partnership, or company within the scope of his employment or office shall also in every case be deemed to be the act, omission or failure of such corporation, co-partnership, company, society and association as well as that of the person. The word "sell" and "sale" as used herein shall be construed as including the keeping, offering or exposing for sale, transportation or exchange of the restricted or prohibited article. The having of any such article in possession with intent to sell, transport or exchange the same and the storing, carrying or handling thereof in aid of traffic therein, whether of any article the sale or transportation of which is restricted or forbidden by this Act,

shall be deemed prima facie evidence of intent to sell or transport the same in violation of this Act.

Sec. 14. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 15. REPEALS SPECIFIC, REPEALS IMPLIED, SAVING CLAUSE.) The laws hereinafter enumerated shall be expressly repealed and all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed from and after the taking effect of this Act:

Chapter 38, Article 69, Political Code of the Compiled Laws of 1913; Sections 3057 to 3080, inclusive.

Chapter 188 of the Session Laws of 1915; Sections 1 to 25, inclusive.

Chapter 161 of the Session Laws of 1917; Sections 1 to 3, inclusive.

Chapter 162 of the Session Laws of 1917; Section 1.

Chapter 185 of the Session Laws of 1919; 1 to 25, inclusive.

Approved March 8th, 1923.

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## GAME AND FISH

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### CHAPTER 224.

(S. B. No. 155—Game and Fish Committee.)

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#### GAME AND FISH.

An Act To Amend and Re-enact Sections 3, 4, 6, 8, 34, 35 and 65, Chapter 161, Session Laws of 1915, and Section 27, Chapter 161, Session Laws of 1915, as Amended by Section 2, Chapter 134, Session Laws of 1919, and Section 36, Chapter 161, Session Laws of 1915 as amended by Section 5, Chapter 134, Session Laws of 1919, and Section 46, Chapter 161, Session Laws of 1915 as Amended by Chapter 134, Session Laws of 1919 and as Amended by Chapter 68, Session Laws of 1921 and Section 80, Chapter 161, Session Laws of 1915 as Amended by Chapter 135, Session Laws of 1919, relating to Game and Fish.

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

Sec. 1. AMENDMENT.) That Section 3 of Chapter 161, Session Laws of 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 3. BOARD OF CONTROL, GAME AND FISH COMMISSIONER, TERMS, APPOINTMENTS, MEETINGS, COMPENSATION, RULES AND REGULATIONS.) The North Dakota Game and Fish Board is hereby created, consisting of three members to be appointed by the Governor. One member of such board shall be appointed for two years commencing on or before the first day of April, 1915, and two members shall be appointed for four years. Thereafter such appointments shall be made for a term of four years, commencing on the expiration of each term. Vacancies arising from any cause shall be filled by the Governor. Said Board shall hold its first meeting on the second Tuesday of the month succeeding its appointment and shall organize by electing one member of said board president, one vice president, and one secretary. A quorum of said board shall consist of two members. The North Dakota Game and Fish Board after its organization may hold its meetings at any point in the State at such time and place as the President may designate, and there must be at least four regular meetings each year. The President of the board shall have the power to call special meetings whenever, in his judgment, it becomes necessary. The President and the Vice President of the Board shall receive as compensation for their services the sum of five dollars per day for each day in attendance at and necessary for going to and returning from such meetings, and all expenses actually and necessarily incurred incident to such meetings, and the Secretary of the Board shall receive not to exceed the sum of twelve hundred dollars per year and actual expenses necessarily incurred in the performance of his official duties, which sums shall be paid by the State Treasurer out of the Game and Fish Fund, upon vouchers of the board duly certified by the President and Secretary thereof. Each member of the North Dakota Game and Fish Board shall give bonds to the State in the sum of Five Thousand Dollars, to be approved by the Governor, and the member chosen as Secretary shall maintain an office, keep a record of the acts of the board, formulate its reports and keep a record of its expenditures. The board shall establish rules and regulations and employ the most efficient and practical means to carry out the provisions of this act. It shall require of the Chief Wardens monthly and annual reports in full, a copy of which shall be mailed to each member of such board, stating the number of deputy wardens appointed, their addresses, number of arrests, convictions and fines and other matters necessary to the enforcement of the provisions of this act. In the performance of their duties as members of the Game and Fish Board, as game wardens, as game and fish commissioners, all such persons after having been legally appointed as provided in this act, and during the terms for which they are in active service, shall each of them be exempt from any or all liability to any

person for acts done or permitted or property destroyed under and by virtue of the authority of the law.

Sec. 2. AMENDMENT.) That Section 4, Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 4. POWERS AND DUTIES OF THE BOARD.) Said board shall enforce the laws of this state, involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

1. The propagation and preservation of such variety of game and fish as it shall deem to be of public value.

2. The collection and diffusion of such statistics and information as shall be germane to the purpose of this act and the publication of such information and reports.

3. The power to purchase and lease, for the state, control, construct, mark, designate and manage all state fish hatcheries, state game farms, game refuges, game reserves and game reservations that are now, or may hereafter be owned, leased or controlled for such purposes.

4. The receiving from the United States Commissioner of Fisheries or other persons and the gathering, purchase and distribution to the waters of this state of all fish spawn or fry.

5. The taking of fish from public waters of the State for the propagation and stocking of other waters therein. The taking alive at any time, by any means, under the personal supervision of any member of the board, or someone appointed by them, any birds or animals for propagating purposes, or for the exchange with other states for game and birds and animals of other species.

6. The seizure and disposition of all wild birds, wild animals and fish, either taken, killed, transported or possessed contrary to law, of all dogs, guns, seines, nets, boats, lights, automobiles, vehicles or other instrumentalities unlawfully used or held with intent to use in pursuing, taking or attempting to take, concealing or disposing of the same, and for these purposes it is hereby authorized and empowered to make all such rules and regulations for carrying out the provisions of this section as said board may deem most expedient.

7. The power to appoint chief game wardens, state wide deputy game wardens, district game wardens, and such other special wardens as may be necessary to enforce the provisions of the game laws of the State of North Dakota, and the deputy game and fish commissioner as provided for in section 6 and section 8 of this act.



It is further provided that the game and fish board shall have the power and authority to remove at their pleasure any one or all of its appointees.

8. The Game and Fish Board shall have full power and authority to fix a maximum amount of traveling and other expenses which may or might be incurred by any or all of its appointees or by the Game and Fish Commissioner.

Sec. 3. AMENDMENT.) That Section 6, Chapter 161 Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 6. CHIEF GAME WARDENS.) The board shall appoint a chief game warden for each of the game districts mentioned in Section 2 of this act who shall devote all his time to the discharge of his duties, and shall receive compensation therefor the sum of Fifteen Hundred Dollars per year and actual expenses necessarily incurred in the discharge of his official duties. He shall act as such Chief Game Warden during the biennial period in which he is appointed, (biennial period for appointments shall be construed as ending April 1st of odd numbered years), unless sooner removed by action of the Game and Fish Board as provided for in paragraph 7 of Section 4 as amended, and be subject to the board's direction. He shall not be engaged in or have any other business that will in any way interfere with his duties as such Chief Game Warden. It shall be his duties to devote all his time to the practical and actual work of enforcing the provisions of this act in seasons requiring the actual work of deputy wardens in the fields. Before entering upon the discharge of his duties he shall give a bond to the State of North with securities or security to be approved by the Governor, in the penal sum of Five Thousand Dollars, conditioned for the faithful performance of his duties and the accounting of all State Property coming into his hands.

Sec. 4. AMENDMENT.) That Section 8 of Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 8. OTHER EMPLOYEES.) The board may also appoint and remove at pleasure not to exceed one Statewide Deputy Game Warden for each game district, and not to exceed twelve regular district deputy game wardens, six of which are to be appointed in the first game district and six in the second game district, as provided for in Section 2, such district deputy game warden to serve for a period not to exceed four months during each year, which months shall be designated by the Game and Fish Board, unless in the opinion of the board an emergency exists which requires special work for which the board may authorize the Chief

Game Wardens to assign the district deputy wardens for extra duty for such periods and places as conditions require, for the better protection of the game of the state. PROVIDED, further, the Chief Game Warden in each district may appoint one or more special State-wide Game Wardens in each county in their respective districts, who shall serve for such a time and in such manner as the Chief Game Warden may direct. They shall serve as such special State-wide Game Wardens without compensation, except as provided in Section 21 of this Act. Such regular Deputy Game Wardens as are appointed by the board, shall receive as full compensation for their services, not to exceed one hundred dollars per month and actual expenses incurred in the performance of their duties. Each Deputy Game Warden shall devote his whole time to the work, under the direction of the Chief Game Warden of the district for which he is appointed. At the close of each week he shall mail to the Chief Game Warden an itemized statement of his expenses, and attach thereto vouchers for all moneys so expended by him, together with a statement showing his daily activities during said week. The salaries and expenses of all employees shall be paid from the state game and fish fund. Each Deputy Game Warden shall, without delay, report to the Chief Game Warden of his district all violations known to him and convictions secured, and give a detailed statement of the same. The board shall also appoint a Deputy Game and Fish Commissioner, who shall act as assistant to and under the direction of the State Game and Fish Commissioner, in the care of the state fish hatchery and in the distribution, breeding and capture of such game birds, animals and fish as the board may direct, for which he shall receive not to exceed fifteen hundred dollars per year and actual expenses necessarily incurred in the discharge of his official duties. He shall devote his entire time to the work and reside at a location designated by the board.

Sec. 5. AMENDMENT.) That Section 27, Chapter 161, Session Laws of 1915, as amended by Section 2, Chapter 134, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

Sec. 27. DOGS, USE OF.) No person shall hunt, pursue, catch, take or kill deer, antelope, moose or elk with any dog or dogs. No person shall train or run any dog or dogs owned or controlled by them known as "bird dogs" including pointers, setters or droppers, or allow same to run loose in fields or upon land in which game birds may be found, or are apt to be frequented by game birds between the first day of April and the first day of November (both inclusive) following of each year.

Provided, however, that this section shall not be construed as prohibiting the use of dogs for retrieving water birds, includ-

ing any or all of the several species of ducks and geese which it is lawful to hunt and kill.

Sec. 6. AMENDMENT.) That Section 34, Chapter 161, Session Laws of 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 34. DEER, SEASONS FOR KILLING.) No person shall hunt, shoot, catch, kill, trap or in any manner destroy any deer within the boundary limits of the State of North Dakota. Any person violating the provisions of this Section shall be guilty of a misdemeanor, and upon conviction therefor shall be fined one hundred dollars for each deer, and cost of prosecution, or by imprisonment in the county jail for not less than thirty days nor more than sixty days, or by both such fine and imprisonment, in the discretion of the court, for each and every deer killed contrary to the provisions of this Act.

Sec. 7. AMENDMENT.) That Section 35, Chapter 161, Session Laws 1915 is hereby amended and re-enacted so as to read as follows:

Sec. 35. LICENSES FOR RESIDENT AND NON-RESIDENT HUNTERS, PROFESSIONAL DOG TRAINERS AND TAXIDERMISTS. HOW PROVIDED.) All persons are prohibited from hunting, taking or killing any protected game or bird in this state without having first procured a hunting license, as prescribed in this act. It shall be unlawful for any person over 16 years of age to take, trap, kill or capture in any manner any mink, muskrat, skunk, or other fur bearing animal without having first procured a license therefor. It is hereby provided, however, that no license is required for any resident of this state to hunt, fish or trap on lands owned by him or actually cultivated by him, or any member of his family residing permanently with him, during the open season as provided for in this act. All persons who accept money for training dogs, commonly used for hunting purposes, are hereby declared to be professional dog trainers and must secure licenses for that purpose. All persons are prohibited from practicing taxidermy for pay without first having secured a license therefor. The expiration of all licenses shall be on the following dates—each subsequent to their issuance; Hunting Licenses on the first day of December, trapping licenses on the sixth day of September, taxidermist licenses on the thirty-first day of December. The North Dakota game and fish board shall provide the necessary blank forms for applications and licenses of all kinds and distribute them among those authorized to sell said licenses.

Sec. 8. AMENDMENT.) That Section 36, Chapter 161, Session Laws of 1915 as amended by Section 5, Chapter 134, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

**Sec. 36. RESIDENT LICENSES. COST. HOW ISSUED. APPLICATIONS. FORMS. GAME AND FISH SHIPMENTS.)** Application for resident hunting licenses shall show the applicant is a bona fide resident of the State and for six months has been a resident of the county in which license is sought, shall give his residence, post office, address, shall contain a description of his person as to his height, weight, color of his hair and eyes, and shall be verified by some freeholder of the county, other than the applicant, acquainted with the facts as set forth in the application; and it is provided further that if any person selling licenses is in doubt as to the question of the residence of the applicant, an affidavit on that point may be required additional to the usual application. Resident hunting, trapping, professional dog training and taxidermists licenses may be sold by the county auditors, members of the game and fish board and by all bonded game wardens. When sold by members of the game and fish board or the bonded appointees of the Board the gross receipts must be sent to the secretary of the Board at the end of each month and by him transmitted to the State Treasurer who shall credit the amount to the game and fish fund. No such resident license shall be transferable. Resident hunting licenses shall be sold for one dollar and fifty cents each, resident trapping licenses for two dollars each, resident professional dog trainers' licenses for one dollar each, taxidermist licenses for one dollar each. Resident licenses, when issued, shall describe the licensee, designate his place of residence and have printed upon it in large figures the year for which issued and the word "Not Transferable." Any resident of the state having procured a resident hunting license as required, and being lawfully in possession of any protected game birds or animals mentioned in this act may ship by common carrier or when same is accompanied by the person legally in possession of said protected birds or animals may carry on the same train or other conveyance, to his home address in the county in which he resides not to exceed a two days' bag limit of any protected game-birds or animals. Any resident of the state who shall hunt, trap, practice taxidermy for pay, or train dogs professionally without having first procured a license therefor as provided in this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days nor more than thirty days for each offense, or by both such fine and imprisonment, and each violation of this Act shall be a distinct and separate offense.

**Sec. 9. AMENDMENT.)** That Section 46, Chapter 161, as amended by Chapter 63, Session Laws of 1917 and as amended by Chapter 134 Session Laws of 1919, and as amended by Chapter 68, Session Laws of 1921, is hereby amended and re-enacted so as to read as follows:

Sec. 46. BEAVER, OTTER AND MUSKRAT.) No person shall take, kill, catch, trap or destroy any beaver or otter within the boundary of the State of North Dakota. No person shall take, kill, catch, trap or destroy any muskrat within the boundary of the State of North Dakota until the 10th day of January, 1924. However, at no time shall it be lawful to cut into, destroy, dynamite or molest, any beaver dam, beaver or muskrat house or mound. Provided, however, that any person having procured a trapping license may take, kill, catch or trap muskrat, but never by shooting, on or after the tenth day of January, 1924, until the 10th day of March, 1924, and between and including the 10th day of January and the 10th day of March of each year thereafter.

Any violation of this section of the law shall be declared a misdemeanor and any person or persons convicted of the violation thereof, shall be punished by a fine of not less than seventy-five dollars or more than one hundred dollars, and the costs of prosecution, or by the imprisonment in the County jail, for not less than ten or more than thirty days; or by both such fine and imprisonment.

If the owner, owners, leasee or leasees of any premises upon which there may be any muskrat shall, thereupon post in a conspicuous place upon such premises a notice forbidding trapping thereon, it shall be unlawful to take, kill, catch or trap muskrat upon such premises providing, however, the owners or leasees of said premises or any member of his family may take, kill, catch or trap muskrat upon his or their own premises after the tenth day of January, 1924, until the 10th day of March, 1924, and between and including the 10th day of January and the 10th day of March thereafter of each year, and any person or persons violating this provision shall be guilty of a misdemeanor.

Sec. 10. AMENDMENT.) That Section 65, Chapter 161, Session Laws of 1915, is hereby amended and re-enacted so as to read as follows:

Sec. 65. RUFFED GROUSE OR PARTRIDGE, PHEASANTS, QUAIL.) Ruffed grouse or partridge, pheasants of all kinds and quail may be propagated, bred and distributed under the direction of the Game and Fish Board and it shall be unlawful for any person or persons to hunt, shoot, kill, take, trap or in any manner destroy, maim or wound any of these birds, except as authorized by the game and fish boards. An open season on ruffed grouse or partridge shall be declared from October 7th to October 16th, inclusive, in each year, in the counties of Bottineau, Cavalier, Pembina, and Rolette, the bag limit to be five birds only per day for each licensed hunter and no hunter shall be permitted to have more than fifteen ruffed grouse or partridges in his possession at one time. It is further provided that it shall be unlawful to shoot, kill or

trap in any manner the Sandhill, Little Brown or Whooping Crane, Swans, the Sage Hen or (Sage Grouse). Any violations of this Section shall be a misdemeanor.

Sec. 11. AMENDMENT.) That Section 80, Chapter 161, Session Laws of 1915 as amended by Chapter 135, Session Laws of 1919 is hereby amended and re-enacted so as to read as follows:

Sec. 80. FISH, MANNER OF TAKING.) No person shall take, catch, kill or destroy in any manner than by angling for them with a hook and line held in the hands or attached to a rod so held, not with more than one line, nor with more than one rod, nor more than one hook or an artificial lure attached thereto any protected game fish; provided, that any person or persons may take with nets, seines, drag nets, dip nets and traps any such fish as buffalo, bullhead, suckers, carp, catfish, redhorse or sturgeon from the waters of this State provided it is done under the direction of the Game Board or Chief Game Wardens or their authorized agent. Any person or persons desiring to do such seining must notify the members of the Game Board or Chief Game Wardens (of their district) and the members of the Game Board or Chief Game Wardens are authorized to issue a permit allowing seining, provided the parties making application so that this Game Board or Chief Game Wardens or their duly authorized agent may be present at such seining and if any other fish than the above mentioned kind are caught they shall be returned to the waters with as little harm as possible; provided, further, that seines, nets, drag nets, dip nets or traps may be used by any person without a permit in Des Laes Lake, Mouse River and the Missouri River, and any species or variety of fish may be taken from the Mouse River or the Missouri River and bayous or backwaters of the Missouri River. But no person or persons shall use a seine, net or trap within a thousand feet of the mouth of any stream emptying into the above named rivers; provided, further, that pickerel are hereby considered a game fish and are therefore protected; but the members of the Game Board or Chief Game Wardens shall have the power and authority to allow seining of pickerel at such time and place as in their judgment it shall be beneficial to the waters of the State. That the Game and Fish Board shall issue annual licenses to any person to use seines, nets, drag nets, dip nets or traps in Des Laes Lake, Mouse River and the Missouri River, upon payment of the following fee:

For resident license, \$1.50 dollars; for non-resident license twenty-five dollars.

Approved March 7th, 1923.

## CHAPTER 225.

(S. B. No. 154—Game and Fish Committee.)

## BREEDING OF FUR BEARING ANIMALS.

An Act to Amend and Re-enact Chapter 121, Session Laws of 1917 Relating to the Issuance of Permits for Breeding or Domestication of Certain Fur Bearing Animals.

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

Sec. 1. AMENDMENT.) That Chapter 121, Session Laws of 1917, is hereby amended and re-enacted so as to read as follows:

Sec. 1. Breeding of Fox, Mink, Muskrat, Skunk and Raccoon. Application to be Made to Game and Fish Board. Bond to be Given. The game and fish board of this state may issue annual permits to breed or domesticate fox, mink, muskrat, skunk and raccoon upon application to it which shall contain:

1. The name and address of the applicant.
2. A description of the premises upon which the applicant shall keep such domesticated animals.

The approximate number and kinds of animals in possession at the time of making the application and whether they are wild or domesticated.

The application shall be accompanied by a fee of five dollars. The board may thereupon issue a permit to the applicant to keep such animals. Any person so holding such permit shall annually on the first day of January, report to the board any increase or decrease had upon the original number applied for. The board shall keep a record of all persons holding such permits.

Any person desiring to breed and domesticate such fur-bearing animals may apply to the game and fish board for a permit to catch and take for the purpose of breeding and domesticating only, such animals within certain described territory and within a described portion of the closed season and upon such applicant giving a bond to the State of North Dakota in the sum of five hundred dollars (\$500.00), with two or more sureties to be approved by said board, conditioned, among other things, that said applicant will only within the time prescribed and within the territory mentioned in the application, take and catch such animals for the purpose of breeding and domesticating, and that such applicant will not catch, take or use such animals for any other purposes and will not sell or otherwise dispose of the same, or of the carcasses, fur and hides thereof, the said board may issue to such applicant a permit to so catch and take such animals. At the end of the time stated in such permit the person named therein shall forthwith report to the game and fish board the kind and number of

such animals so caught and taken and receive a permit for their retention and domestication, as in this act provided.

Sec. 2. Any person, who under the authority of this act, shall have in his lawful possession, any such fur bearing animals, shall be deemed to have a property right therein and to be the owner thereof, and any person who shall enter the enclosure where such animals are confined, or who shall catch, take or molest such animals when in such enclosure, shall be subject to the same liabilities, penalties and punishments as though the animals in question were ordinary domestic animals, the subject of property rights in this state.

Any such animals or their furs or hides may be sold or shipped within or without the state upon receipt of written permission to do so from the board.

Approved February 24th, 1923.

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## CHAPTER 226.

(S. B. No. 213—Steel.)

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### FISH.

An Act Giving the North Dakota Game and Fish Commission Power to Make Rules and Regulations in Addition to Those Already Provided by Law, for the Protection of the Fish in the Lakes and Rivers of North Dakota.

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

Sec. 1. Whenever the North Dakota Game and Fish Board, after investigation, finds that the fish, or any species thereof, in any lake of this state, for which an open season is provided, are in danger of undue depletion or extinction, or when necessary for the propagating of or the protection of immature fish, it may by an order provide protection for such fish, additional to that provided by law, and to that end may prescribe, in what manner and in what number, and in what places, and at what time fish may be taken.

Sec. 2. Any order issued by the said Board pursuant to this act, shall have the force of law, and any person or persons who shall violate any provisions of this act, shall be guilty of misdemeanor, and shall upon conviction be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) and costs of prosecution, or by imprisonment in the county jail for not less than twenty nor more than thirty days, or both, at the discretion of the Court.

Sec. 3. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 24, 1923.



# HEALTH

## CHAPTER 227.

(S. B. No. 54—Whitman.)

### DEPARTMENT OF HEALTH.

An Act to Provide for a State Department of Health; a Public Health Advisory Council; Working Divisions and Employees; Office Space; Making an Appropriation Therefor; Repealing Sections 397, 398, 401, and 403, Compiled Laws of 1913, Declaring Emergency.

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

Sec. 1. STATE DEPARTMENT OF HEALTH.) There is hereby created and established a State Department of Health, which shall be constituted as provided in this act, and shall exercise all the powers and duties now conferred upon the State Board of Health, and such other powers and duties as are herein provided for. The State Department of Health shall consist of a public health advisory council, a state health officer, directors of divisions and other employees as herein provided for.

Sec. 2. PUBLIC HEALTH ADVISORY COUNCIL.) The public health advisory council shall consist of five (5) members, three (3) of whom shall be appointed by the governor; the superintendent of Public Instruction and the President of the North Dakota Anti-Tuberculosis Association shall be ex-officio members of the council. The term of office of the appointive members shall be six years except as hereinafter provided for, and until their successors are appointed and qualified.

The governor shall fill all vacancies by appointment but in case of a vacancy before the expiration of a term the appointment shall be for the residue of the term only. Immediately after the passage of this act the governor shall appoint one member for a term of two years, one member for a term of four years, one member for a term of six years. Thereafter each original appointment shall be for six years.

At least one of the appointive members of the public health advisory council shall be a woman; at least one shall be a physician who is a graduate of regular and reputable schools of medicine; and at least one shall be a dentist, who is a graduate of a regular and reputable school of dentistry. The public health advisory council shall meet in January and June of each year and at such other times as may be directed by the council or its president. The members of the council shall receive only their actual and necessary traveling expenses when engaged in the actual discharge of their official duties.

A member of the council shall be chosen president thereof and his term of office shall be two years. His duties shall be prescribed by the statutes of the State. The State health officer shall act as secretary and executive officer of the council.

Sec. 3. The state health officer shall be appointed by the public health advisory council. He shall be a physician who has graduated from a regular and reputable school of medicine and who shall have had special training and experience in public health administration. He shall receive a salary of \$3,600.00 a year, payable in monthly installments and necessary traveling expenses incurred in the performance of official business. He shall not engage in any other occupation or business and shall hold office subject to removal by a vote of three members of the council at a regular meeting, after charges have been preferred, a hearing held and the charges sustained. The removed officer shall have the right of appeal to the courts. The State health officer shall be the administrative officer of the state department of health. His duties shall be those prescribed by the Statutes of the State and the regulations of the State Board of Health for the superintendent of public health.

Sec. 4. POWERS AND DUTIES.) The powers and duties of the State Department of Health and the public health advisory council shall be those prescribed by the statutes of the State and the regulations of the State Board of Health.

Sec. 5. CHANGES IN TITLES.) Wherever the words "State Board of Health" appear in the statutes of the State and the regulations of the State Board of Health there shall be substituted therefor the words "State Department of Health."

Wherever the words, "Superintendent of Public Health" appear there shall be substituted therefor the words "State Health Officer," in the statutes of the State and the regulations of the State Board of Health.

Sec. 6. WORKING DIVISIONS.) The State Department of Health shall establish the following divisions, together with such other divisions as may from time to time be determined;

1. Division of vital statistics.
2. Division of preventable disease.
3. Division of child hygiene and public health nursing.
4. Division of sanitary engineering.

Sec. 7. OFFICE SPACE.) The State shall provide suitable office space in Bismarck for housing and maintaining the State Department of Health, Special fireproof vaults shall be provided for the storage of birth and death certificates.

Sec. 8. REPEALING SECTIONS 397, 398, 401 AND 403.) Sections 397, 398, 401 and 403 of the Compiled Laws of 1913 are hereby repealed.

Sec. 9. APPROPRIATIONS.) The following sums or as much thereof as may be necessary, and no more, are hereby appropriated out of moneys in the general fund in the State Treasury, not otherwise appropriated, for the several objects and purposes hereinafter named, for the one and two year periods beginning July 1, 1923, and ending June 30, 1924, and July 1, 1924, and June 30, 1925, respectively.

## ITEMS.

	One Year	Two Years
1. Salaries		
State Health Officer .....	\$3,600.00	\$ 7,200.00
2. Clerical Assistance		
2 clerks at \$1,200.00 .....	2,400.00	4,800.00
3. Postage .....	300.00	600.00
4. Office Supplies .....	400.00	800.00
5. Furniture and Fixtures .....	500.00	700.00
6. Telegrams, telephone, express and miscellaneous .....	200.00	400.00
7. Printing .....	500.00	1,000.00
8. Traveling Expenses		
Members of Council .....	250.00	500.00
State Health Officer .....	800.00	1,600.00
	<hr/>	<hr/>
	\$9,050.00	\$17,800.00

Sec. 10. EMERGENCY.) Whereas, an emergency exists, this act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 8th, 1923.

## HIGHWAYS

### CHAPTER 228.

(S. B. No. 330—Garberg.)

#### HIGHWAYS ON STATE LINES.

An Act To authorize County Commissioners to lay out and construct or contract for the construction of Highways on State Lines.

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

Sec. 1. HIGHWAYS ON STATE LINE.) Whenever the county commissioners of any county bordered by a state line shall deem it for the best interests of such county to open and improve a highway on said state line, they shall have the power to negotiate with the proper officials of the adjoining county or state,

and may make contracts or agreements pertaining to the opening up of such state line and the construction of a highway thereon; and if they deem it proper, they may agree with the officials of the adjoining county or state for the allotment of the highway on said state line, and assume the obligation of construction and maintenance of certain parts of the said highway in return for the assumption of like obligations by the officials of the adjoining county or state, as to a like portion of the state line forming the boundary of the said county.

Approved March 7th, 1923.

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## HOMESTEAD

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### CHAPTER 229.

(S. B. No. 36—Page.)

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#### HOMESTEAD EXEMPTION.

An Act to Amend and Re-enact Sections 5605, 5607 and 5611 of the Compiled Laws of the State of North Dakota for the year 1913, Defining the Homestead Exemption.

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

Sec. 1. AMENDMENT.) That Sections 5605, 5607, and 5611 of the Compiled Laws of the State of North Dakota for the year 1913 be and the same are hereby amended and re-enacted to read as follows:

Sec. 5605. HOMESTEAD DEFINED. EXEMPTION.) The homestead of every head of a family residing in this state, not exceeding in value Five Thousand Dollars (\$5,000.00) over and above liens or incumbrances, or both, claimed under subdivisions 1, 2 and 3 of Section 5607, and if within a town plat not exceeding two acres in extent, and if not within a town plat not exceeding in the aggregate more than one hundred and sixty acres, and consisting of a dwelling house in which the homestead claimant resides and all its appurtenances and the land on which the same is situated, shall be exempt from judgment lien and from execution or forced sale except as provided in this Chapter.

Sec. 5607. The Homestead is subject to execution or forced sale in satisfaction of judgments obtained:

1. On debts secured by mechanics' or laborers' liens for work or labor done or performed or material furnished exclusively for the improvement of the same;

2. On debts secured by mortgage on the premises executed and acknowledged by both husband and wife, or an unmarried claimant;

3. On debts created for the purchase thereof and for all taxes accruing and levied thereon;

4. On all other debts when, upon an appraisal as hereinafter provided, it appears that the value of such homestead is more than Five Thousand Dollars (\$5,000.00) over and above liens or incumbrances claimed under subdivision 1, 2 and 3 hereof, and then only to the extent of any value in excess of the sum total of such liens and incumbrances plus said Five Thousand (\$5,000.00) Dollars.

Sec. 5611. WHEN APPRAISED.) When an execution for the enforcement of a judgment obtained in a case not within any of the classes specified under subdivisions 1, 2 or 3 or Section 5607 is levied upon the homestead the judgment creditor may apply to the district court in the county in which such homestead is situated for the appointment of persons to appraise the value thereof.

Sec. 2. EMERGENCY.) Whereas the law relating to homesteads now supplies inadequate protection, advantage of which is being taken by judgment creditors, an emergency exists, and this Act shall take effect immediately upon its passage and approval.

Approved February 3rd, 1923.

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## CHAPTER 230.

(S. B. No. 201—Page.)

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### HOMESTEAD, HOW CONVEYED.

An Act to Amend and Re-enact Section 5608 of the Compiled Laws of the State of North Dakota for the year 1913.

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

Sec. 1. AMENDMENT.) Section 5608 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 5608. HOW CONVEYED.) The homestead of a married person cannot be conveyed or incumbered unless the instrument by which it is conveyed or incumbered is executed and acknowledged by both the husband and wife, without regard to the value thereof.

Approved February 24th, 1923.

# HOTELS

## CHAPTER 231.

(H. B. No. 142—Craig.)

### PROTECTION OF GUESTS.

An Act Providing for the proper protection of guests in hotels, restaurants and rooming houses.

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

Sec. 1. That every hotel, restaurant and rooming house within the state shall, within three months, be required to equip and keep equipped, the doors of all rooms used for sleeping purposes within such hotel, restaurant or rooming house with proper bolts or locks so that the same may be securely locked from within so that it will be impossible to unbolt or unlock or remove the key from the outside or open the same with a skeleton key while such room is occupied, bolted and locked from within.

Sec. 2. It shall be the duty of the hotel inspector to enforce the provisions of this act and to report all violations of such act to the state's attorney of the county wherein such violations occur, and it shall be the duty upon the same being reported to the state's attorney to prosecute any violations of the provisions of this act.

Sec. 3. Any proprietor or manager of such hotel, restaurant or rooming house who fails to comply with the provisions of this act shall be guilty of a misdemeanor.

Sec. 4. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in force from and after its passage and approval.

Approved February 24th, 1923.

# INSURANCE

## CHAPTER 232.

(S. B. No. 20—Ingerson.)

### STATE HAIL INSURANCE.

An Act to Amend and Re-enact Sections 3, 5, 6, 9, 12, 13, 15, 16, 17, 20, 26 and 27 of Chapter 160 of the Session Laws of North Dakota for the year 1919 as amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the year 1921, relating to State Hail Insurance.

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

AMENDMENT.) That Sections 3, 5, 6, 9, 12, 13, 15, 16, 17, 20, 26 and 27 of Chapter 160 of the Session Laws of North Dakota for the year 1919 as amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as amended and re-enacted by Chapter 77 of the Session Laws of the State of North Dakota for the year 1921, are hereby amended and re-enacted to read as follows:

Sec. 3. COMMISSIONER TO EMPLOY HELP.) The Commissioner of Insurance shall have authority to employ all necessary assistance, to provide for and furnish all necessary supplies, to appoint a manager, subject to the approval of the Governor, and a chief inspector and such other deputy inspectors as may be necessary to carry out the provisions of this Act; to appoint a chief clerk and as many adjusters and assistants as may be necessary to adjust all claims for losses from hail. The Commissioner of Insurance shall designate the duties and fix the compensation of all such employees, and may remove any or all of them with or without cause. Such compensation together with all other expenditures for the operation and maintenance of the Hail Insurance Department shall remain within the appropriation and surplus available in each year for such purposes and shall not exceed the sum of One Hundred and Seventy-Six Thousand Dollars per annum, except as provided for by Section 16 and 17 of this Act. The Commissioner of Insurance shall pay all salaries and expenses of the department after March 1, 1920, by vouchers issued by him and approved by the State Auditing Board, and reimburse the General Fund of the State out of the Hail Insurance Fund, for all money appropriated, expended or disbursed on behalf of such Department.

Sec. 5. CROPS INSURED.) The crops insured under this Act shall consist of all crops grown on cultivated land listed as actually cropped, subject to and paying the taxes herein specified. Provided that no indemnity shall be allowed or paid for damage to any crop after it is cut, nor shall any indemnity be allowed for loss that occurs after the 15th day of September of any year, nor for loss occurring prior to June 10th of each year, nor upon crops listed for insurance upon which an application for extension of time for withdrawal has been made as provided by Section 12 of this Act during the time of such extension; provided that insurance on fall and winter grain shall take effect June 1st of each year.

Sec. 6. FLAT TAX AND PERMANENT SURPLUS.) There is hereby levied for the years 1923, 1924, and 1925, upon each and every acre of tillable land in the State, a flat tax of one cent per annum for the purpose of carrying out the provisions of this act, and creating a permanent surplus in the Hail Insurance Fund to be applied in paying losses more promptly. Provided, that lands used exclusively for public roads, rights of way of common carriers, mining or manufacturing purposes, and lands included within the platted portion of any incorporated city, town or village, shall be exempt from such tax. Provided, further, that all moneys heretofore or hereafter collected under the provisions of Sections 7 and 10 of this act, over and above that which is required to pay hail losses, also all moneys such as penalties and interest for non-payment of hail taxes and interest on balances already accrued and which may in the future accrue, shall be turned into the permanent surplus as created under the provisions of this section, until such permanent surplus reaches the sum of \$4,000,000.00; Provided further, that the permanent surplus created under the provisions of this section shall at no time exceed the sum of five million dollars. Provided, further, that whenever the fund as created under this section exceeds five million dollars, such excess levy shall be turned back into the State Hail Insurance Fund to pay losses in the next succeeding year. All moneys collected under the provisions of this section shall be paid into the State Hail Insurance Fund, but a separate record of such moneys collected from such flat tax shall be kept by the County and State Treasurer.

Sec. 9. DUTY OF ASSESSORS.) It shall be the duty of every county and township assessor in his respective district at the time of listing property for assessment to return the number of tillable acres in every tract, parcel or sub-division of land, subject to taxation, together with the name of the person in whose name the land is taxed, and also the number of acres of such land, if any, in crop, or to be sowed or planted to crop during such year. He shall note upon a diagram on the crop-listing blank the location of such land in crop or to be planted or



sowed to crop during such year, and shall return and file same with the County Auditor on or before the first day of June in each year. In case the number of acres in crop, as shown on the crop-listing affidavit in the column provided for showing such crop lands, do not correspond with the cropped acreage shown on the diagram on the face of the crop-listing affidavit, the number of acres as given in the cropped lands column shall govern. Such assessor in addition to the compensation allowed by law shall receive the sum of fifteen dollars for each full township of thirty-six sections, or at the rate of seven cents per hundred acres or fraction thereof listed, whether tillable or not. Such compensation shall be paid out of the Hail Insurance Fund on vouchers issued by the Commissioner of Insurance and approved by the State Auditing Board, provided that warrants in payment of such listing of land shall not be issued before the County Auditor shall have filed with the Hail Insurance Department a certified statement that such assessor has listed every tract of land in his township or district.

Sec. 12. WITHDRAWAL.) Any owner of land liable for the indemnity tax herein provided for, may at any time prior to the 15th day of June in each year withdraw any portion or all land owned by such person from the levy of said indemnity tax upon making an affidavit in duplicate, giving the legal description of the land, the number of acres withdrawn and stating that he desires to withdraw therefrom, and filing such affidavit in duplicate with the County Auditor, and the County Auditor shall, within three days, file a copy of same with the Commissioner of Insurance, and the party making withdrawal shall note upon his crop-listing affidavit the number of acres and the legal description of land so withdrawn, and shall note upon a diagram upon such withdrawal of affidavit the location of land so withdrawn. Such affidavit shall be sworn to before any Notary Public or County Auditor or a qualified Justice of the Peace, provided, that no assessor shall acknowledge any affidavit of withdrawal. Provided, further, that it shall be the duty of the Hail Insurance Department to furnish each County Auditor for distribution by the assessors, withdrawal blanks, crop-listing blanks, re-instatement blanks and loss report blanks necessary in their respective townships. Should such owner wish to withdraw all his land subject to indemnity tax, then he should, if possible, surrender also the crop-listing affidavit and file same together with the application for withdrawal with the County Auditor, provided, that, in case said land or any portion thereof is rented, such owner shall first procure the written consent of such tenant for any withdrawal authorized in this Act, such consent to be filed with the County Auditor, together with the owner's application for withdrawal. Provided if land is leased for a money consideration, then the lessee, if he has full interest in all the crops grown

on the land may make affidavit of withdrawal as above provided, and file with same certified copy of his lease in duplicate, provided, further, that if the owner in making an affidavit of withdrawal stating therein that he has no tenant whereas there actually is a tenant on such land, the Hail Insurance Department shall not be relieved from liability for such loss, but the owner making such fraudulent affidavit shall be guilty of a misdemeanor, punishable by a fine of not less than Ten Dollars nor more than Twenty-five Dollars, or to be confined in the county jail for not more than thirty days or both such fine and imprisonment at the discretion of the court, and in case of loss by hail to crops grown on such lands the Hail Insurance Department shall adjust and pay such loss, such indemnity to be the actual percentage of loss based upon the tenant's share in such crop and may recover the amount of any indemnity paid for such loss from such landowners in an action brought in any court of competent jurisdiction. Provided that the owner shall have a self-executing first lien upon all crops and grain belonging to the tenant grown upon the land as security for the payment of said tax or the part of such tax properly chargeable against the tenant's share of such crop or grain. The owner shall also have a first lien chargeable against tenant's share of hail indemnity as security for payment of tenant's share of such tax if filed with the Commissioner of Insurance prior to October 1st. Provided, further, that the withdrawal from hail indemnity tax may be cancelled and the insurance re-instated any time prior to July 5th by filing an affidavit of application for such re-instatement in duplicate with the County Auditor on blanks furnished by the Hail Insurance Department, and the County Auditor shall stamp on both the original and duplicate of such application the hour and the date when such application was received in his office and shall within three days file a copy of such application with the Hail Insurance Department. Provided that, if land is rented, both the owner's and tenant's signatures must appear on such application for re-instatement, one or both of such signatures to be acknowledged by a Notary Public. It is further provided that any portion of the crops originally withdrawn may be re-instated and that such re-instated insurance as above provided shall not take effect prior to twenty-four hours after such application for re-instatement is filed in the County Auditor's office. The Hail Insurance Department shall not be liable for loss during the time withdrawal is in effect and the application for re-instatement shall contain a sworn statement to the effect that such crops have not been damaged or destroyed by hail prior to the making of such application.

Sec. 13. FILING AFFIDAVIT BY COUNTY AUDITOR.) Each County Auditor shall file and keep one copy of the crop-listing affidavit presented to him by the assessor and shall forward the

originals thereof on or before the 10th day of June of each year to the Commissioner of Insurance at Bismarck. Prior to July 15th of each year the County Auditor shall file with the Commissioner of Insurance at Bismarck an itemized and tabulated statement and report on blanks provided by the Hail Insurance Department showing in detail for every description of land in his County subject to listing for State Hail Insurance purposes, acres in crop, acres tillable, acres tillable uncropped, acres withdrawn, acres on which additional \$3.00 per acre is carried and any other information necessary for carrying out the provisions of this Act. Each County shall receive the sum of \$1.50 per each 1,000 acres of cropped area actually listed, to be paid out of the Hail Insurance Fund prior to December 31st of each year on vouchers issued by the Commissioner of Insurance and approved by the State Auditing Board. Provided that any County, where the Auditor shall fail or neglect to make returns, statements and reports to the Commissioner of Insurance at the time specified in this Act or shall fail to forward to the Commissioner of Insurance the originals of crop-listing affidavits or copies of other affidavits and applications at the time specified in this Act, shall forfeit the sum of \$10.00 per day during such time that the County Auditor neglects to make such returns, statements or reports, and the Commissioner of Insurance is hereby authorized to deduct the amount of such fine to the extent of such compensation above provided for to any County. Provided, further, it shall be the duty of the Attorney General to proceed to collect the amount of such penalty for the time of such delinquency in excess of the amount above provided for.

Sec. 15. AMOUNT OF INDEMNITY.) The maximum amount of Indemnity for total loss shall be \$7.00 per acre except where the owner, occupant or tenant shall, prior to the fifth day of July of any year, make application to the County Auditor for an additional \$3.00 per acre indemnity. Such application shall be made out in duplicate upon blanks furnished by the Hail Insurance Department and one of these copies shall be forwarded to the Hail Insurance Department by the County Auditor immediately. Such application shall contain the legal description of the land and the location of the crops upon such land noted upon the diagram on the application on which additional insurance is desired, and that such crop has not been destroyed or damaged by hail. Such application shall be sworn to before someone authorized to administer oaths and be signed by the applicant. If the applicant is a tenant, the signed consent of the person liable for the taxes authorized by this Act must appear upon such application, and, if owner makes such application, the signed consent of the tenant, if any, must appear upon such application. The additional insurance herein provided shall in no event take effect prior to 24 hours after the making of the

application. Provided that no indemnity shall be allowed to any claimant for the loss of less than ten percent, and a loss of eighty-five per cent or more shall be deemed a total loss. There shall be no claim allowed for any loss or damage by hail to crops described in this Act, except such portion as is traceable to hail.

Sec. 16. NOTICE OF LOSS.) Any person claiming a loss by hail under this Act shall notify the Commissioner of Insurance by registered mail within three days thereafter. Such notice shall give the legal description of the land, the interest in such crop which he claims, the name and post office address of the person liable for the tax on the land and the name and post-office address of any other person claiming a direct interest in the crop or indemnity, the date of the loss and the estimated per cent of the damage claimed. The Commissioner shall, as soon as possible after receiving such notice of loss, direct an official adjuster to visit the place of loss and proceed to estimate and adjust such loss. If for any reason notice of loss is not given within three days of such damage, if adjustment is granted, the cost of adjustment may in the discretion of the Hail Insurance Commissioner be charged against the claimant, or deducted from the indemnity allowed and shall accrue to the Hail Insurance Fund and may be expended by the Hail Insurance Department for operation and maintenance in addition to the sum provided in Section 3 of this Act.

Sec. 17. ADJUSTMENT OF CLAIMS.) In making adjustments of claims it shall be the duty of the adjuster to inspect the crops on which damage is claimed and he shall have the authority to administer oaths and, if deemed necessary to call witnesses to testify as to the condition of the crop before and after loss and he shall establish the fact that hail fell from other evidence than that found in the field by examining witnesses living adjacent to or near the land on which loss is claimed. It shall be the duty of the adjuster, whenever possible, to secure the written concurrence of the claimant, or his legal representative, in the award made by the adjuster of the claim, and to immediately forward same to the Commissioner of Insurance. In case the claimant does not concur in the findings and award of the adjuster, the adjuster shall immediately notify the Commissioner of Insurance of such fact, and upon the request of the claimant duly made within three days upon blanks furnished by the Department for that purpose, or by notice in writing, the Hail Insurance Department, through its authorized adjuster or adjusters, shall re-inspect the crops claimed to have been damaged, and, if, upon such re-inspection the insured still refuses to concur in the adjustment as found by the inspector, then the inspector shall immediately offer the claimant to submit the case to arbitration; and the inspector shall thereupon appoint one disin-

interested person, and the claimant shall appoint one disinterested person, and these two shall appoint a third person, and the findings of the majority of the three so appointed shall be final and binding upon the State Hail Insurance Department and the claimant. If the finding be more than the amount allowed by the inspector, the expenses of such adjustment shall be paid by the Commissioner of Insurance, as other expenses of this Department are paid. Otherwise, the expenses of such adjustment, including witness fees, if any, shall be borne by the claimant. Provided, that if claimant shall refuse to arbitrate or shall neglect or refuse to appoint and produce on the premises one of the board of arbitration within twenty-four hours after the re-inspection of the loss shall have been made, the claim shall be considered settled and the findings of the last adjuster shall govern in paying indemnity for such loss. Provided, further, that when such arbitration is resorted to, the claimant shall first deposit with the inspector not less than Twenty-five dollars nor more than Fifty dollars in certified check or draft, drawn to the order of the State Hail Insurance Commissioner as security for the payment of the fees and expenses of the members of the board of arbitration in case the findings of such board be in the amount not greater than that offered by the inspector. Provided, further, that the inspector shall immediately forward such moneys to the Hail Insurance Commissioner together with vouchers drawn by the members of the board of arbitration and certified by him and the Hail Insurance Commissioner shall deposit such money to the credit of the State Hail Insurance Fund and warrants shall be drawn in payment to the members of the board of arbitration and the balance of such deposit returned to the claimant. Provided, further, that such deposits shall be considered separate from and above the allowance made for operating and maintenance expense under Section 3 of this Act. The fee to be paid witnesses and arbitrators, under this Section, shall be the same as those allowed to witnesses in civil actions. Provided, that all adjustments as made shall be subject to the approval of the Commissioner of Insurance. Provided, further, that if any loss is found to be less than 10 per cent, the Commissioner of Insurance may in his discretion charge the cost of such inspection to the claimant, and the adjuster shall certify to the Commissioner the amount of such cost.

Sec. 20. DIVERSE INTEREST IN CROP.) In case of diverse ownership of interest in any crop upon which damages are allowed, proof of the percentage of interest in the award shall be made to the Commissioner of Insurance by affidavit or other showing under such rules and regulations as the Commissioner may provide, and the award shall be disbursed to the owner of the land, tenant or different claimants as their interest may ap-

pear, or by a joint warrant. Such affidavits or other showings must be made to the Commissioner of Insurance prior to October 15th of the year in which the loss occurs. Provided, that, interest in the indemnity shall follow the direct interest in the crop. Provided further that ownership on account of liens and mortgages, garnishment, levy, execution and any other legal process shall not be considered a direct interest. If land bought on crop-payment plan, title owner to receive certain part of crop each year, indemnity shall be distributed to him in same proportion as he has interest in the crop or by joint warrant, if proper showing has been made to the Department prior to October 15th. The mere retaining of title in crop shall not constitute an absolute or direct interest as interpreted by this Act.

Sec. 26. REPEAL.) All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 8th, 1923.

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## CHAPTER 233.

(H. B. No. 238—Peters.)

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### STATE HAIL INSURANCE FUND.

An Act to Amend and Re-enact Section 23 of Chapter 77 of the Session Laws of North Dakota for the year 1921, Relating to State Hail Insurance.

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

Sec. 1. AMENDMENT.) Section 23 of Chapter 77 of the Session Laws of North Dakota for the year 1921 is hereby amended and re-enacted to read as follows:

Sec. 23. All moneys collected under the provisions of Sections 6 and 7 of this Act shall be paid to the State Treasurer and shall be kept in a separate fund to be designated "State Hail Insurance Fund," and all expenses of conducting the department, and the payment of all losses provided for under the provisions of this Act, shall be paid out of said fund, as hereinbefore provided, and all of said moneys so collected are hereby appropriated for the purpose of carrying out the provisions of this Act. Whenever the moneys in the State Hail Insurance Fund are insufficient to pay warrants drawn, or about to be drawn, upon such Fund in payment of hail losses, the Commissioner of Insurance, with the approval and assistance of the Industrial Commission, may, and hereby is vested with authority to, negotiate a loan or loans upon the best terms possible. The proceeds of such loan or loans shall be turned over to the State Treasurer and by him placed in the State Hail

Insurance Fund, and disbursed accordingly. In order to negotiate such loan or loans, and as evidence thereof, the Commissioner of Insurance, with the approval of the Industrial Commission may issue warrants or certificates of indebtedness in such amounts, and payable at such times as is deemed advisable. Such warrants or certificates of indebtedness shall be drawn upon the State Treasurer, and shall be payable out of the State Hail Insurance Fund. All warrants or certificates of indebtedness so issued shall be countersigned by the State Auditor, and he shall enter the same upon his records as obligations issued against and properly payable out of the State Hail Insurance Fund. The State Treasurer shall pay all such warrants or certificates of indebtedness out of any funds in the State Hail Insurance Fund properly applicable thereto. The State Treasurer shall deposit all funds received under the provisions of this Act so as to draw the rate of interest most advantageous to the State Hail Insurance Department and all interests so earned shall accrue to the Hail Insurance Fund. The State Hail Insurance Department shall pay annually the sum of \$2,000.00 to the General Fund of the State on account of the extra work entailed upon the State Auditor and State Treasurer's offices by the State Hail Insurance Department.

Sec. 2. If any provision of this Act shall be held invalid, the other provisions therein shall not be affected. And the law now in force relating to the same subject shall continue in full force and effect.

Approved February 27th, 1923.

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## CHAPTER 234.

(S. B. No. 59—Garberg.)

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### INSURANCE COMPANIES FEES.

An Act To Amend and Re-enact Section 4929 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 76 of the Session Laws for the year 1921, relating to the fees to be paid by insurance companies doing business in this state.

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

Sec. 1. AMENDMENT.) That Section 4929 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 76 of the Session Laws for the year 1921, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 4929. FEES.) There shall be paid by every insurance company doing business in this state, except county mutual insurance companies, the following fees:

Upon filing articles of incorporation or copies thereof, twenty-five dollars.

Upon filing the annual statement, ten dollars.

For each certificate of authority and certified copy thereof, two dollars, provided, that domestic insurance companies shall pay fifty cents for each agent's license or certificate or copy thereof.

For every copy of any paper filed in the insurance department, the sum of twenty center per folio; and for affixing the official seal on such copy and certifying the same, the sum of one dollar.

For official examination of companies under this article, the actual expense and per diem charge incurred, such per diem charge not to exceed twenty dollars.

Approved March 8th, 1923.

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## CHAPTER 235.

(S. B. No. 304—Rusch.)

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### MUTUAL INSURANCE, CLASSIFICATION.

An Act to Permit Mutual Insurance Companies to Classify Their Business by Trades, Occupations or Professions, and to pay Dividends to Policyholders Based Upon Each Trade, Occupation or Profession's Proportion of Losses Received to the Premiums Paid by them; and Providing the Method of Determining such Dividends.

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

Sec. 1. Any Mutual Insurance Company, writing fire, accident or other forms of insurance protection, now doing business in, or in the future admitted to do business in the State of North Dakota, may on their own motion, or at the request of policyholders, pay dividends to the different classes of policyholders based upon the losses sustained as compared with the income received from those engaged in a particular trade, occupation or profession.

Sec. 2. In determining the rate of dividend due a given trade, occupation or profession, the income received and losses sustained shall be tabulated for a period of not less than five years immediately preceding the determination of such dividend rate, and the return dividend to policyholders based upon the experience of such period, after deduction for expenses and allowances for reserves as required by law.

Approved March 7th, 1923.



## CHAPTER 236.

(S. B. No. 72—Hamilton.)

## LIFE AND ACCIDENT INSURANCE, LICENSE, REBATES, MISREPRESENTATIONS.

An Act Requiring all Agents Acting for or on behalf of any Life or Accident Insurance Company doing business in this State to be Licensed, Regulating the Methods, Practices and Transactions of such Agents in conducting such Insurance Business, and Providing Penalties for the Violation of any of the Provisions of this Act,

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

Sec. 1. AGENTS MUST NOT ACT WITHOUT CERTIFICATE.) That no agent shall act for any life or accident insurance company directly or indirectly in taking risks or transacting the business of insurance without procuring from the commissioner of insurance a certificate of authority, stating that such corporation or company has complied with all requirements of law and is authorized for transaction of business in this state. The Commissioner of Insurance may submit to any person, making application for license as insurance agent, any interrogatories on forms and supplements such as he shall prepare, to which the applicant shall first make answer, in writing and under oath, to the end that the Commissioner of Insurance may satisfy himself that said applicant is worthy of a license.

Sec. 2. REBATES AND INDUCEMENTS PROHIBITED.) No insurance agent or solicitor, personally or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy or on any policy or agent's commission thereon, or earnings, profit, dividends, or other benefit founded, arising, accruing or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind, or any other valuable consideration or inducement, to or for insurance on any risk in this State, now or hereafter to be written, which is not specified in the policy contract of insurance; nor shall any such agent or solicitor, personally or otherwise, offer, promise, give option, sell or purchase any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever, as inducement to insurance or in connection therewith. Nothing in this section shall be construed to prevent the taking of a bona fide obligation, with legal interest, in payment of any premium.

Sec. 3. INSURED PERSONS AND APPLICANTS FOR INSURANCE PROHIBITED FROM ACCEPTING REBATES.) No insured person or party or applicant for insurance shall, directly or indirectly, re-

ceive or accept, or agree to receive or accept, any rebate of premium, or of any part thereof, or all or any part of any agent's or solicitor's commission thereon or any favor or advantage, or share in any benefit to accrue under any policy of insurance, or any valuable consideration or inducement, other than such as are specified in the policy.

Sec. 4. MISREPRESENTATION OF TERMS OF POLICY AND FUTURE DIVIDENDS BY AGENTS OR SOLICITORS.) No agent or solicitor of any life or accident insurance company or association, shall issue, circulate, or use, or cause or permit to be issued, circulated or used, any written or oral statement or circular misrepresenting the terms of any policy issued or to be issued by such company or association, or make an estimate, with intent to deceive, of the future dividends payable under such policy.

Sec. 5. MISREPRESENTATIONS, ET CETERA, FOR PURPOSE OF INDUCING POLICYHOLDERS TO DROP PRESENT POLICIES AND INSURE WITH OTHER COMPANIES, ET CETERA.) No agent or solicitor of any life or accident insurance company or association, shall make any misrepresentation or incomplete comparison of policies, oral, written, or otherwise, to any person insured in any company or association, for the purpose of inducing or tending to induce a policyholder in any company or association to lapse, forfeit, or surrender his insurance therein, and to take out a policy of insurance in the same or another company or association insuring against similar risks.

Sec. 6. REVOCATION, ET CETERA, OF LICENSE.) Upon satisfactory evidence of the violation of any of the provisions of this act by any agent or solicitor of any life or accident insurance company or association, the Commissioner of Insurance shall suspend or revoke the license of such offending solicitor or agent; and he shall have the right, in his discretion, to refuse, for a period of not to exceed one year thereafter, to issue a new license to such offending agent or solicitor. When a certificate shall be refused or suspended or revoked, the party aggrieved may appeal to the District Court of Burleigh County.

Sec. 7. PENALTY.) Any agent or solicitor of any life or accident insurance company or association, or any other person violating the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each and every violation, or, at the discretion of the court to imprisonment in the county jail for a period of not more than six months, or both.

Sec. 8. PRODUCTION OF EVIDENCE.) No person shall be excused from testifying, or from producing any books, papers, con-

tracts, agreement, or documents, at the trial or hearing of any person charged with violating any of the provisions of this act on the ground that such testimony or evidence may tend to incriminate himself; but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 9. STATE'S ATTORNEY TO PROSECUTE.) Upon evidence satisfactory to the Commissioner of Insurance that any of the provisions of this act have been violated by an agent, solicitor or any other person, he shall certify to the State's Attorney of the County in which the violation occurred, all evidence thereof in his possession; and it shall be the duty of such State's Attorney to prosecute the case.

Sec. 10. Provided nothing in this Act shall be construed as applying to fraternal benefit societies.

Approved February 19th, 1923.

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## JUDGMENT

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### CHAPTER 237.

(H. B. No. 210—Starke.)

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#### UNIFORM DECLARATORY JUDGMENTS ACT.

An Act Concerning Declaratory Judgments and Decrees and to Make Uniform the Laws Relating Thereto.

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

Sec. 1. SCOPE.) Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Sec. 2. POWER TO CONSTRUE, ETC.) Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, con-

tract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.

Sec. 3. BEFORE BREACH.) A contract may be construed either before or after there has been a breach thereof.

Sec. 4. EXECUTOR, ETC.) Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto.

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 5. ENUMERATION NOT EXCLUSIVE.) The enumeration in Sections 2, 3, and 4 does not limit or restrict the exercise of the general powers conferred in Section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Sec. 6. DISCRETIONARY.) The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Sec. 7. REVIEW.) All orders, judgments and decrees under this Act may be reviewed as other orders, judgments and decrees.

Sec. 8. SUPPLEMENTAL RELIEF.) Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

Sec. 9. JURY TRIAL.) When a proceeding under this act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

**Sec. 10. COSTS.)** In any proceeding under this act the court may make such award of costs as may seem equitable and just.

**Sec. 11. PARTIES.)** When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General of the State shall also be served with a copy of the proceeding and be entitled to be heard.

**Sec. 12. CONSTRUCTION.)** This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

**Sec. 13. WORDS CONSTRUED.)** The word "person" wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

**Sec. 14. PROVISIONS SEVERABLE.)** The several sections and provisions of this act, except sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the act invalid or inoperative.

**Sec. 15. UNIFORMITY OF INTERPRETATION.)** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

**Sec. 16. SHORT TITLE.)** This act may be cited as the Uniform Declaratory Judgments Act.

Approved March 7th, 1923.

## JUSTICE OF THE PEACE

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### CHAPTER 238.

(S. B. No. 90—Wenstrom.)

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#### CHANGE OF VENUE.

An Act to Amend and Re-enact Section 9037 of the Compiled Laws of North Dakota for the year 1913, relating to places of trial.

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

Sec. 1. AMENDMENT.) That Section 9037 of the Compiled Laws of North Dakota for the year 1913 shall be amended and re-enacted to read as follows:

Sec. 9037. PLACE OF TRIAL. ONE CHANGE.) The place of trial cannot be changed on motion of the same party more than once. When the court orders the place of trial to be changed the action must be transferred for trial to a justice's court the parties may agree upon, and if they do not so agree, then to the next nearest justice's court in the same county, the location of which has not been changed during the thirty days immediately preceding.

Approved February 7th, 1923.

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## LICENSING DEPARTMENT

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### CHAPTER 239.

(H. B. No. 206—Halcrow and Burkhart.)

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#### LICENSING DEPARTMENT.

An Act To Amend and Re-enact Chapter 6, Session Laws of 1919, as Amended by Special Session Laws of 1919, as Amended by Chapter 84 Session Laws of 1921, Relating to the Licensing, Regulating, and Supervising the Licensing and Inspection of Pool and Billard Rooms, Ball and Pin Alleys, Dance Halls, Theaters, Moving Picture Shows, Taxicab or Auto Liveries, Places where Soft Drinks are Retailed or Where Cigars and Tobacco are Sold, or Public Halls, Owned Privately and Used for Public Purposes; Providing Fees Therefor, Inspectors, Office Help and Supplies Thereof; Defining Powers and Duties and Repealing all Acts and Parts of Acts Inconsistent Therewith.

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

Sec. 1. AMENDMENT.) Section 4 of Chapter 84 Session Laws of 1921 is hereby amended and re-enacted so as to read as follows:

Sec. 4. APPOINTMENT OF INSPECTORS.) The Attorney General shall be authorized to appoint a state inspector, three deputy state inspectors and investigators and a chief clerk, who shall be a bookkeeper and stenographer to aid him in carrying out the purpose of this Act who shall hold office during the pleasure of the Attorney General, all of whom shall give bond to the State in the sum of \$5,000, such bond to be issued in the State Bonding Fund, conditioned for the faithful performance of their duties and the fees thereof to be paid by the Licensing Department into such bonding fund. The State Inspector shall receive a salary of \$2400 a year, each deputy inspector and investigator shall receive a salary of \$2,000 a year and the chief clerk shall receive a salary of \$1,600 a year. The Chief Clerk under the direction of the Attorney General shall have charge of the office including the receiving and disbursement of all money. The State inspector under the direction of the Attorney General shall have charge of inspection, investigations, and law enforcement and shall direct the work of the deputy inspectors and investigators and each such inspector and investigator shall possess all the powers of police officers anywhere in this state, shall have authority to visit and inspect any of the places herein mentioned and as police officers to make arrests for violation of any laws of this state, and shall be authorized to investigate and conduct investigation of any immoral or corrupt practices or violation of laws of this state and places being conducted contrary to law or constitution of this state.

Sec. 2. AMENDMENT.) Section 6 of Chapter 84 Session Laws of 1921 is hereby amended and re-enacted so as to read as follows:

Sec. 6. LICENSE FEE. HOW DISPOSED OF. HOW DISBURSED.) All license fees herein prescribed shall be paid to the Chief Clerk under the direction and supervision of the Attorney General and by said Chief Clerk paid promptly to the State Treasurer, who shall keep all such moneys in a special fund to be known as the Attorney General Inspector License Fund. Out of this fund shall be paid all salaries and expenses of the Attorney General incurred in carrying out, maintaining and enforcing the provisions of this act, all of which shall be paid monthly upon warrant and voucher drawn and audited by the auditing board as now provided by law. Provided, however, that such salary and expenses shall be payable only out of such fund and shall not be in excess thereof. Provided, further, that there shall be paid out of such Attorney General Inspector License Fund to the Treasurer of each and all incorporated cities and villages a sum equal to 70% of the amount collected from such places licensed in such city or village and the Attorney General is hereby authorized to issue vouchers for such amounts directed to such treasurers on the first day of each month for such amounts as have been collect-

ed the preceding month. Such funds shall be used by such cities and villages to defray expenses incurred in local regulation and supervision and in carrying out the duties now or hereinafter enjoined upon them in such regard, including the keeping of the peace in the places which may be licensed under the provisions of this Act.

Sec. 3. AMENDMENT.) Section 8 of Chapter 84 Session Laws of 1921 is hereby amended and re-enacted so as to read as follows:

Sec. 8. OFFICERS.) All sheriffs, deputy sheriffs, constables, police and peace officers within their respective jurisdictions are hereby authorized to visit and inspect all places mentioned in this Act or licensed under this Chapter and it shall be their duty to enforce all the provisions of this Chapter and the Laws of this State in such places.

Provided, further, that it shall be the duty of the sheriff in any county in which any public bowery or public barn dance or other public dance, is held outside of a city or village, where the dance is so held for profit or a charge for dancing is made, to police such dance so that law and order is there maintained; and the person or persons conducting any such dance are hereby required before any such dance shall be held, to pay to such sheriff the expense of any deputy sheriff or special officer required to the proper policing of such dance. The holding of such dance without the giving of notice to the Sheriff of the County and the making of such provision for the policing thereof is hereby declared to be a misdemeanor.

Sec. 8-A. OFFICERS REQUIRED TO ENFORCE LAWS.) The Attorney General shall require the State Inspector and deputy inspectors and investigators to diligently and aggressively enforce all the provisions of this Chapter and the Laws of this State and shall not retain in such positions any person who shall fail so to do but shall summarily dismiss such person from the service.

Approved March 7th, 1923.

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## MASKS

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### CHAPTER 240.

(S. B. No. 14—McCoy and Sperry.)

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#### MASKS.

An Act to prohibit the wearing of masks or other disguises in public, and designating the penalty for same.

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

Sec. 1. Any person or persons over the age of fifteen years



who appears outside of any building in the State of North Dakota wearing a mask, regalia, or other head covering so worn as to conceal the features and prevent recognition of said person or persons, is guilty of a misdemeanor.

Sec. 2. Any person or persons within the State of North Dakota, who violates the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the sum not less than twenty-five nor more than One Hundred dollars, or be imprisoned in a County jail for a period of not less than ten days nor more than thirty days, or by both fine and imprisonment, at the discretion of the Court.

Sec. 3. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 5th, 1923.

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## MILITIA

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### CHAPTER 241.

(S. B. No. 265—Kretschmar.)

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#### SALARY OF ADJUTANT GENERAL.

An Act to Amend and Re-enact Section 2360a of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted by Section 2360a of Chapter 4 of the Session Laws for the year 1919.

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

Sec. 1. AMENDMENT.) Section 2360a of the Compiled Laws of North Dakota for 1913 as Amended and Re-enacted by Section 2360a of Chapter 4 of the Session Laws for the year 1919 is hereby amended and re-enacted so as to read as follows, to-wit:

Sec. 2360a. The Adjutant-General shall, in addition to his other duties, organize and conduct a bureau of pensions, for the purpose of assisting ex-soldiers or sailors, residents of the state, who may apply for pensions on account of wounds or disability incurred in the service of the United States, in establishing their claims without fee or commissions. The salary of the Adjutant-General shall be \$3,000.00 per annum, which, with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, light, fuel, postage and other office expenses, shall be paid from the general fund by warrants drawn by the State Auditor on the State Treasurer, on the order of the Governor.

Approved March 5th, 1923.

## CHAPTER 242.

(S. B. No. 321—Baird.)

## CREDIT FOR MILITARY SERVICE.

An Act Providing that discharged Soldiers shall receive credit for their military service in the Particular Profession, Vocation or Trade in which they were engaged at the time of their entrance into the Military Service of the United States.

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

Sec. 1. Any person, elected or appointed to any position or office in the State of North Dakota or any political subdivision thereof, in which length of service is one of the qualifications necessary to his election or appointment, shall be given credit for his service in the Army of the United States between April 6, 1917, and November 11, 1919, in the particular vocation, profession or trade in which he was engaged at the time of his entering the Military Service of the United States, provided he holds an honorable discharge from the Military Service of the United States and provided further that he is recognized as a North Dakota soldier.

Approved March 5th. 1923.

## CHAPTER 243.

(H. B. No. 278—Haugland.)

## DUTY OF COMMANDING OFFICER.

An Act to Amend Section 1781 of the Revised Codes of North Dakota for 1905.

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

Sec. 1. AMENDMENT.) That Section 1781 of the Revised Codes of North Dakota for the year 1905, be and the same is hereby amended to read as follows:

Sec. 1781. DUTY OF COMMANDING OFFICER. APPROPRIATION.) The commanding officer of each company, troop or battery, shall provide suitable rooms at a convenient place in the city where each organization is located or stationed, with the necessary furniture, fuel, lights, drawers, lockers, closets and gun racks for an armory, assembly and drill room for such organization, and such room shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of \$600 from the Militia Fund, payable quarterly, for the rent and furnishing of such armory or headquarters for each organization of the National

Guard; \$1,200 annually, or so much thereof as may be necessary, to be paid monthly, to the commanding officer of the Service Company of the 164th Infantry for use only in paying all or parts of the salary of the bandleader of the band forming a part of said Service Company; and the sum of \$100 to be paid annually to the commanding officer of each troop or battery to provide horses for mounted drills by said troop or battery during each year, provided not less than five mounted drills shall have been held by said troop or battery each year.

Sec. 2. EMERGENCY.) Whereas, there is no adequate provision of law for the payment of armory rent and the salary of the band leader, therefore an emergency is declared to exist, and this act is hereby declared to be necessary for the preservation of the public health, peace and safety, and shall take effect and be in force from and after April 1st, 1923.

Approved March 1st, 1923.

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## CHAPTER 244.

(H. B. No. 275—Harrington, Lynch, Boyd, Starke and Houghland.)

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### FINANCING SOLDIERS BONUS.

An Act to Provide for the Purchase by the Industrial Commission of Claims Against the Returned Soldiers' Fund and for the Financing of Such Purchase by Such Commission, and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

Sec. 1. The Industrial Commission of the State of North Dakota is hereby authorized to purchase any or all claims against the Returned Soldiers' Fund, which have been or may hereafter be approved by the Adjutant General, on such terms and conditions as it may determine, and for that purpose shall have power from time to time to float loans and assume the obligation in payment thereof, which obligation shall be a claim against the Returned Soldiers' Fund of the State.

Sec. 2. The Industrial Commission and the Adjutant General shall have full power and authority to do and perform any and all acts and things which may to them seem necessary or proper for the purpose of carrying out the terms and conditions and spirit of this Act.

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

Sec. 4. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 2nd, 1923.

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## CHAPTER 245.

(S. B. No. 49—Steel.)

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### COMMANDANT OF THE SOLDIERS' HOME.

An Act to Amend and Re-enact Section 1782 of the Compiled Laws of North Dakota for the year 1913, relating to the Commandant of the Soldiers' Home.

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

Sec. 1. AMENDMENT.) That Section 1782 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 1782. COMMANDANT AND SUBORDINATE OFFICERS. QUALIFICATIONS.) Such board shall have the power and it shall be its duty to appoint a commandant for said home who shall serve during the pleasure of the board and who shall be one who was honorably discharged from the military or naval service of the United States, who served in the war of Rebellion or in the Spanish American War whose salary shall not exceed twelve hundred dollars per annum, and who shall nominate, subject to the approval of the board, all necessary subordinate officers who shall all be persons either honorably discharged from the service of the United States or widows of honorably discharged soldiers. Such subordinate officers may be removed by the commandant for inefficiency or misconduct, but in case of removal he must make a detailed statement of the cause thereof to the trustees and the board shall have the power to reinstate such persons. The compensation of the subordinate officers shall be fixed by the board.

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

Approved February 1st, 1923.

# MINING

## CHAPTER 246.

(S. B. No. 386—Sperry.)

### COAL MINING.

An Act to Amend and Re-enact Sections 16, 33, 44, 49, 56, 62, 83, 88 and 89 of Chapter 168 of the Session Laws of North Dakota for the year 1919, Regulating the Operation of all Coal Mines in North Dakota; Providing for Their Inspection; Creating the Office of Coal Mining Inspector; Fixing His Qualifications, Duties, Powers and Compensation; Providing for his Appointment; Creating a Board of Examiners; Fixing its Power and Compensation; Providing the Method of Appointment Thereof; Providing for the Registry, Examination and Issuing of Certificates to Certain Employees of Coal Mines.

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

Sec. 1. AMENDMENT.) That Section 16 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 16. BOARD FOR EXAMINATION OF APPLICANTS FOR POSITION OF MINE FOREMAN, ETC.) The board for examination of applicants for the position of Mine Foreman shall consist of three members, the State Coal Mine Inspector and two others, one representing the miners and one representing the mine operators, to be appointed as follows by the Governor of the State. The miners shall submit three names and the mine operators shall submit three names to the Governor, and the Governor shall appoint one member from each set of said three names. The members of said Examining Board shall be citizens of the United States and legal residents of the State of North Dakota and shall hold office for a term of two years or until their successors have been appointed and qualified. The persons so appointed shall, after being duly organized as a board, take and subscribe before an officer authorized to administer the same the following oath, namely:

We, the undersigned, do solemnly swear or affirm that we will perform the duties of examiners of applicants for the position of mine foreman for the coal mines of North Dakota to the best of our abilities, and that in certifying or rejecting said applicants we will be governed by the evidence of the qualifications to fill the positions under the law creating the same, and not by any consideration of personal favors; that we will certify all whom we find qualified and none other.

Sec. 2. AMENDMENT.) That Section 33 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 33. MINE OPERATORS TO FURNISH WASH HOUSES FOR EMPLOYEES.) It shall be the duty of the owner, operator or superintendent of any coal mine in the State of North Dakota employing five or more men to provide a suitable building, not an engine or boiler house, for the use of the persons employed in such mine for the purpose of washing themselves and changing their clothes when entering the mine and returning therefrom. The said building shall not be over eight hundred feet from and convenient to the principal entrance of such mine. The said building shall be maintained in good order, be properly lighted and heated and supplied with pure cold water and warm water, and be provided with facilities for persons to wash and a suitable locker for each person to be used by him as a repository for his clothes.

Sec. 3. AMENDMENT.) That Section 44 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 44. STAIRWAY OR CAGES IN ESCAPEMENT SHAFT.) The escapement shaft at every mine shall be equipped with safe and ready means for the prompt and ready removal of men in time of danger, and such means shall be a substantial stairway which shall be provided with handrails and with platforms and landings or ladders approved by the State Coal Mine Inspector.

Sec. 4. AMENDMENT.) That Section 49 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 49. NUMBER OF PERSONS PERMITTED TO WORK IN SAME AIR CURRENT.) The current of air in mines must be split or subdivided so as to give a separate current to a number not exceeding seventy-five men at work, and the Inspector has the discretion to order a separate current for a smaller number of men if special conditions render it necessary.

Sec. 5. AMENDMENT.) That Section 56 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 56. AIRWAYS.) It shall be the duty of the owner of every coal mine to provide and maintain airways of sufficient dimensions and in no case shall the area of the air course be less than thirty-six square feet in mines operated on the room and pillar system.

Sec. 6. AMENDMENT.) That Section 62 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 62. STORING OF EXPLOSIVES IN MINES.) No workman shall have at any time more than one fifty pound keg of black powder in the mine nor more than fifty pounds of high explosives. Every person who has powder or other explosives in a mine shall keep it or them in a wooden or metallic box or boxes, securely locked, and said boxes shall be kept at least five feet from the track and no two powder boxes shall be kept within twenty-five feet of each other nor shall black powder nor high explosives be kept in the same box.

Sec. 7. AMENDMENT.) That Section 83 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 83. QUALIFICATIONS OF MINERS.) Each person desiring to work by himself at mining or loading shall first produce satisfactory evidence in writing to the mine foreman, of the mine in which he is employed, that he has worked at least six months with, under the direction of, or as a practical miner, and it is further understood that no miner shall be allowed to work on pillars until he has mined at least two years. Until a person has so satisfied the mine foreman of his competency, he shall not work or be permitted to work at mining or loading unless accompanied by a miner holding the foregoing qualifications.

Sec. 8. AMENDMENT.) That Section 88 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 88. HOURS OF LABOR.) A period of not over eight hours shall constitute a day's work on all works or undertaking in any coal mine or open-pit mine, except in cases of emergency or where life or property is in imminent danger.

Sec. 9. AMENDMENT.) That Section 89 of Chapter 168 of the Session Laws of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 89. DEFINITIONS.) (a) "Mine." In this Act the words "mine" and "coal mine" used in their general sense are intended to signify any and all parts of the property of a mining plant which contribute, directly or indirectly, under one management, to the mining or handling of coal within one-half mile of mine.

(B) "Excavations or Workings." The words "excavation" and "workings" signify any and all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms and working places, whether abandoned or in use.

(C) "Shafts." The term "shafts" means any vertical opening through the strata which is or may be used for the purpose of ventilation or escapement, or for hoisting or lowering of men or material in connection with the mining of coal.

(D) "Slope" or "Drift." The term "slope" and "drift" means respectively an incline or horizontal way, opening or tunnel to a seam of coal to be used for the same purpose as a shaft.

(E) "Following Shot." A "following shot" is a shot which is dependent on its action on the result of another shot.

(F) "Operator." The term "operator" as applied to the party in control of a mine under this Act, signifies the person, firm, or body corporate who is the immediate proprietor as owner or lessee of the plant and, as such, responsible for the management and condition thereof.

(G) "Mine Foreman." The "mine foreman" is a person who is charged with the general direction of the underground work, or both the underground work and the outside work of any coal mine, and who is commonly known and designated as "Mine Boss."

(H) "Mine Foreman." The "mine foreman" is the person charged with the examination of the condition of the mine before the miners are permitted to enter it.

Sec. 10. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall become and be in force immediately upon its passage and approval.

Approved March 2nd, 1923.

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## CHAPTER 247.

(S. B. No. 210—Peterson.)

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### CONDEMNATION OF ROAD ACROSS MINE.

An Act Providing for the Acquiring by Condemnation of Roads so Located as to Interfere with the Working of Coal or Other Mines, and Providing the Compensation to be Made Therefor.

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

Sec. 1. Whenever a road is so located across a single body of coal or other mineral in actual process of being mined, as to divide the same into two or more parts, or prevent access to a part of the coal or mineral, or interfere with the ordinary working of the mine, such road may be acquired by the mine operator by condemnation, under the law relating to eminent domain, as other real property is acquired for a public use.

Sec. 2. Whenever any road is so taken under the authority of this Act, the damages awarded therefor shall be limited to the



cost of acquiring the right of way for a detour road by and around the part of the road so taken, together with the cost of putting the new road in as good condition for travel as the road so taken was in at the time it was taken; and in case it shall appear in the action that the taking of said road will not permanently prevent its use, but that at the end of the mining operations it may be restored and used as a road, the party taking the same may be relieved from payment of any damages therefor, upon furnishing and undertaking with sufficient surety to be approved by the Court, in an amount to be fixed by the Court, payable to the governing body having jurisdiction of such road; conditioned that he will immediately procure and maintain a passable detour road to take the place of the road so taken, and that upon completion of the mining operations he will restore the road so taken to as good condition for travel as it was in at the time of the taking thereof.

Approved February 24th, 1923.

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## MISSOURI RIVER CONFERENCE

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### CHAPTER 248.

(S. B. No. 258—Baird and Garberg.)

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#### MISSOURI RIVER CONFERENCE.

An Act Providing for the Appointment of Representatives on Behalf of the State of North Dakota to Negotiate a Compact and Agreement Between the States of North Dakota, South Dakota and Montana, and Between said States and the United States of America, Respecting the Use and Distribution of the Waters of the Missouri River and the Rights of said States and the United States Thereto.

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

Sec. 1. The Governor of the State of North Dakota shall appoint the State Engineer, or the Assistant to the State Engineer, who is in charge of matters relating to irrigation and water rights, and one other elector and taxpayer of the state, both of whom shall serve without compensation as representatives of the State of North Dakota, and who shall be duly authorized to represent the State of North Dakota on a joint commission to be composed of representatives of North Dakota, South Dakota, and Montana, and a duly authorized representative of the United States of America, such commission to be constituted for the purpose of negotiating and entering into a compact or agreement between the said states, and between said states and the United States, with the consent of Congress, respecting the further

utilization and disposition of the waters of the Missouri River and streams tributary thereto and fixing and determining the rights of the said states and the rights of the United States in and to the use and disposition of the waters of said stream and the benefits to be derived therefrom, provided, however, that any compact or agreement so entered into by said states and the United States, shall not be binding or obligatory upon any of the high contracting parties thereto, unless and until the same shall have been ratified and approved by the Legislatures of the said states and by the Congress of the United States.

Sec. 2. The Governor of North Dakota shall notify the respective Governors of the States of South Dakota and Montana of the appointment of the representatives of North Dakota, as soon as said representatives shall have been appointed and qualified, but said representatives shall not enter upon the performance of their duties until a representative or representatives to serve upon said joint commission shall have been named and qualified for each of the said states named in Section 1 hereof, provided, however, that said representative shall proceed immediately after the passage of this act and its approval by the Governor, in carrying out the provisions of Section 3 hereof as pertains to the Missouri river and its tributaries within the boundaries of the State of North Dakota, and the securing of the necessary data and information called for by this Act shall not be contingent upon appointment and qualification of the representatives of the other states concerned or of the representative of the United States of America.

Sec. 3. Said representatives of the State of North Dakota shall have full authority to make or cause to be made any and all investigations of the Missouri river and the drainage area thereof, which may become necessary in order to sufficiently advise said representatives of the physical conditions obtaining upon said streams and the drainage area thereof, and of the present and future needs of the State of North Dakota and its citizens in the use and benefit of the waters of the said stream and the streams tributary thereto. To that end, said representatives shall have authority to administer oaths, examine and require the attendance of witnesses, and to perform such other duties and gather such data as may be necessary to sufficiently apprise said representatives of the facts and furnish him or them with adequate information in order that they may properly perform their duties as representatives of the State of North Dakota upon said joint commission.

Sec. 4. No appropriation is made for the purposes of carrying out this act; but the State engineer shall be permitted to utilize his office force and staff, where this can be done without

detriment to the other work required to be performed under existing laws; and the representatives appointed under the provisions of this act may receive financial or other assistance from such associations or individuals as are interested in and willing to give such aid in performance of the services required to be performed under the provisions of this act.

Approved March 2nd, 1923.

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## MORTGAGES

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### CHAPTER 249.

(H. B. No. 42—Ellingson.)

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#### CROP MORTGAGES.

An Act Prescribing certain requisites with respect to crop mortgages given for other than as rental of premises or to secure the purchase price of land, and making all crop mortgages not executed in compliance with such requirement void and not subject to being filed for record.

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

Sec. 1. CERTAIN CROP MORTGAGES DECLARED VOID AND NOT ENTITLED TO BE FILED OF RECORD.) No mortgage given upon crops, other than mortgages to secure the rental or the purchase price of the premises upon which such crop mortgage is given, shall be valid as a lien or encumbrance upon the crop sought to be so mortgaged or encumbered, nor shall the same be entitled to be filed for record in the office of the Register of Deeds of the county in which such land is situated, if the instrument evidencing such crop mortgage shall contain any provision by which a mortgage is claimed upon any personal property other than such crop.

Sec. 2. EMERGENCY.) This act is hereby declared to be an emergency and shall be in full force and effect after April 1, 1923.

Approved February 7th, 1923.

## CHAPTER 250.

(H. B. No. 301—Committee on Delayed Bills.)

## VALIDATING MORTGAGE FORECLOSURES.

An Act To Amend and Re-enact Section 8076 of the Compiled Laws of North Dakota for the Year 1913, relating to foreclosure of mortgages by agent or attorney, and legalizing and validating sales heretofore made pursuant to judgments in foreclosures of mortgages by action.

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

Sec. 1. AMENDMENT.) That Section 8076 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 8076. FORECLOSURE OF REAL ESTATE MORTGAGE BY AGENT OR ATTORNEY NOT VALID, WHEN.) No sale of real estate upon a foreclosure made by an agent or attorney by advertisement shall be valid for any purpose, unless such power of attorney, as is provided for by law, shall be procured and filed for record in the office of the Register of Deeds of the county wherein said real estate is located, before the day fixed or appointed to make the same; Provided, that any person, firm or corporation not owning such mortgage, but controlling the same shall, in addition to furnishing such power of attorney, furnish such agent or attorney making such foreclosure a copy of the instrument authorizing such control, and a failure to do so shall invalidate the foreclosure.

Sec. 2. All sales of real estate made prior to the passage and approval of this act under executions issued pursuant to judgments entered in actions for the foreclosure of real estate mortgages, are hereby declared to be legal and valid for all purposes, even though no power of attorney was filed for record in the office of the register of deeds of the county wherein said real estate was located prior to the day of sale of said real estate, provided such a power of attorney as is provided for in Section 8075 of the Compiled Laws of North Dakota for 1913 was filed in the office of the Clerk of the District Court of the County in which such judgment was entered, prior to such date of sale.

Approved March 7th, 1923.

## CHAPTER 251.

(S. B. No. 240—Page.)

## REDEMPTION BY REDEMPTIONER.

An Act Relating to Redemption from Mortgage Foreclosure or Execution Sales and providing for a Redemptioner Making a Credit on his Claim Against the Debtor as a part of the Redemption.

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

Sec. 1. Whenever redemption is made by a redemptioner, as defined by law, from a foreclosure or execution sale, the redemptioner must state in the notice of redemption filed in the office of the register of deeds an amount that he will credit on his claim against the debtor upon making redemption, and if the amount so stated is less than the amount of the lien under which he makes redemption a subsequent redemptioner may redeem from him by paying the amount paid by such redemptioner, together with the amount of any taxes, assessments, or other items paid by such redemptioner in protection of the title, and interest on all such sums as provided by law, together with the amount stated by such first redemptioner as the amount he is willing to allow on the claim under which he redeemed. The amount so stated by a redemptioner as a credit on the claim under which he redeems shall be treated as a payment of that amount on such indebtedness, and it shall be the duty of the redemptioner to immediately indorse the same upon the evidence of his claim, and if such claim be a judgment he shall cause a statement of such amount to be entered by the clerk of court in the judgment docket.

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect immediately upon its passage and approval.

Approved March 6th, 1923.

## CHAPTER 252.

(S. B. No. 4—Rusch.)

## VALIDATING RECORD OF MORTGAGES.

An Act Validating the record of mortgages and assignments of mortgages in the office of the Register of Deeds of the Counties of the State between July 1st, 1917, and January 1st, 1923.

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

Sec. 1. Any record of a mortgage or assignment of mortgage that has been actually made in the office of the Register of

Deeds of any County of the State between July 1st, 1917, and January 1st, 1923, is hereby validated and declared to be fully operative as constructive notice notwithstanding such mortgage or assignment of mortgage shall have failed to contain any or all of the matters directed to be contained therein by Chapter 108 of the Session Laws of 1917, if said mortgages or assignments shall have been otherwise entitled to record.

Sec. 2. EMERGENCY.) Whereas, many of the forms of mortgages and assignments in general use at the time of taking effect of Chapter 108 of the Session Laws of 1917, did not contain appropriate blanks for the insertion of the information provided in such act to appear in mortgages and assignments, and many such instruments were therefore executed and recorded, defective in the particulars before stated, and titles are thereby being made uncertain; this act shall take effect immediately upon its approval by the Governor.

Approved January 26th, 1923.

## CHAPTER 253.

(H. B. No. 168—Morton.)

### STANDARD FORM OF MORTGAGE.

An Act to Amend and Re-enact Section 6750 of the Compiled Laws of North Dakota for 1913 Relating to Standardized Form of Mortgage.

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

Sec. 1. AMENDMENT.) Section 6750 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 6750. STANDARD FORM OF MORTGAGE.) A mortgage of real property may be made in substantially the following form:

### NORTH DAKOTA STANDARD FORM.

THIS INDENTURE, Made this..... day of  
 .....A. D. One thousand nine hundred.....  
 between .....whose post office address is  
 .....of the County of.....  
 and State of North Dakota, part.....of the first part, and  
 .....whose postoffice address is  
 .....of the County of.....and  
 State of North Dakota, party of the second part:

WITNESSETH, That the said part.....of the first part, for and in consideration of the sum of.....dollars to .....in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do.....by these presents Grant, Bargain, Sell and Convey to the said party of the second part,.....heirs, executors, administrators, successors and assigns, forever, all the following described real estate in the County of.....and State of North Dakota, described as follows, to-wit: (Leave ample space for description)

.....

.....

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TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining, unto the said party of the second part, .....heirs, executors, administrators, successors and assigns, FOREVER. And the said part..... of the first part, do.....covenant with the said party of the second part, .....heirs, executors, administrators, successors and assigns, as follows: That ....he....ha.... good right to convey the same, that the same are free from all incumbrances. (Leave ample space for description)

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and that the said party of the second part,.....heirs, executors, administrators, successors and assigns, shall quietly enjoy and possess the same, and that the said part.....of the first part will warrant and defend the title to the same against all lawful claims, hereby relinquishing and conveying all right of homestead, dower and all contingent claims and rights whatsoever in and to the said premises.

PROVIDED, NEVERTHELESS, That if the said part..... of the first part, .....heirs, executors or administrators, shall well and truly pay, or cause to be paid, to the said party of the second part, ..... heirs, executors, administrators, successors or assigns, the sum of.....Dollars and interest according to the conditions of.....note..... of even date herewith, as follows.....

payable at the ..... with interest from date until maturity, at the rate of.....

per cent, per annum, payable.....annually and after maturity at the rate of.....per cent per annum and shall also keep and perform all and singular the covenants and agreements herein contained, then this deed to be null and void, and the premises hereby conveyed to be released at the cost of the said part.....of the first part; otherwise to remain in full force and effect.

And the said part.....of the first part do.....covenant and agree with the said party of the second part, .....heirs, executors, administrators, successors and assigns to pay the said sum of money and interest thereon as above specified; to pay as a part of the debt hereby secured, in case of each or any foreclosure or commencement of foreclosure of this mortgage, all costs and expenses and statutory attorney's fees in addition to all sums and costs allowed in that behalf by law; to permit no waste, and to do or permit to be done, to said premises, nothing that may in any manner impair or weaken the security under this mortgage; to pay all taxes or assessments that may be assessed against or be a lien on said premises, or any part thereof, or upon this mortgage or note..... or the legal holder thereof, before the same shall become delinquent; to keep the buildings on said premises insured for.....dollars, in companies acceptable, with loss payable to, the mortgagee or .....assigns; and in case of failure so to pay said taxes or assessments, or any of the agreements hereunder, or in case there exists any claim, lien or incumbrance upon said premises, which is prior to this mortgage, the said party of the second part, .....heirs, executors, administrators, successors or assigns may at.....option, pay and discharge such taxes or other obligation and the sum or sums of money which may so be paid, with interest from the time of payment at the same rate as said principal sum, shall be deemed and are hereby declared to be a part of the debt secured by this mortgage and shall be immediately due and payable. It is further agreed and understood that this mortgage shall also cover any renewal note for the above described indebtedness or any portion thereof.

But if default shall be made in the payment of said sum of money, or interest, or the taxes, or any part thereof, at the time and in the manner hereinbefore or hereinafter specified for the payment thereof, the said part.....of the first part, in such cases do.....hereby authorize and fully empower the said party of the second part, .....heirs, executors, administrators, successors or assigns, to sell the said hereby granted premises and convey the same to the purchaser, in fee simple agreeably to the statute in such case made and provided, and out of the moneys arising from such sale to retain the principal and interest which shall then be due on said note....., and all taxes upon said lands, together with all costs and charges, and statutory attor-



ney's fees, and pay the overplus if any to the said part.....of the first part.....heirs, executors, administrators or assigns, And if default be made by the part.....of the first part in any of the foregoing provisions it shall be lawful for the party of the second part, .....heirs, executors, administrators, successors or assigns or .....attorney to declare the whole sum above specified to be due.

IN TESTIMONY WHEREOF, The said part.....of the first part ha.....hereunto set.....hand.....the day and year first above written.

Signed and delivered  
in the presence of .....

Sec. 2. The Register of Deeds shall charge and collect for recording such Standard Form of Mortgage and indexing the same, seventy-five cents; provided that if any words are added to such standard form or its arrangement changed, except to fill blanks, the fees for recording such mortgage shall be the same as provided in Section 3511 of the Compiled Laws of North Dakota for 1913 and acts amendatory thereof; provided further, that the striking out of any part or portion thereof shall not be considered a change in such standard form, provided further, that the form hereinbefore provided shall not preclude the use of any other form.

Approved February 27th, 1923.

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## MOTOR VEHICLES

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### CHAPTER 254.

(H. B. No. 59—Dougherty.)

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#### INTOXICATED DRIVER.

An Act Making it a Misdemeanor for any Person to Operate a Motor Vehicle while such Person is in an Intoxicated Condition, and Providing a Penalty for a Violation thereof.

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

Sec. 1. That any person who shall operate a motor vehicle while such person is in an Intoxicated condition, shall be guilty of a misdemeanor.

Sec. 2. PENALTY.) Any person violating the provisions of Section 1 of this act shall be punishable by a fine of not less than \$25.00 nor more than \$500.00, or by imprisonment in a county jail for a period not exceeding one year, or by both such fine and imprisonment. Provided, that the Court in sentencing any person for a violation of this Act, may suspend any sentence of imprisonment or any part thereof, and make its order that the person so sentenced shall be precluded from driving any automobile within this State for a period of not to exceed two years. Upon proof to the satisfaction of the Court that such order has been disobeyed such suspension shall be by the Court revoked.

Approved February 24th, 1923.

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## MUNICIPAL OWNERSHIP

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### CHAPTER 255.

(S. B. No. 28—Ployhar.)

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#### TRANSMISSION LINES.

An Act to Empower Cities, Villages, and Towns to Purchase, Sell, Construct, Rent, Lease, Extend, Connect, or Erect, High Tension Electric Transmission Lines and Electrical Equipment, Within and Without the Corporate Limits, and Necessary Secondary Transmission Lines and Distribution Systems within the Corporate Limits, for the Purpose of Securing Light, Power and Electrical Energy for Municipal and Commercial use; and to Assess the Property Within the Corporate Limits, and to Provide for the Method of Such Assessment and the Collection Thereof, and to Provide for the Issuance of Bonds.

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

Sec. 1. Any city, town, or village is authorized and empowered through its proper municipal officers to purchase, sell, construct, rent, lease, extend, connect, or erect, high tension electric transmission lines and necessary electrical equipment, within and without the corporate limits of such city, village or town, and necessary secondary transmission lines and distribution systems within the corporate limits, for the purpose of securing and distributing light, power and electric energy for municipal and commercial use.

Sec. 2. Whenever the City Council, or Commissioners in Cities which have adopted the Commission System of government, or Board of Trustees of any Village or Town, shall deem it necessary to purchase, sell, construct, rent, lease, extend, connect,

or erect, high tension electric transmission lines and electrical equipment within or without the corporate limits of such city, village or town, or necessary secondary transmission lines and distribution systems within the corporate limits, for the purpose of securing and distributing light, power and electric energy for municipal and commercial use, such council, commission or board may direct the official engineer or such other competent engineer, as shall, upon motion or resolution be designated, to render a detailed appraisal of the value of any already constructed equipment, or to prepare plans and specifications for such work and make an estimate of the probable cost, and in general terms describe the property which in the opinion of the engineer is liable to be specially assessed for such proposed improvement, which appraised valuation, plans, specifications and estimates shall be approved by resolution of the council, commission or board and filed in the office of the City Auditor or Village or Town Clerk. Thereupon the council, commission or board shall by resolution declare such work or improvement necessary to be done, such resolution shall refer intelligently to the plans, specifications, estimates therefor, and describe the property liable to be specially assessed as hereinbefore provided, and shall be published twice, once in each week for two consecutive weeks, in the official newspaper of such city, village, or town. If a majority of the resident owners of property liable to be especially assessed for such proposed improvement shall within fifteen days after the first publication of said resolution file with the City Auditor, or Village or Town Clerk a written protest against such improvement then the proposed work or improvement shall be abandoned, but if less than a majority of the resident property owners liable to be specially assessed therefor as hereinbefore provided, so protest, the council, commission or board shall at the next regular or special meeting of such council, commission or board after the expiration of the time for filing protests against such improvement, determine the sufficiency and validity of such protests and if two-thirds of the council, commission or board shall decide that such protests are insufficient or not well taken, then the council, commission or board shall have power to cause such improvement to be made, and to contract therefor, and to levy and collect assessments therefor, in the same manner and with the same notice and according to the same forms and procedure as now provided by statute for the construction and assessments of water works in cities. Provided that the total cost of the improvements outside the corporate limits may be apportioned among the property owners within the corporate limits and assessments levied in accordance therewith. Provided further that any city, village or town may provide for the payment of not exceeding one-fifth of the cost of any such improvement by general taxation as provided for by section 3723

Compiled Laws of North Dakota for 1913. Provided further that any city, village or town may incur a bonded indebtedness for such improvement in the same manner and according to the same forms and procedure as now provided by statute for water works in cities.

Sec. 3. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 26th, 1923.

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## CHAPTER 256.

(S. B. No. 160—Ployhar.)

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### PUBLIC UTILITIES.

An Act to Amend and Re-enact Chapter 82, Session Laws of North Dakota for 1919, and to empower cities to purchase or construct plants, including gas works, for the manufacture and distribution of light, heat and power for municipal and commercial purposes, and to assess abutting property in accordance with the benefits thereto by reason of such system of distribution, and providing for the method of such assessment and the collection thereof.

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

Sec. 1. AMENDMENT.) That Chapter 82 of the Session Laws of North Dakota for 1919, empowering cities to purchase and construct light, heat and power plants is hereby amended and re-enacted to read as follows, to-wit:

Sec. 1. PROCEDURE TO PURCHASE OR INSTALL.) Whenever the City Council or Commissioners in Cities which have adopted the Commission System of government, shall deem it necessary to either purchase or install, construct, alter or extend, upon any of the streets or public places of the city a municipally owned lighting, heating and power system or gas works, for the purpose of lighting the streets and public places of the city and furnishing lights, heat and power to the inhabitants thereof, such council or commission may direct the City Engineer or such other person, as shall, upon motion or resolution be designated, to render a detailed appraisal of the value of an already constructed system, or to prepare plans and specifications for such work and make an estimate of the probable cost, which appraised valuation, plans, specifications and estimates shall be approved by resolution of the city council or city commission and filed in the office of the city auditor. The city auditor shall thereupon publish three times, once each week, in the official newspaper of the city, a notice stating that such appraised valuation, or the plans and specifications and estimates have been approved and filed

in his office and are open to public inspection. If the owners of a majority of the property abutting on any street or streets where said lighting, heating and power system or gas works is constructed or is to be installed, shall not within ten days after the last publication of said notice protest against such lighting, heating and power system or gas works, or improvements, then the majority of such owners shall be deemed to have consented thereto, and such city may proceed to provide for the purchase or construction of such improvement through its proper officials and assess so much of the cost of such improvement as relates and refers to the placing, erection and construction of poles, cables, electrical conductions, street lamps, mains and conduits and all other instrumentalities and appurtenances thereto belonging, necessary to conduct and connect the means of lighting, heating, by electricity or gas as the case may be, and to transmit power to the street and premises benefitted thereby, including the necessary engineer's expenses thereof, against the abutting property in the same manner and with the same notice and according to the same forms and procedure as now provided by statute for the construction and assessment of street paving; and upon such proceedings being taken and completed, the cost of such construction, purchase price, or such part thereof as the council or commission shall deem proper, shall be assessed against the abutting property in the same manner and according to the same form and procedure as now provided by law for the assessment of the cost of street paving.

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

Approved February 24th, 1923.

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## NARCOTICS

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### CHAPTER 257.

(S. B. No. 115—Ployhar.)

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### PEYOTE AND MESCAL.

An Act Entitled, An Act Relating to *Lophophora Williamsii* or Peyote (Pellote) and *Agave Americana* (Commonly known as Mescal); Prohibiting the Use or Possession Thereof, Traffic Therein, and Providing Penalties for the Violation of This Act.

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

Sec. 1. That it shall be unlawful for any person, firm, corporation, or association to sell, furnish, or give away, or offer to

sell, furnish, or give away, or to have in his or its possession Peyote (Pellote), botanically known as *Lophophora Williamsii*; or *Agave Americana*, commonly known as the Mescal button, or any compound, derivative, or preparation thereof.

Sec. 2. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$500.00 or imprisoned in the county jail for a period of not to exceed six months, or by both such fine and imprisonment.

Sec. 3. Whereas there is no adequate law relating to Peyote (Pellote) and this law is necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved February 24th, 1923.

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## CHAPTER 258.

(H. B. No. 239—Dougherty.)

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## NARCOTICS.

An Act to Amend Section 10177 of the Compiled Laws for the year 1913 Relating to the Selling and Smoking of Opium, and the Sale and Use of other Narcotics, and By Making More Definite the Procedure in Cases of Lease Hold Premises Held under an Injunction; Providing a Means Whereby Innocent Owners may Cancel a Lease thereof and Further Providing the Breadth of the Operation in such Injunction by Making it Personal and Apply to Clerks, Servants and Agents, and to Include any Place within the State.

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

Sec. 1. AMENDMENT.) That Section 10177 of the Compiled Laws for the year 1913 be, and the same is, hereby amended and re-enacted to read as follows:

Sec. 10177. PLACE FOR SMOKING OPIUM AND PLACES WHERE OTHER NARCOTICS ARE SOLD DEEMED A NUISANCE.) Every room, building, cellar or other place or premises used or permitted to be used for the smoking of opium or any of its preparations and all places where morphine, opium, cocaine, heroin or other narcotics are sold, bartered or given away in violation of the provisions of this chapter, or where persons are permitted to resort for the purposes of smoking opium, using morphine, cocaine, heroin and other narcotics, or where morphine, opium cocaine, heroin and other narcotics are kept for sale, barter or delivery, except as hereinafter provided, or where opium, cocaine, morphine, heroin or other narcotics are possessed, except as here-

inafter provided, used for medical purposes in violation of this chapter, are hereby declared to be a common nuisance; and if the existence of such a nuisance is established, either in a criminal or equitable action, upon the judgment of a court or judge having jurisdiction, finding such place to be a nuisance, the Sheriff, his deputy, or under Sheriff, or any Constable of the proper county or marshal of any city where the same is located, shall be directed to shut up and abate such place by taking possession thereof, if he has not already done so under the provisions of this Chapter and by taking possession of all such narcotics found therein, together with all signs, screens, bars, bottles, glasses and other property used in keeping and maintaining such nuisance and such personal property so taken possession of shall, after judgment, be forthwith publicly destroyed by such officer, and the owner or keeper thereof or any person who, in any manner, by using such place for the illegal purposes forbidden herein, or otherwise aids, abets, or assists in any violation of this Section or Chapter, shall, upon such conviction be adjudged guilty of maintaining a common nuisance, and shall for the first offense be punished by a fine of not less than \$200 nor more than \$1,000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense be punished by imprisonment in the Penitentiary not exceeding two years and not less than one year; and said officer abating such nuisance shall securely close said building, erection or place where such nuisance was located, as against the use or occupation of the same, for such illegal purposes, and keep the same securely closed for the period of one year (unless sooner released as hereinafter provided), and any person breaking open said building, erection or place, or using the premises so ordered to be closed, shall be punished for contempt, as hereinafter provided, in case of violation of injunction; provided, however, that when lease hold premises are closed under a temporary injunctional order or have been adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing to the tenant, and when this is done, if the said owner shall prove to the court that he was without fault, and neither knowingly, nor without knowledge negligently permitted the keeping or maintaining of the nuisance complained of, the premises shall be turned over to the owner upon the order of the court or judge as hereinafter set forth. But the release of the property shall be upon the condition that the nuisance shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant. If the owner appears and pays all costs of the proceedings and files a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the

court or judge, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter the court, or in vacation time the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement, to be delivered to said owner, and if the proceeding is an action either at law or in equity and bond is given and costs therein paid, the action shall be dismissed at the end of one year from the date of the service of the temporary injunctive order, if in an equity case, or the closing of the premises if in a criminal case; in the meantime and in either form of action the premises where such nuisance was kept and maintained, shall be regarded as being under a restraining order of the court, a violation of which will subject the violator to punishment for contempt as hereinafter provided; provided, however, that the release of the property under the provisions of this Section shall not release it from any judgment, lien or penalty, or liability to which it may be subject under any statute or law. Provided, further, that when an injunction, either temporary or permanent, has been granted, under the provisions of this Chapter, the same shall be binding personally on the defendant or defendants, throughout the entire state, and for the violation of such injunction in any place in the State of North Dakota, the offending party shall be punished as for contempt according to the rules in this Chapter prescribed; Provided, that this section shall not apply to any room, building, cellar or other place or premises where said narcotic drugs are possessed, or possessed for sale, barter or delivery for medical purposes when the owner or keeper, or other person legally in charge and possession of such place or premises shall have registered and paid the special tax as required by the Federal Narcotic Drug Act of the United States. Provided, further, that it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment or proceedings laid or brought under this act, and the burden of the proof of any such exemption shall be upon the defendant.

(Cumulative.) This Act shall be held by the Courts to be cumulative to other laws already provided and shall repeal only such acts or parts of acts as are clearly in conflict with this Act.

Sec. 3. An emergency having arisen in the fact that the law is insufficient to afford adequate relief when agents violate law and in case of persons owning lease hold premises, and also in cases where parties under injunctive order continue their violation of the law elsewhere than as in the place specifically mentioned in the injunctive proceedings, therefore, this Act shall take effect and be in force from and after its passage and approval.

Approved March 1st, 1923.



## NEGOTIABLE INSTRUMENTS

### CHAPTER 259.

(S. B. No. 241—Levang.)

#### PROTESTING NEGOTIABLE INSTRUMENTS.

An Act to Amend and Re-enact Section 7036 of the Compiled Laws of North Dakota for 1913, Relating to Protesting Negotiable Instruments.

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

Sec. 1. AMENDMENT.) That Section 7036 of the Compiled Laws of North Dakota for 1913, be amended and re-enacted to read as follows:

Sec. 7036. PROTEST FOR NON-PAYMENT.) Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by non-payment, it must be duly protested for non-payment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary, and if the same is protested no charge therefor shall be made to any party to the instrument.

Approved February 26th, 1923.

## NOTARY PUBLIC

### CHAPTER 260.

(S. B. No. 66—Stevens.)

#### NOTARY PUBLIC'S SEAL.

An Act to Amend and Re-enact Section 844 of the Compiled Laws of North Dakota for the year 1913.

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

Sec. 1. AMENDMENT.) That Section 844 of the Compiled Laws of North Dakota for the year 1913, relating to the impression of a notarial seal, be amended and re-enacted so as to read as follows:

Sec. 844. IMPRESSION OF SEAL. FILING OATH AND BOND.) Each notary public before entering upon the duties of such office shall provide an official seal bearing the name of such notary and deposit an impression of the same together with oath and bond in the office of the Secretary of State.

On and after July 1, 1923, the provisions of this section, prescribing the form of seal shall also apply to notaries now commissioned.

Approved February 3rd, 1923.

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## OPTOMETRY

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### CHAPTER 261.

(H. B. No. 65—Dougherty.)

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#### OPTOMETRY.

An Act to Amend and Re-enact Article 19 of Chapter 5 of the Political Code of the State of North Dakota being Section 524 to 539 both inclusive of the Compiled Laws of North Dakota for the year 1913, relative to the practice of optometry, creating a state board of examiners in optometry, providing for the registration of optometrists, defining and regulating the practice of optometry and providing penalties for the violation of the terms of said act.

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

That Sections 524 to 539 both inclusive of the Compiled Laws of the State of North Dakota for the year 1913 being article 19 of Section 5 of the Political Code be and the same are hereby amended and re-enacted as follows:

Sec. 524. PRACTICE OF OPTOMETRY DEFINED.) The practice of Optometry is defined as follows:

A. The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general and the applying of lenses as correctives.

B. The examination of the human eye without the use of drugs, medicine or surgery to ascertain the presence of defects or abnormal conditions which may be corrected and remedied or relieved or the effect of which may be corrected, remedied or relieved by the use of lenses or prisms.

C. The adaptation or the adjustment of lenses or prisms and the sale thereof to the public to correct, relieve, or remedy any defect or abnormal condition or to correct, relieve or remedy the effect of any defect or abnormal condition of the human eye.

Sec. 525. UNLAWFUL TO PRACTICE WITHOUT CERTIFICATE.) It shall be unlawful for any person to practice optometry in the State of North Dakota unless he shall first have obtained a certificate of registration and unless he shall have complied with the requirements of this act. Any person shall be deemed to be practicing optometry within the meaning of this act who shall display a sign or in any way advertise himself as an optometrist or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses for the aid thereof or who shall otherwise engage in the practice of optometry as defined in this article. It shall be unlawful for eye glasses, spectacles or lenses to be vended as merchandise to any one other than dealers, except from permanently located and established places of business in the State of North Dakota. Provided, however, that any optometrist registered to practice within this may fit and vend eye glasses, spectacles and lenses, at any place in this State.

Sec. 526. BOARD CREATED.) There is hereby created a board whose duties it shall be to carry out the purposes and enforce the provisions of this article and such board shall be styled "North Dakota State Board of Optometry." Said Board shall be appointed by the Governor and shall consist of five resident registered optometrists who shall have an established optometric practice in said state and who shall be members in good standing of the North Dakota Optometric Association and who shall be engaged in the actual practice of optometry in this state.

The members of said board shall be appointed by the Governor on or before July 1, 1923, or as soon thereafter as may be practicable, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from July 1, 1923, who shall hold office until their successors are appointed and qualified. Thereafter one member of said board shall be appointed each year for the term of five years and shall hold office until his successor is appointed and qualified. Vacancies in such board shall be filled by like appointment for unexpired terms.

The members of said board before entering upon their duties shall respectively take and subscribe to the oath required to be taken by other state officers which oath shall be filed with the Secretary of said board.

Sec. 527. ORGANIZATION AND APPOINTMENT OF OFFICERS. MEETINGS.) Said board shall elect from among its members a President and a Secretary and may adopt a seal. Said board shall make and enforce such rules and regulations not inconsistent with law as may be necessary for the proper performance

of its duties. Any member of said board may, upon being duly designated by the board or a majority thereof, administer oaths or take testimony concerning any matter within the jurisdiction of the board. The president and secretary shall each hold office for the term of one year and until their successors are elected and qualified. Said board shall meet at least once in each year at a place designated by the board and in addition thereto wherever and whenever the president and secretary thereof shall for proper cause call a meeting. Three members of said board in actual attendance at any meeting shall constitute a quorum and be sufficient for the transaction of any business. The president of said board, or, in his absence, some other member selected by the board, shall act as Chairman and preside at all meetings of said board and shall sign on behalf of the members all certificates or other instruments as provided herein, which certificates or instruments shall be attested by the secretary. The secretary of said board shall keep a full record of the proceedings of said board which record shall, at all reasonable times, be open to public inspection. Such record shall also contain, under permanent binding, a registry list of all persons registered by said board together with renewals and revocations of licenses or certificates, which record shall constitute the official registry of all persons licensed to practice optometry in this state. A true copy of all records of said Board or any part thereof shall be admissible in evidence without further proof of authenticity when accompanied by the Certificate of the secretary of said board that the same is a true copy of the original record on file in his office as secretary of said board.

Sec. 528. EXAMINATIONS.) Every person before beginning to practice optometry in this state, shall pass an examination before said State board of optometry. Such examination may be conducted by two or more members of the board at such times and places as may be prescribed by said board. Any person desiring to take such examination shall, at least, five days before the date of such examination, file with the secretary of said board, a written application for such examination which shall be accompanied by the affidavits of two freeholders of this state to the effect that the person is of good moral character and a resident of this state. Such person shall also furnish satisfactory proof:

- A. That he is of the age of at least 21 years.
- B. That he has attended a high school for four years or has the equivalent of such an education.
- C. That he is a graduate of an optometry school or college of good standing, requiring an attendance of not less than two thousand hours or two years' course or that he has the equivalent of such an education.

Before beginning such examination, the applicant shall pay to the secretary of said board for the use of said board, the sum of twenty dollars and if he shall successfully pass such examination shall pay to the secretary, for the use of the said board, the additional sum of five dollars on the issuance to him of a certificate. All persons successfully passing such examination shall be registered in the board registry, which shall be kept by said secretary, as licensed to practice optometry and shall receive a certificate of such registration, to be signed by the president and secretary of said board. In the event of failure on the part of the candidate to pass the first examination, he may, within fourteen months thereafter, have another examination upon the payment of five dollars additional, which examination shall be given at such time and place as may be designated by the board. Any applicant may be registered and given a certificate of registration if he shall present a certified copy or an original certificate of registration or license issued to said applicant by any other state where the requirements for registration shall be equivalent to those provided by the laws of this state. The board may give a practical examination of said applicant if deemed necessary, provided that such state shall accord a like privilege to holders of certificates issued under the laws of this State. The fee for issuing certificates to such applicants shall be twenty-five dollars.

Sec. 529. WHO EXEMPT FROM PROVISIONS OF SECTION 528.) Every person who is a resident and engaged in the practice of optometry in the State of North Dakota at the time of the taking effect of this Act and who has received a certificate of registration entitling him to practice optometry under the existing laws of this state, shall be exempt from the provisions of Section 528.

Sec. 530. COMPENSATION AND EXPENSES.) Out of the fees coming into the possession of said board, each member thereof shall receive as compensation, the sum of five dollars for each day actually engaged in the duties of his office and mileage at the rate of five cents per mile for all distances necessarily traveled in going to and from the meetings of said board and an additional allowance for other necessary expense in attending said meeting, not to exceed five dollars per day. Said expense shall be paid from the fees received by the board under the provisions of this article but that no part thereof shall ever be paid out of the state treasury nor shall the State of North Dakota be obligated for the payment thereof.

Sec. 531. EXPENSE OF SECRETARY.) Out of the fees coming into the possession of said board, the secretary shall receive for clerical expenses and services such compensation and allowance as the board may deem just and proper, not to exceed seventy-

five cents for each certificate or license issued or renewed as provided herein.

Sec. 532. DUTIES OF SECRETARY.) The secretary shall be the custodian of all fees coming into the possession of said board and shall give a bond or surety for the faithful discharge of his duties in such amount and under such conditions as may be prescribed by said board and shall at such times as may be required by said board, furnish a complete statement of receipts and disbursements under oath, together with vouchers, receipts and other evidence of such receipts and disbursements as may be required by said board.

Sec. 533. CERTIFICATE TO BE DISPLAYED.) Every person to whom a certificate of examination or registration is issued shall display the same in a conspicuous place in his office where the practice of optometry is conducted.

Sec. 534. REPORT TO GOVERNOR.) The State Board shall make an annual report of its proceedings to the Governor on the first day of December of each year, which report shall contain an account of all monies received and disbursed pursuant to this article and such other information as may be necessary to disclose the general proceedings of said board in carrying out the purposes and enforcing the provisions of this act during the period covered by said report.

Sec. 535. RENEWAL OF CERTIFICATES.) Every person authorized to practice optometry under existing laws and under the provisions of this Act shall annually hereafter, during the month of January of each year, pay to the secretary of said board of optometry, the sum of five dollars as a license fee for the succeeding year. Failure by any person to pay the annual license fee as provided herein, shall constitute a revocation of his certificate of registration, which revocation shall be effective from and after February first of the year in which such annual license fee becomes due and payable. But such license or certificate of registration may be reinstated by said board upon the payment by the person in default as aforesaid of an additional sum of three dollars and upon the performance of such other reasonable conditions as said board may impose.

Sec. 536. CERTIFICATE REVOKED, WHEN.) Said board shall have power and must revoke any certificate of registration granted by it under this article or under existing laws, where it appears to the satisfaction of the majority of said board, that the holder of said certificate is guilty of any one or more of the following:

A. Conviction of crime, or violation of any provision of this article.

B. Habitual drunkenness.

C. The excessive use of intoxicating liquor or narcotic drugs for at least six months immediately prior to the filing of the charges as provided herein.

D. That such person is permanently afflicted with any contagious or infectious disease.

E. That such person is grossly incompetent to discharge his duties in connection with the practice of optometry as defined in this article.

F. That said person in the practice of optometry has been guilty of fraud, deceit or misrepresentations.

Provided, that before any certificate shall be so revoked, the holder thereof, shall have notice through registered mail from the secretary of said board requiring him to appear before said board at the time and place designated in said notice, which shall be at least ten days subsequent to the date of mailing said notice to appear before said board to answer to said charge or charges. A copy of such charge or charges shall be attached to and served upon said person as a part of said notice. At the time and place fixed for hearing of said charges, the board or a majority of the members thereof shall require the secretary to read said charges to the accused, if he be present, and shall require the accused to state whether he is guilty or not guilty of said charges. If the accused shall deny said charges, evidence shall then be received by said board under oath by competent witnesses as to the truth of said charges and the accused shall be entitled to examine said witnesses by himself or by his attorney and shall have an opportunity to produce evidence in his own behalf. At the conclusion of said hearing, the said board or the majority thereof, shall review the evidence and enter upon the records of said board a determination as to whether the accused is guilty of one or more of the charges made against him.

And if he be found guilty such determination as so recorded, shall constitute a revocation of his certificate or license. If the accused fails to appear at said hearing or if he pleads guilty of one or more of the charges aforesaid, said board, or the majority thereof, shall cause the secretary to enter the record thereof upon the record of said board which shall constitute a determination of guilt and the revocation of the license of said accused in like manner.

The witnesses at all hearings before the board shall testify under oath and for that purpose may be sworn by any member of the board. The board shall have power to compel the attendance of witnesses from any point within the state and the production of testimony at any such hearings and may employ an attorney to represent the board at such hearings. The expenses of conducting such hearings, including witness fees and

other necessary costs, disbursements and expenses, shall be paid by the secretary on order of the board or of the majority thereof, out of the funds in the custody of said board. Provided, however, that upon the revocation of any certificate, the holder thereof may, within thirty days, appeal said matter to the District Court in which the practitioner resides, in the same manner as is now provided or may be provided on appeals from justice courts and such laws are herein made applicable.

The Secretary of said board shall send the files and a copy of the minutes of the proceedings of said board in said matter to the Clerk of the District Court of the County in which the appeal is taken, and such minutes and files shall constitute the minutes of said appeal.

Upon the trial of said proceeding in District Court upon said appeal, all issues of law and fact shall be tried anew without reference to the determination of said board in revocation of said license according to the ordinary rules of evidence applicable to civil actions. Any person whose certificate has been revoked may have the same re-granted upon satisfactory proof that the disqualification has ceased or his disability has been removed.

Sec. 537. PENALTY.) Any person who shall violate any provision of this article, shall be deemed guilty of a misdemeanor and may be fined not less than fifty dollars, nor more than one hundred dollars, or be confined in the County Jail, not less than one month nor more than three months or by both said fine and imprisonment.

Sec. 538. JUSTICES OF THE PEACE TO HAVE JURISDICTION.) Justices of the Peace shall have jurisdiction of the violation of this article. It shall be the duty of the respective States Attorneys to prosecute all violations of this article. Said prosecution shall be commenced in the county where defendant resides. If the defendant be not a resident of the State of North Dakota, such prosecution may be commenced in any county of this state.

Sec. 539. WHO EXEMPT. REPEAL OF CONFLICTING LAWS.) Nothing in this article shall be construed to apply to persons who sell spectacles or eye glasses or any other article of merchandise without attempting to practice optometry as is in this article defined nor to student practitioners under the immediate and direct supervision of a registered optometrist, nor to require physicians and surgeons authorized to practice medicine under the Laws of this State to be registered under the provisions of this article.

If for any reason any part or parts of this act shall be held unconstitutional or invalid, the same shall not be held to



affect the remainder of said act but the same shall receive a liberal interpretation with the view of carrying out the purposes hereof.

All acts or parts of acts in conflict with the provisions of this article are hereby expressly repealed.

Approved February 27th, 1923.

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## PARDON AND PAROLE

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### CHAPTER 262.

(S. B. No. 396—Baird.)

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#### INDETERMINATE SENTENCES.

An Act to Amend and Re-enact Sections 10943 and 10944 of the Compiled Laws of North Dakota for the year 1913, and Section 10948 of the Compiled Laws of North Dakota for the year 1913 as Amended by Chapter 233 of the Session Laws of North Dakota for the year 1915, Relating to Indeterminate Sentences of Persons Convicted of Certain Crimes, and the Discharge or Paroling of Prisoners Serving Indeterminate Sentences, Abolishing the Board of Experts, and Repealing all Acts in Conflict Therewith.

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

Sec. 1. AMENDMENT.) Section 10943 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 10943. TERM OF IMPRISONMENT IN THE PENITENTIARY.) In all cases where a person is convicted of a felony other than treason, murder in the first degree, kidnapping, or rape by force, the court imposing the sentence may, in its discretion, refrain from imposing sentence for a definite term and impose an indeterminate sentence. In all cases where an indeterminate sentence is imposed, the court imposing the sentence shall adjudge that the person so sentenced be imprisoned for not less than a stated minimum nor more than a stated maximum period of time; provided, that in all cases the minimum period shall not be less than the minimum term nor shall the maximum be more than the maximum term provided by law for the offense committed at the time of the commission of such offense.

Sec. 2. AMENDMENT.) Section 10944 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 10944. OFFICIAL INFORMATION OF PRISONER'S CHARACTER AND HABITS.) It shall be the duty of the Judge before whom any person is convicted and sentenced to the penitentiary, whether sentence is for a definite or indeterminate term, and it shall also be the duty of the state's attorney of the county in which such conviction is had, to file with the clerk of the district court an official statement of the facts and circumstances constituting and surrounding the crime whereof the prisoner was convicted, his age as nearly as can be ascertained, together with all other information accessible in regard to the career of the prisoner prior to the time of the committal of the crime of which he was convicted, relative to his habits, associates, disposition and reputation, and any other facts and circumstances which may be capable of throwing light upon the question as to when such prisoner may be capable of becoming a law-abiding citizen. In such statement the district court shall also set out the reasons for imposing the particular sentence imposed whether indeterminate or for a fixed term. In such statement the district court and state's attorney, or either of them, may also make any recommendations or offer any suggestions which are deemed pertinent relative to the prisoner and the cause under consideration. It shall be the duty of the official court reporter, at the dictation of the Judge of said court, or the state's attorney of said county, to write the official statements of the Judge and state's attorney above referred to at the time of the conviction of the prisoner, and it shall be the duty of the clerk of the court to cause copies of such official statements to be attached to the commitment and to deliver the same, so attached, to the sheriff of the county for transmission to the institution to which the prisoner is committed.

Sec. 3. AMENDMENT.) Section 10948 of the Compiled Laws of 1913, as amended by Chapter 233 of the Session Laws of North Dakota for the year 1915, is hereby amended and re-enacted to read as follows:

Sec. 10948. BOARD OF PARDONS. POWERS AND DUTIES.) The Board of Experts is hereby abolished, and all powers conferred upon that Board by existing Provisions of Law, are hereby vested in the Board of Pardons. All applications for the discharge or parole of the inmates of the penitentiary, who may have been sentenced either for a fixed term or under the indeterminate sentence law, shall be presented to and passed upon by the Board of Pardons and no person serving an indeterminate sentence shall be released from the penitentiary merely because the minimum term of his sentence has expired but his term shall continue until the expiration of the maximum term, unless he is sooner ordered discharged or is paroled from the institution by the Board of Pardons. The Board of Pardons shall determine and fix the date when an inmate may

be released or paroled or discharged after the expiration of the minimum term of the sentence. Such determination, however shall be made in each particular case and a complete record shall be kept of all the findings and orders of the Board. It shall be the duty of the Board of Pardons to provide books of record, application blanks, and to formulate rules and regulations governing the conduct of the inmates, and the manner in which they may become eligible to become applicants for discharge or parole. Applications for parole may be considered at any regular meeting of the Board of Pardons or at any special meeting called by the Governor. The Board of Pardons shall keep a complete record of all inmates discharged or paroled, and make a biennial report to the Board of Administration of all rules adopted, and of inmates paroled and discharged, and of all statistics pertaining thereto.

Sec. 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 5th, 1923.

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## CHAPTER 263.

(H. B. No. 138—Harrington.)

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### PARDON OF MURDERER.

An Act to Amend and Re-enact Chapter 95 of the Session Laws of North Dakota for 1921, Being an Act to Amend and Re-enact Section 2 of Chapter 63, Session Laws of North Dakota for 1915, Prescribing and Limiting Punishment of the Crime of Murder in the First Degree and Limiting the Time, Manner and Condition Whereby such Person may be Pardoned.

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

Sec. 1. AMENDMENT.) That Chapter 95 of the Session Laws of North Dakota for 1921 is hereby amended and re-enacted to read as follows:

Sec. 2. PERSON CONVICTED AND UNDER SENTENCE OF MURDER IN THE FIRST DEGREE WHEN SUBJECT TO PARDON.) No person hereafter or heretofore convicted of murder in the first degree shall be eligible to pardon, commutation of sentence or parole until after he shall have been confined in the State Penitentiary for at least fifty per cent of the time of his life expectancy, to be determined on the day and date of his age on the date of entry of final judgment of conviction, and such life expectancy shall be based on the life expectancy tables known as the Carlisle tables of mortality, or unless it shall be made to appear to the satisfaction of the Pardon Board that the person convicted is innocent of the charge for which he was convicted, or it shall be made to

appear to the satisfaction of the Pardon Board that the person was convicted on a plea of guilty and did not directly commit the act constituting the offense, and that the indirect act committed by said person, which made him a principal in said crime by virtue of the provisions of Section 9218, Compiled Laws for 1913, was done by him without intent and knowledge that the crime for which he was convicted would be committed.

Approved March 1st, 1923.

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## PARTNERSHIP

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### CHAPTER 264.

(S. B. No. 378—Baird.)

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#### PARTNERSHIP EXEMPTIONS.

An Act to Amend and Re-enact Section 7741 of the Compiled Laws of 1913 as Amended and Re-enacted by Chapter 156 of the Session Laws of 1915 Relating to Partnership Exemptions.

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

Sec. 1. AMENDMENT.) That Section 7741 of the Compiled Laws of North Dakota for 1913 as amended and re-enacted by Chapter 156 of the Session Laws of 1915, be amended and re-enacted to read as follows:

Sec. 7741. PARTNERSHIPS CAN CLAIM BUT ONE EXEMPTION.) A partnership firm can claim but one exemption of one thousand dollars (\$1,000.00) in value or alternative property when so applicable, instead thereof, out of the partnership property. All partnership property claimed as exempt shall constitute a part of the exemptions of the several partners the same being divided in proportion to the interests of the partners in the firm assets, and in no case shall the aggregate exemptions of the several partners exceed the amount which would have been allowed to them if the partnership had not existed.

Approved March 1st, 1923.

## PERJURY

### CHAPTER 265.

(S. B. No. 232—Stevens.)

#### OATH.

An Act to Amend and Re-enact Section 9367 of the Compiled Laws of North Dakota for the year 1913, Relating to the Prescribing of an Oath.

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

Sec. 1. AMENDMENT.) That Section 9367 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 9367. OATH DEFINED.) The term oath as used in Section 9366 of the Compiled Laws of 1913, includes an affirmation and every other mode of attesting the truth of that which is stated, which is authorized by law, and the signing of any writing purporting to be made under oath, in the presence of an officer authorized to administer oaths, or the acknowledgment of the signing thereof, to or before any such officer, or the presentation thereof to such officer by the person signing or by his direction to be authenticated as an oath, shall be deemed to be the taking of an oath within the meaning of said section and the certificate of the officer purporting to take such oath shall be prima facie evidence of the taking thereof.

Approved March 1st, 1923.

## PISTOLS AND REVOLVERS

### CHAPTER 266.

(S. B. No. 256—McLachlin.)

#### PISTOLS AND REVOLVERS.

An Act To Control the Possession, sale, and use of pistols and revolvers, to provide penalties, and for other purposes.

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

Sec. 1. DEFINITION.) "Pistol or revolver," as used in this Act, shall be construed as meaning any firearm with barrel less than twelve inches in length.

Sec. 2. COMMITTING CRIME WHEN ARMED.) If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall be in addition to the punishment provided for the crime, be punished by imprisonment for not less than ten years.

Sec. 3. PUNISHMENT.) The judge shall have the power to sentence any person who may be convicted for a second or third offense under section 2 of this Act, to double and triple the penalty imposed thereby, and for a fourth offense the person so convicted may be sentenced to life imprisonment.

Sec. 4. BEING ARMED PRIMA FACIE EVIDENCE OF INTENTION.) In the trial of a person for the commission of a felony or of an attempt to commit a felony against the person of another, the fact that he was armed with a pistol or revolver and having no permit to carry the same shall be prima facie evidence of his intention to commit said felony.

Sec. 5. ALIENS AND CRIMINALS MUST NOT POSSESS ARMS.) No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the Government of the United States or of any State or subdivision thereof, shall own or have in his possession or under his control, a pistol or revolver. Violations of this section shall be punished by imprisonment for not to exceed five years.

Sec. 6. CARRYING PISTOL CONCEALED.) No person shall carry a pistol or revolver concealed in any vehicle or in any package, satchel, grip, suit case or carry in any way or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by imprisonment for not less than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed.

Sec. 7. EXCEPTIONS.) The provisions of the preceding section shall not apply to marshals, sheriffs, policemen, or other duly appointed peace officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the Army, Navy or Marine Corps of the United States, or the National Guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or this State, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.

Sec. 8. ISSUE OF LICENSES TO CARRY.) The justice of a court of record, the chief of police of a city or town and the sheriff of a county, or persons authorized by any of them

shall upon the application of any persons having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a fire arm concealed upon his person issued by the authorities of any State or sub-division of the United States, issue a license to such person to carry a pistol or revolver within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State, and the triplicate shall be preserved for six years by the authority issuing said license.

Sec. 9. SELLING TO MINORS.) Any person or persons who shall sell, barter, hire, lend or give to any minor under the age of eighteen years any pistol or revolver shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined not less than \$100, nor more than \$1,000, or be imprisoned not less than three months, nor more than one year, or both.

Sec. 10. SALES REGULATED.) No person shall sell, deliver, or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward by registered mail one copy thereof to the Secretary of State, and one copy thereof to the chief of police of the city or town, or the sheriff of the county of which the seller is a resident, and shall retain the other copy for six years. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not less than \$100 or by

imprisonment for not less than one year, or by both such fine and imprisonment.

Sec. 11. DEALERS TO BE LICENSED.) Whoever, without being licensed as hereinafter provided, sells, or otherwise transfers, advertises, or exposes for sale, or transfers or has in his possession with intent to sell, or otherwise transfer, pistols or revolvers, shall be punished by imprisonment for not less than two years.

Sec. 12. DEALERS' LICENSES: BY WHOM GRANTED, AND CONDITIONS THEREOF.) The duly constituted licensing authorities of any city, town or subdivision of this state, may grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered—

(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor

(b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor

(c) If the seller has reasonable cause to believe that the purchaser either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof.

4. A true record, in triplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Secretary of State, and shall be personally signed by the purchaser and by the person affecting the sale, each in the presence of the other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, occupation, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the Secretary of State and one copy thereof to the chief of police of the city or town or the sheriff of the county of which the seller is a resident, and the other copy retained for six years.



5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

Sec. 13. PENALTY FOR FALSE INFORMATION.) If any person in purchasing or otherwise securing delivery of a pistol or revolver or in applying for a permit to carry the same, shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not less than five nor more than ten years.

Sec. 14. ALTERATION OF IDENTIFYING MARKS PROHIBITED.) No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations of this section shall be punished by imprisonment for not less than one year nor more than five years.

Sec. 15. EXISTING LICENSES REVOKED.) All Licenses heretofore issued within this State permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of June 30th, 1923.

Sec. 16. EXCEPTIONS.) This Act shall not apply to antique pistols or revolvers incapable of use as such.

Sec. 17. CERTAIN ACTS REPEALED.) All laws or parts of laws inconsistent herewith are hereby repealed.

Approved March 7th, 1923.

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## PLEDGE

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### CHAPTER 267.

(H. B. No. 177—Cole.)

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#### SALE OF PROPERTY PLEDGED.

An Act to Amend and Re-enact Section 6790 of the Compiled Laws of North Dakota for 1913.

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

Sec. 1. AMENDMENT.) Section 6790 of the Compiled Laws of the State of North Dakota for 1913 is amended and re-enacted to read as follows:

Sec. 6790. EVIDENCE OF DEBT.) A pledgee may collect when due any evidence of debt pledged to him; he may also sell any evidence of debt pledged to him to secure the performance of an original obligation, if at the time of making such original obligation the pledgor shall have authorized in writing such sale. Before such evidence of debt can be sold and after the maturity of the original obligation, the pledgee must demand, in writing, the performance thereof from the debtor if he can be found. Notice of the sale of such evidence of debt must be given by publication once, and at least ten days prior to such sale, in a newspaper published at the place of sale, if there is one, otherwise in a newspaper in the county in which such sale is to be made, and by service of such notice upon the pledgor and the makers of the securities, by registered mail addressed to them at their post-office address as shown upon the securities to be sold, and if not so shown, at their last known postoffice address, and if there is no newspaper in the county, or upon the written request of the pledgor, notice shall be given by posting the same in five public places in such county for at least ten days prior to such sale. The notice of sale must specify the names of the pledgor and pledgee and the assignee, if any, the date, maturity and amount of the original obligation and the amount claimed to be due thereon, a description of the evidence of debt to be sold, which shall contain the names of the makers, the date and maturity of such obligation to be sold, and the time and place of sale. Such sale may be made by the pledgee, his agent or attorney. A report of such sale must be made and filed, substantially as required by Section 8128 in chattel mortgage foreclosures, and when so filed shall have the same force and effect.

Sec. 2. Any pledgor of personal property, or his assignee, may redeem the same from a sale upon foreclosure of any pledge within ten days after such sale, exclusive of the day of sale, by paying or tendering to the owner of the pledge at the time of sale, his agent or attorney, or the person making the sale, the amount for which said property was sold with the cost of sale and interest at the rate of seven per centum per annum from the date of sale. The pledgor or his assignee desiring to redeem such property shall at the time of sale give written notice to the person making the sale of his desire to make such redemption; otherwise he shall be deemed to have waived his right to do so. In case such notice is served, the person making such sale shall retain the possession of the property sold until the expiration of said ten days and shall be entitled to his reasonable expenses in caring for the same. In case a part only of the property sold is redeemed the redemptioner shall pay or tender in addition to the price for which such part was sold such proportion of the costs of sale as said price bears to the entire price of all the property

sold and also the reasonable expense of caring for the property redeemed and interest.

Approved February 27th 1923.

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## PROHIBITION

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### CHAPTER 268.

(H. B. No. 50—Miller and Halcrow.)

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#### PROHIBITION.

An Act to Amend and Re-enact Sections 1, 2, 9 and 13 of Chapter 97, Session Laws, 1921, Relating to Legislation to Prohibit Intoxicating Liquors and Beverages and Property Intended for the Manufacture of Same; Prohibiting the Transportation of Liquor and Providing for the Forfeiture of Property Used for the Transportation of Same; to Provide for its Enforcement and Penalty and defining the crime of engaging in liquor traffic.

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

Sec. 1. AMENDMENT.) Section 1 of Chapter 97, Session Laws, 1921, is hereby amended and re-enacted so as to read as follows:

Sec. 1. INTOXICATING LIQUOR AND CRIME OF ENGAGING IN LIQUOR TRAFFIC DEFINED.) The following liquors are hereby declared to be intoxicating and their intoxicating quality shall, by the Courts, be presumed, viz: alcohol, brandy, whiskey, rum, gin, beer, ale, porter and wine and in addition thereto any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of 1 per centum or more of alcohol by volume which are fit for use for beverage purposes; Provided, that the foregoing definition shall not extend to sweet fruit juices or dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced if it contains less than one-half of 1 per centum of alcohol by volume and is otherwise denominated than as beer, ale, or porter and is pasteurized and contained and sold in or from hermetically sealed and labeled bottles.

Sec. 1A. The word person shall mean and include natural persons, associations, copartnerships, corporations and their clerks, agents and abettors.

Sec. 1B. CRIME OF ENGAGING IN LIQUOR TRAFFIC, DEFINED.) Any person who shall within this State, manufacture, sell, bar-

ter, transport, import, export, deliver, furnish or possess any intoxicating liquor, shall be guilty of the crime of engaging in the liquor Traffic.

Sec. 2. AMENDMENT.) Section 2 of Chapter 97, Session Laws of 1921 is hereby amended and re-enacted to read as follows:

Sec. 2. PROHIBITING INTOXICATING BEVERAGES.) No person shall within this State manufacture, sell, barter, transport, import, export, deliver furnish or possess any intoxicating liquor, except as provided in this chapter. All provisions of this chapter shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented. Provided that pure grain or ethyl alcohol for nonbeverage purposes and wine for sacramental purposes may in good faith only be used, transported, purchased and possessed as provided in this Chapter. It is further provided, that denatured alcohol or denatured rum; medical preparations that are unfit for beverage purposes; patented, patent and proprietary medicines that are unfit for beverage purposes; toilet, medical and antiseptic preparations and solutions that are unfit for beverage purposes; vinegar; flavoring extracts and syrups that are unfit for use as a beverage, or for intoxicating beverage purposes; together with those United States Pharmacopeia and National Formulary and American Institute of Homeopathy preparations fit for beverage purposes, which can only be used by physicians and druggists for compounding purposes as hereinafter provided, may be manufactured, sold, purchased, transported, imported, exported, delivered, furnished and possessed only to be used for any legitimate nonbeverage purpose and such preparations and other alcoholic compounds and solutions shall not be sold or used for beverage purposes or sold under circumstances from which the seller may reasonably deduce an intention on the part of the purchaser to use the same for beverage purposes.

Sec. 2A. SACRAMENTAL WINE.) Wine for sacramental purposes may be purchased, transported, delivered and possessed by the heads of ecclesiastical jurisdictions, or by some minister, priest or other officer holding a federal permit to transport such wine and the same may be used in good faith only for sacramental purposes.

Sec. 2B. USE OF INTOXICATING LIQUORS BY PHYSICIANS.) No physician shall issue any prescription for Intoxicating Liquors as such, but a physician holding a federal permit therefor, may personally or under his supervision administer Intoxicating Liquors to his patients, where the immediate use of such Intoxicating Liquors is believed necessary to afford relief from some disease. Provided, that not more than one pint of such Intoxi-

ating Liquors may be administered to any one patient by a physician, during any period of ten days, and provided that no physician shall obtain for such purposes more than five gallons of Intoxicating Liquors during any calendar year. Provided, further, that physicians may procure and use those United States Pharmacopeia and National Formulary and American Institute of Homeopathy preparations fit for beverage purposes in such amount and for such purposes as may be in good faith necessary in compounding medical preparations.

Sec. 2C. USE OF ALOCOHOL BY DENTISTS, VETERINARIANS.) Dentists and Veterinarians may use pure grain or ethyl alcohol for any legitimate, nonbeverage purpose in the course of their professional practice, provided they hold federal permits therefor, and not more than two gallons of alcohol shall be obtained for that purpose during any calendar year.

Sec. 2D. USE OF ALCOHOL BY DRUGGISTS.) Retail druggists holding federal permits therefor, may use such quantities of pure grain or ethyl alcohol and those United States Pharmacopeia and National Formulary and American Institute of Homeopathy preparations fit for beverage purposes in such amounts and for such purposes as may be in good faith necessary in compounding medical and other preparations.

Sec. 2E. EVIDENCE, BURDEN OF PROOF.) Any person prosecuted for a violation of the provisions of this Chapter shall be presumed to be acting without a Federal permit, and the possession of a Federal permit may be proved by the defendant as defensive material and the burden of proof shall be upon the defendant to establish such defense.

Sec. 2F. CUMULATIVE.) All portions of this Act shall be construed as cumulative in their effect to all former statutes enacted upon the subject of intoxicating liquors, and shall not be considered as repealing any former statute, unless that statute is clearly in conflict with this Act.

Sec. 2G. SWEET FRUIT CIDERS.) Sweet Fruit Ciders may be manufactured, procured, sold and possessed only when put up in sterile, closed containers and treated by the addition of benzoate of soda, or other substance which will prevent fermentation, in such proportion as to insure the alcoholic content remaining below one-half of one per centum by volume.

Sec. 2H. POSSESSION IN HOME, WHEN LAWFUL.) It shall not be unlawful to possess liquor acquired prior to February 1st, 1920, in one's private dwelling while the same is occupied and used by him as his dwelling only, provided such liquors are for use only for the personal consumption of

the owner thereof and his family residing in such dwelling; and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed and used.

Sec. 3. AMENDMENT.) Section 9 of Chapter 97, Session Laws of 1921 is hereby amended and re-enacted to read as follows:

Sec. 9. SEIZING TRANSPORTED LIQUOR.) When any Sheriff, deputy sheriff, constable, marshal, police or peace officer of this State shall discover any person in the act of transporting in violation of the laws, intoxicating liquor, in any wagon, buggy, automobile, water or air craft, or other vehicle or conveyance, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever any in toxicating liquors, transported or possessed illegally, shall be seized by any officer he shall take possession of the vehicle and team, or automobile, boat, air or water craft, or any other conveyance and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the provisions of this act in any court having competent jurisdiction; but the said vehicle or conveyance shall be returned to the owner upon the execution by him of a good and valid bond, with sufficient sureties, in the sum of double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of the trial to abide the judgment of the Court. The Court, upon conviction of the person so arrested, or upon his plea of guilty, or upon failure after one month of effort, to locate or arrest such person who had possession of such intoxicating liquor, vehicle or conveyance, or when so arrested fails to appear in court for trial at the appointed time and place, shall order the liquor destroyed, and the property used in the transportation of the same to be forfeited, and shall require the State's Attorney for the County in which such property was seized to cause summons to be issued against all persons having any right, title or interest in the property seized, which summons shall particularly describe the property and state that the same is held for forfeiture and sale under the provisions of this Act, and that in default of answer or claim filed within thirty days after the service of such summons the Court will enter its order forfeiting such property to the State of North Dakota. Such summons shall be served in the manner provided for the service of summons in a civil action. If no answer shall be filed or claim made within the time allowed, the Court shall enter its order forfeiting such property to the State of North Dakota, and for the sale of same in the manner provided for the sale of personal property on execution. If answer is filed or claim made the Court shall require each claimant to furnish a good and sufficient bond condi-

tioned for the prosecution of said action and for the payment of costs should he fail to support his claim. The Court shall thereupon proceed to hear and determine the claim according to law. If at such hearing any claimant shall prove to the satisfaction of the Court that he is the owner of such property or has a valid lien thereon duly filed or recorded prior to the time such conveyance was seized and that he had no knowledge of the use of such automobile, wagon, buggy, water or air craft or other vehicle or conveyance for such unlawful purpose, the same shall be surrendered to him, if the owner; if a lien holder, the lien shall be foreclosed, the property sold and the proceeds applied in payment of the costs of such sale, then in satisfaction of the lien or liens and the balance deposited as hereinafter provided; if the claimant or claimants shall fail to sustain their claims, judgment shall be entered against them for costs, and the Court shall enter its order for the forfeiture and sale of the property as hereinbefore provided in case of default. After deducting the costs and expenses of such proceeding the balance of all money received under the provisions of this Act shall be paid to the Treasurer of the County wherein the seizure was made, for the benefit of the State School Fund.

Sec. 9A. DISPOSITION OF EVIDENCE.) Whenever any sheriff, deputy sheriff, constable or police officer or any person acting under authority given in this Chapter and the laws of this State shall seize any intoxicating liquor or property designed or intended for use in the manufacture of such liquor, or any vehicle, boat, water or air craft, or other conveyance used to transport such liquor, such officer or person shall within five days after the seizing of the same file a certified inventory with the Clerk of the District Court, or County Court having increased jurisdiction, in the county in which the offense has been committed or the proceeding commenced and from and after the date of such filing, such liquor and property shall by such officer be held subject to the order of such Court, and such officer shall be accountable to such Court for the disposition of the same, and upon any violation of this section or any disposition of such liquor or property other than by the order of such Court, he shall be held to be in contempt of Court and shall be punished therefore in the manner by law provided.

Sec. 4. AMENDMENT.) Section 13 of Chapter 97, Session Laws of 1921 is hereby amended and re-enacted so as to read as follows:

Sec. 13. PENALTY.) Any person who shall within this state commit the crime of engaging in the liquor traffic or violate any of the provisions of this Chapter (unless the penalty is elsewhere provided for) shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any

sum not less than \$200.00 nor more than \$1,000.00 and be imprisoned in the County jail not less than ninety days nor more than one year; and for the second and every successive offense shall be deemed guilty of a felony and be punished by imprisonment in the penitentiary not exceeding two years and not less than one year. Provided, that the phrase "second offense" shall mean a conviction of any offense prohibited by this Act or of the crime of bootlegging as defined in Section 10,144 of the Revised Codes of the State of North Dakota for the year 1913, and a subsequent conviction of violating any provision of this Act, whether for the first time or not. This shall not apply to Section five, six, ten and eleven of this Act. Provided, however, that if the evidence in such case convinces the Court that the person convicted of transporting intoxicating liquors in violation of this Act, was in charge of and used any wagon, buggy, automobile, water or air craft, or other vehicle or conveyance, not owned by him or without permission of the owner, or when such vehicle or conveyance so used was mortgaged property, or if there be in or upon such conveyance so used or upon any person therein any firearms, or guns, he shall be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not less than six months and not more than five years.

Sec. 5. EMERGENCY.) This Act is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

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## PROPERTY, REAL

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### CHAPTER 269.

(S. B. No. 389—Baird.)

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#### RESERVATION AND TRANSFER OF MINERAL RIGHTS.

An Act Regulating the Reservation of Mineral Rights and Providing for the Transfer of Same.

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

Sec. 1. That all real property deeded or transferred prior to the enactment of Sections 5518 and 5519 of the Compiled Laws of North Dakota for the year 1913, and in which transfers the grantor reserved the rights to the coal or other mineral deposits, may be deeded and transferred hereafter with such similar reservations without complying with the provisions of Sections 5518



and 5519 of the Compiled Laws of North Dakota for the year 1913, and any such secondary transfers since the enactment of said sections containing such reservations are hereby declared to be legal and valid transfers of such property.

Approved March 10th, 1923.

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## PUBLICATION

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### CHAPTER 270.

(H. B. No. 311—State Affairs Committee.)

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#### PRINTING FEES.

An Act to Amend and Re-enact Section 3540 of the Compiled Laws of North Dakota for 1913, as Amended by Chapter 93 Session Laws of 1921, Relating to the Fees paid to Newspapers for the Publication of Legal Notices.

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

Sec. 1. AMENDMENT.) That Section 3540 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

Sec 3540. PAY REQUIRED.) The fees to be paid to newspapers for the publication of all notices and publications that are now required or hereafter may be required by law to be published by county officers; all summons, citations, notices, orders and other processes in actions or proceedings in the supreme, district, county or justice courts of the state, which are or hereafter may be required by law to be published; all publications of every nature that are now or hereafter may be required to be published by state officers, elective or appointive; all notices of foreclosure of real estate or chattel mortgages or other liens on real estate or personal property foreclosed by advertisement; all notices required to be published by cities, villages, townships, school districts and other political subdivisions of the state and the officers thereof; and all legal notices of whatsoever kind or character required by law to be published shall be as follows: Nine cents per counted line of non-pareil type for the first insertion and six cents per counted line of nonpareil type for each subsequent insertion, or seven cents per counted line of brevier type for the first insertion and five cents per counted line for each subsequent insertion. All tabulated matter, leader work, or work containing one column of figures shall be figured at one and one-half times the rate for straight matter on first publication, and all tabulated matter with two or more columns of figures

shall be computed at double the rate for straight matter on first publication. A line shall be construed to mean twelve and one-half or thirteen ems pica in length, and all such legal notices shall be set in single column wherever possible.

Sec. 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Sec. 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 6th, 1923.

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## RAILROADS

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### CHAPTER 271.

(H. B. No. 4—Heaton.)

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#### CONDITIONAL SALES OF RAILROAD EQUIPMENT.

An Act to Amend and Re-enact Section 4625 of Chapter 14, of the Compiled Laws of North Dakota for the year 1913, relating to conditional sale contracts given by railroad corporations.

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

Sec. 1. AMENDMENT.) Section 4625, Compiled Laws for 1913, is hereby amended so as to read as follows:

Sec. 4625. CONDITIONAL SALE VALID.) In all cases where railroad equipment and rolling stock may have been or shall be sold to any person, firm or corporation to be paid for in whole or in part in installments, or shall be leased, rented, hired or delivered on condition that the same may be used by the person, firm or corporation purchasing, leasing, renting, hiring or receiving the same, and that the title to the same shall remain in the vendor, lessor, renter, hirer or deliverer of the same until the price agreed upon or rent for such property shall have been fully paid, such condition in regard to the title so remaining in the vendor, lessor, renter, hirer or deliverer until such payments are fully made shall be valid for all intents and purposes as to subsequent purchasers in good faith, and creditors; provided, that the term during which the installments or rents are to be paid shall not exceed fifteen years and such contract shall be in writing and acknowledged.

Sec. 2. Whereas, the law of this state should be made uniform with the laws of other states as to the term during which the installments or rents under such contract may be paid, it

is hereby declared that this Act is an emergency measure, and shall take effect and be in force from and after its passage and approval.

Approved January 26th, 1923.

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## CHAPTER 272.

(S. B. No. 369—Hamilton, by Request.)

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### GRADE CROSSINGS.

An Act Relating to Dangerous Railroad Grade Crossings over State Highways, and Providing for the Protection of Such Crossings.

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

Sec. 1. The Board of Railroad Commissioners of the State of North Dakota upon written application made to it by the State Highway Commission, the Board of County Commissioners of any County, the Board of Supervisors of any Township or upon its own motion shall investigate and determine whether any railroad grade crossing over any state, county or township highway in the state is dangerous to life and property, and may order the same protected in any manner said Board of Railroad Commissioners may find reasonable and proper, including requiring the railroad company to separate the grades.

Sec. 2. The Board of Railroad Commissioners shall give the railroad company interested such notice of said investigation as it deems reasonable and an opportunity to be heard before any order is made. The railroad company interested may, within thirty days after the service of a copy of such order upon it, appeal to the district court of the county wherein such crossing is situated.

Sec. 3. This Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 7th, 1923.

## SCHOOLS

### CHAPTER 273.

(S. B. No. 165—Kelsh.)

#### BONDS OF COMMON SCHOOL DISTRICTS.

An Act Amending and Re-enacting Section 1334 of the Compiled Laws of the State of North Dakota for the year 1913, as Amended by Chapter 105, Session Laws of 1921, Relating to the Limit of Issue of Bonds of Common School Districts.

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

Sec. 1. AMENDMENT.) That Section 1334 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 105, Session Laws of 1921, is hereby amended and re-enacted so as to read as follows:

Sec. 1334. BONDS, DENOMINATION OF, INTEREST. LIMIT OF ISSUE.) The denominations of the bonds which may be issued under the provisions of this article shall be fifty dollars or some multiple of fifty, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually on the first day of January and July in each year, in accordance with interest coupons which shall be attached to such bonds, provided, that the amount of bonds including all other indebtedness shall not exceed five per cent of the assessed valuation of the school district and may be made payable in not less than ten or more than twenty years from their date; and provided, further, that in any school district which has, by a majority vote increased its limit of indebtedness an additional five per cent, on its assessed valuation, beyond said five per cent limit, in the manner provided by law, the amount of such bonds, including all other indebtedness, shall not exceed ten per cent of the assessed valuation of said school district, and may be made payable in not less than five nor more than twenty years from their date.

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency, and shall take effect and be in force from and after its passage and approval by the Governor.

Approved February 24th, 1923.

## CHAPTER 274.

(S. B. No. 164—Kelsh.)

## BONDS OF INDEPENDENT SCHOOL DISTRICTS.

An Act to Amend and Re-enact Section 1303 of the Compiled Laws of the State of North Dakota for the year 1913, Relating to the Limit of the Amount of Bonds of Independent School Districts.

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

Sec. 1. AMENDMENT.) That Section 1303 of the Compiled Laws of the State of North Dakota for the year 1913, is hereby amended and re-enacted so as to read as follows:

Sec. 1303. AUTHORITY TO ISSUE BONDS.) The Board of Education of such district is authorized and empowered, and it is its duty whenever the board deems it necessary for the efficient organization and establishment of schools, including the purchase of school sites and the construction and furnishing of school houses, in such district, and when the taxes authorized by this article shall not be sufficient or shall be deemed by the board to be burdensome upon the tax payers of the district, from time to time to issue bonds of the district in the denomination of fifty dollars or some multiple of fifty, payable at a time not to exceed twenty-five years after date and bearing interest at a rate not to exceed seven per cent per annum, payable semi-annually on the first day of January and July of each year; and to show upon their face that they are issued for the purpose of building or furnishing a school house or school houses, purchasing grounds on which to locate the same, or to fund any outstanding indebtedness, or for the purpose of taking up any outstanding bonds; and the said board of education is authorized to cause the same to be sold at not less than par value, and the money realized therefrom deposited with the city treasurer to the credit of such board of education, and when any bonds shall be so negotiated it shall be the duty of the board to provide by tax for the payment of the principal and interest of such bonds; provided, that at no time shall the aggregate amount of such bonds, including all other indebtedness, exceed fifty mills on the dollar of valuation of the taxable property of such district, to be determined by the last city assessment; and provided, further, that in any independent school district which has, by a majority vote, increased its limit of indebtedness an additional five per cent on its assessed valuation, beyond said five per cent limit, in the manner provided by law, that at no time shall the aggregate amount of such bonds, including all other indebtedness, exceed ten per cent of the valuation of the taxable property of such district, to be determined by the last city assessment.

Sec. 2. **EMERGENCY.**) This Act is hereby declared to be an emergency and shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 1st, 1923.

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## CHAPTER 275.

(S. B. No. 167—Kelsh.)

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### BONDS OF SPECIAL SCHOOL DISTRICTS.

An Act Amending and Re-enacting Section 1275 of the Compiled Laws of the State of North Dakota for the year 1913, Relating to the Limit of Issue of Bonds of Special School Districts.

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

Sec. 1. **AMENDMENT.**) That Section 1275 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 1275. **BONDS TO SPECIFY WHAT. DEBT LIMIT.**) The bonds, the issuance of which is provided for in the foregoing section, shall specify the rate of interest and the time when the principal and interest shall be paid; and no district shall issue bonds in pursuance of this article in a sum greater than five per cent of its assessed valuation, including other debts; provided, however, that in any special school district which has, by a majority vote increased its limit of indebtedness an additional five per cent on its assessed valuation, beyond said five per cent limit, in the manner provided by law, then and in that case such special school district may issue bonds in pursuance of this article in an amount not exceeding ten per cent. of its assessed valuation, including other debts.

Sec. 2. **EMERGENCY.**) This Act is hereby declared to be an emergency, and shall take effect and be in force from and after its passage and approval by the Governor.

Approved February 24th, 1923.

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## CHAPTER 276.

(H. B. No. 306—Currie.)

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### BONDS OF SPECIAL SCHOOL DISTRICTS.

An Act to Amend Section 1273 of the Compiled Laws of 1913 relating to the issuance of bonds by special school districts and prescribing their denominations and rate of interest.

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

Sec. 1. **AMENDMENT.**) Section 1273 of the Compiled Laws

of North Dakota for the year 1913 is amended and re-enacted to read as follows:

Sec. 1273. DENOMINATION OF BONDS.) The denominations of the bonds which may be issued under the provisions of this article shall be fifty dollars or some multiple of fifty, and shall bear interest at not more than six per cent per annum, payable semi-annually on the first day of January and July in each year, shall show upon their face that they are issued for school purposes, and shall be sold at not less than par. Each bond shall have endorsed thereon the certificate of the clerk stating that such bond is issued pursuant to law and is within the debt limit prescribed by the constitution.

Approved March 8th, 1923.

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## CHAPTER 277.

(S. B. No. 25—Kelsh.)

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### VALIDATING SCHOOL DISTRICT BONDS.

An Act Relating to the validation of bonds voted and issued, or to be issued, by any Common, Special or Independent School District, in cases where the School District issuing such bonds, or where by such vote bonds are authorized to be issued, has heretofore, by a majority vote, increased the limit of indebtedness Five per cent on the assessed valuation of the taxable property in such School District, beyond the five per cent limit of indebtedness established by the Constitution, as provided by Article 35 of the Amendments to the Constitution of the State of North Dakota, and where the indebtedness of such School District does not exceed ten per cent on the assessed valuation of the taxable property of such School District, and declaring such bonds legal and valid.

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

Sec. 1. That in all cases where, subsequent to the 1st day of July, 1920, and prior to the 1st day of January, 1923, in any Common, Special or Independent school district, an election has been held, in accordance with the laws then in force relating to elections in such district, on the question of increasing the limit of indebtedness of the school district five per cent. on the assessed value of the taxable property in said school district, beyond the five per cent. limit of indebtedness established by the Constitution of this State, and at such election the question of such increase of the limit of indebtedness has been carried by a majority vote, as provided by Article 35 of the Amendments to the Constitution of the State of North Dakota; and at such election or at an election thereafter held for that purpose bonds of such school district have been duly voted and issued, or by such vote authorized to be issued pursuant to such

election, resulting in an authorized indebtedness of such district in excess of five per cent. on the assessed valuation of its taxable property, then such indebtedness, including such bonds, issued or to be issued, pursuant to such election, not exceeding ten per cent. of the assessed valuation of the taxable property in such district, at the time of such election, is hereby declared to be legal and valid, notwithstanding the fact that no legislation has heretofore been enacted to give effect to, and make operative, the constitutional permission to effect such increase of limit of indebtedness, as provided in said Article 35 of the Amendments to the Constitution, provided; that nothing contained herein shall affect any act or proceeding now pending in any court in this State.

Sec. 2. EMERGENCY.) Whereas, a number of school districts have, under a misapprehension and misunderstanding of the law, voted to increase the limit of indebtedness of the school district, although the constitutional amendment permitting such increase had not been made effective and operative by a statute providing for the holding of such election and voting upon such question, and such school districts have thereafter voted to issue bonds which, with other indebtedness of the district, will be in excess of the five per cent. limit of indebtedness; and such districts have in many instances incurred indebtedness and have commenced building operations in reliance upon the validity of such bonds, therefore, this Act is hereby declared to be an emergency, and shall take effect and be in force from and after its passage and approval by the Governor.

Approved February 19th, 1923.

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## CHAPTER 278.

(S. B. No. 68—Kelsh.)

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### VALIDATING SCHOOL DISTRICT WARRANTS AND BONDS.

An Act to Amend and Re-enact Section 1421 of the Compiled Laws of North Dakota for 1913, as Amended and Re-enacted by Chapter 266 of the Session Laws for the Year 1915, Legalizing and Validating Certain Indebtedness of School Districts in the Form of School Warrants and Negotiable Bonds Issued to Fund the Same.

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

Sec. 1. AMENDMENT.) That Section 1421 of the Compiled Laws of North Dakota for 1913, as Amended and re-enacted by Chapter 266 of the Session Laws for the year 1915, be amended and re-enacted to read as follows:

Sec. 1421. ACTS LEGALIZED.) Where the officers of any common, special or independent school district of this state shall



have incurred indebtedness and issued warrants for the erection, purchase, repair or maintenance of any school building, or for the purchase of equipment for any school building, or any other legitimate corporate purchase, and said warrants are outstanding, in any or all such cases where said warrants are within the five per cent debt limit of the district, the same are hereby legalized and declared to be the valid indebtedness of such school district; and in all cases where an election has heretofore been held in any school district and the electors of such school district have at such election, by a majority vote, determined to increase the indebtedness of such district five per cent on the assessed value of the taxable property in such district, beyond said original five per cent limit, as provided in Article 35 of the Amendments to the Constitution of the State of North Dakota, in any or all such cases where said warrants are within the said additional five per cent limit so voted, as aforesaid, the same are hereby legalized and declared to be the valid indebtedness of such school district. That in every case where the school board or board of education of any school district shall have heretofore issued, or shall hereafter issue, its negotiable bonds for the sole purpose of funding such warrants, and shall have been or shall be authorized to issue such bonds by a majority vote of the qualified electors of such school district, voting thereon at any regular or special election legally called and held after public notice thereof as required by law, and if such bonds shall have been heretofore, or shall be hereafter, executed, sold and delivered for value, and the proceeds arising from such sale shall have been, or shall be, applied exclusively to the express purpose of funding such warrants, then in every such case such bonds, whether engraved, lithographed or printed on bond paper, shall, when executed, sold and delivered as provided by law, be deemed, and hereby are declared to be valid and subsisting indebtedness of the school district so issuing the same.

Approved February 19th, 1923.

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## CHAPTER 279.

(S. B. No. 163—Kelsh.)

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### DEBT LIMIT OF SCHOOL DISTRICTS.

An Act Permitting to Increase of the Limitation of Indebtedness of Common, Special, and Independent School Districts by an Additional Five Per Centum on the Assessed Value of the Taxable Property therein, beyond the Present Constitutional Limit of Five Per Centum, Providing a Method for Effecting such Increase, and for Submitting the Question of such Increase to the Electors of the School Districts at Annual or Special Elections, and Providing for Preserving a Record of such Increase of the Limit of Indebtedness.

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

Sec. 1. Whenever, in any Common, Special, or Independent

school district there shall be presented to, and filed with, the school board or the board of education, as the case may be, a petition, signed by at least one-third of the electors of such school district, requesting that the school board or board of education submit to the electors of the district the question of increasing the limit of indebtedness of such school district five per cent. on the assessed value of the taxable property of said district, beyond the five per cent. limit of indebtedness now fixed by the Constitution, the board must submit said question to the electors at the next annual school election, or at a special election called in said district for that purpose.

Sec. 2. The notice of election, whether for the annual school election or a special election held under this Act, shall clearly state the question to be voted upon. Unless such question is submitted at the annual school election, a special election shall be called, and notice of such special election shall be given in the following manner: At least fourteen days' notice of such election shall be given by publishing a notice thereof once in one or more newspapers published within said school district, if any newspaper or newspapers are published within said school district, and by posting copies of such notice in at least three of the most public and conspicuous places within the district; provided, that in special elections held under this Act in Independent school districts, notice by publication shall be given as prescribed above, and, in addition thereto, at least five copies of such notice shall be posted in each ward or voting precinct.

Sec. 3. Printed or typewritten ballots shall be used in submitting this question at any election, and the question to be voted upon shall be set forth on such ballot in clear and concise language. On such ballots there shall be printed or typewritten, below the question to be voted upon, the following words and characters:

“For Increasing the Limit of Indebtedness. ☐

“Against Increasing the Limit of Indebtedness ☐

Such election shall be conducted, and the votes canvassed, in the same manner as at other school elections within the school district; provided, that the polls at special elections shall be opened at one o'clock in the afternoon, and shall remain open continuously thereafter until five o'clock in the afternoon, and no longer.

Sec. 4. If a majority of the votes cast upon this question are in favor of so increasing the limit of indebtedness of the school district, the limit of indebtedness of said school shall thereafter never exceed ten per cent, of the assessed valuation of the taxable property in said school district.

Sec. 5. Where a majority of the votes cast upon this question at such election have been in favor of so increasing the limit of indebtedness of said school district, a record of such fact, setting forth the proceedings connected with the submitting of said question, the result of the election, the number of votes cast for and against the proposition, respectively, shall be made and preserved in the records of the school district; and a certificate, signed by the president of the school board and attested by the clerk thereof, reciting the result of such election and the fact that the limit of indebtedness of said school district has been increased to ten per cent. of the assessed valuation of the taxable property of said district and stating the number of votes cast for and against said proposition, respectively, shall be filed with the county auditor of the county in which said school district is situated, where the said certificates shall be preserved and kept on file.

Sec. 6. EMERGENCY.) This Act is hereby declared to be an emergency, and shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 6th, 1923.

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## CHAPTER 280.

(S. B. No. 37—Kelsh.)

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### PROCEEDINGS OF THE STATE EDUCATION ASSOCIATION.

An Act to Repeal Section 1119 of the Compiled Laws of 1913 Relating to the Publication of the Proceedings of the State Education Association.

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

Sec. 1. REPEAL.) That Section 1119 of the Compiled Laws of 1913, Requiring the State Superintendent of Public Instruction to Publish the Proceedings of the State Education Association, is hereby repealed.

Approved February 9th, 1923.

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## CHAPTER 281.

(H. B. No. 161—Morton.)

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### FREE TEXT BOOKS.

An Act to Amend Section 1398 of the Compiled Laws of the State of North Dakota for the year 1913 relating to free text books in public schools.

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

Sec. 1. AMENDMENT.) That Section 1398 of the Compiled

Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 1398. FREE TEXT BOOKS PROVIDED. WHEN). Whenever in the judgment of the board it is desirable or necessary to the welfare of the schools in the district or to provide for the children therein better school privileges, or whenever petitioned so to do by two-thirds of the voters of the district, the board shall provide free text books and supplies for all schools under its charge, in such manner as hereinbefore provided. All books purchased in accordance with the provisions of this article shall be paid for out of the school funds of the respective districts, and it shall be the duty of school boards and boards of education to see that sufficient funds are raised and set aside for the purpose of this article. The clerk of each district shall also keep a record of all books furnished the schools in the district and any school board in this state that has adopted the free text book system as hereinbefore provided, must dispense with the free text book system if petitioned so to do by two-thirds of the voters of such district, provided, however, that after the free text book system is adopted, no petition to dispense with the said text book system shall be acted upon by the board of education within a period of four years after the free text book system has been adopted under the provisions of this section; and after the free text book system has been dispensed with, the free text book system cannot be installed until the expiration of four years.

Approved February 27th, 1923.

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## CHAPTER 282.

(H. B. No. 163—Trubshaw.)

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### SCHOOL HOLIDAYS.

An Act to Amend and Re-enact Section 1382, of the Laws of the State of North Dakota for the year 1913 Defining School Year and School Week. Holidays.

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

Sec. 1. AMENDMENT.) That Section 1382 of the laws of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

Sec. 1382. SCHOOL YEAR AND SCHOOL WEEK DEFINED. HOLIDAYS.) The school year shall begin on the first day of July and close on the thirtieth day of June of each year. A school week shall consist of five days and a school month of twenty days. Pro-

vided, that on February twelfth (Lincoln's Birthday), February 22nd (Washington's Birthday), the first Monday in September (Labor Day), the twelfth day of October (Discovery Day), the eleventh day of November (Armistice Day), excepting in those communities where community celebrations are held on that day, every day on which an election is held throughout the state, excepting in such districts where the school houses are used for polling places, the schools shall be in session as usual and at least one hour of the day shall be devoted to patriotic exercises, consistent with the day, unless such day shall fall upon Saturday or Sunday. Provided, further, that any teacher who cannot use an absent voters' ballot shall, if it is necessary, be excused from school work on any day on which an election is held throughout the state, without loss of pay in order to go to the home precinct to vote. No school shall be taught on any of the other legal holidays and if they fall upon a day which would otherwise be a school day, they shall be counted and the teacher paid therefor.

A legal holiday in term time falling upon a day which would other wise be a school day, shall be counted, and the teacher paid therefor.

Approved February 27th, 1923.

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## CHAPTER 283.

(H. B. No. 49—Frandsen.)

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### SCHOOLS, ORGANIZATION BY PETITION.

An Act to Amend and Re-enact Section 1188 of the Compiled Laws of the State of North Dakota for the year 1913, relating to the organization of schools by petition.

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

Sec. 1. AMENDMENT.) Section 1188 of the Compiled Laws of the State of North Dakota for the year 1913, is hereby amended and re-enacted so as to read as follows:

Sec. 1188. SCHOOLS TO BE ORGANIZED ON PETITION ) If a petition signed by the persons charged with the support and having the custody and care of nine or more children of the compulsory school age, determined by Section 1342 of the Compiled Laws of the State of North Dakota for the year 1913 and acts amendatory thereto, all of whom reside not less than two and one-half mile from the nearest school, is presented to the board, asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor, if a suitable room for such school can be leased or rented at some proper location not more than two and one half miles distant from the residence of anyone of such children, and if no suitable room for such school can be

leased or rented, the board shall call a meeting of the voters of the district for the selection and purchase or erection of a school house, as provided for in section 1185. If at such meeting no such site is selected or if it is not voted to erect or purchase a school house for such school, the board shall select and purchase a school site and erect, purchase or move thereon a school house at a cost of not more than Twelve Hundred Dollars for such school house and furniture therefor; provided, that the provisions of this Section shall not apply in any instances where schools have been consolidated in accordance with the provisions of section 1190.

Sec. 2. REPEAL.) All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 19th, 1923.

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## SESSION LAWS OF 1919

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### CHAPTER 284.

(S. B. No. 207—Gardiner.)

(Joint Resolution.)

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### SESSION LAWS OF 1919.

#### AN ACT.

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

WHEREAS, Both the Popular and the Authenticated editions of the 1919 Session Laws, have been exhausted; and

WHEREAS, There is a great demand for this publication of session laws, by the people of our own state, as well as people of neighboring states, because of their peculiar importance.

THEREFORE, Be It Resolved, by the Senate and House of Representatives of the Eighteenth Legislative Assembly, that the Secretary of State, be authorized to re-publish the 1919 Session Laws in Popular Edition form, to the number of five hundred copies, 250 copies which shall be of the popular edition and 250 copies of the permanent edition, and that these books shall be sold to the public at as near the cost of production, as will recompense the State for the publication cost, and be it further resolved, that the cost of re-publishing these laws, shall be paid out of the Legislative Expense fund.

Approved March 1st, 1923.

## SHERIFF

### CHAPTER 285.

(H. B. No. 34—McGauvran.)

#### LIVERY HIRE, REPEAL.

An Act to Repeal Section 3522 of the Compiled Laws of North Dakota for 1913, Providing for Livery Allowed Sheriffs.

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

Sec. 1. REPEAL.) That Section 3522 of the Compiled Laws of North Dakota for 1913 be and the same is hereby repealed.

Approved February 19th, 1923.

### CHAPTER 286.

(H. B. No. 35—McGauvran.)

#### MILEAGE.

An Act to Amend and Re-enact Section 3521 of the Compiled Laws of North Dakota for the Year 1913, Prescribing the Rate of Mileage Allowed the Sheriff.

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

Sec. 1. AMENDMENT.) Section 3521 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 3521. MILEAGE.) In addition to the salary prescribed by the preceding section the sheriff or his deputy or deputies shall be allowed twenty cents per mile for each and every mile actually and necessarily traveled in the performance of any of their official duties when such travel is by motor vehicle or by team; and that the sheriff or his deputy or deputies shall be allowed ten cents per mile for each and every mile actually and necessarily so traveled by rail; provided, however, that in lieu of such mileage any sheriff shall be allowed actual expenses only in travel outside of the State on official business.

Approved March 7th, 1923.

## SPECIAL ASSESSMENTS

### CHAPTER 287.

(S. B. No. 326—Byrne, by request.)

#### SPECIAL ASSESSMENT FUNDS.

An Act to Amend Section 3711 of the Compiled Laws of the State of North Dakota for the year 1913, and to Provide for Special Assessment Funds, the Issuance and Payment of Warrants.

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

Sec. 1. That Section 3711 of the Compiled Laws of the State of North Dakota for the year 1913 as hereby amended and re-enacted so as to read as follows:

Sec. 3711. SPECIAL ASSESSMENT FUNDS. WARRANTS.) All special assessments levied under the provisions of this article shall constitute a fund for the payment of the cost of the improvement for the payment of which they are levied, and shall be diverted to no other purpose, and those for the payment of sewer improvements shall be designated respectively "sewer district No.....fund" and such funds shall be numbered according to the number of sewer district in which it is raised; those collected for the paving improvements shall be designated as "paving district No.....fund" and such fund shall be numbered according to the paving district in which it is raised; and those levied for the payment of water claims shall be known as "water main district No.....fund" and such fund shall be numbered according to the numbers of the water main district in which it is raised; those levied for water works improvements shall be designated as "water works district No.....fund" and such fund shall be numbered according to the number of water works district; and those levied for the payment of grading, curbing, graveling, macadamizing or guttering of any street, highway, alley, lane or public place in such city, or of planting trees constructing grass plots or sowing grass seed thereon, or of maintaining and preserving any one or more of such improvements shall be known as "improvement district No.....fund," and such fund shall be numbered according to the number of the improvement district in which it is raised; and in anticipation of the levy and collection of such special assessments, the city may, at any time after the making of a contract for any such improvements, issue warrants, on such fund, payable at specified times; (provided, that the first maturity of said warrants, or any of them shall not be less than two years from



the date of issue) and said warrants shall be issued in such amounts as, in the judgment of the city council, the taxes and assessments will provide for, which warrants shall bear interest at the rate of not to exceed seven per cent per annum, payable semi-annually, and may have coupons attached representing each half year's interest, provided that special assessments levied for maintaining grass plots or trees, parking or other improvements for the beautifying of the city streets, shall be payable in a single amount. Such warrants shall state upon their face for what purpose they are issued, and the fund from which they are payable, and shall be signed by the mayor and countersigned by the city auditor, under the seal of the city, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making such improvements or may be sold for cash, at not less than the par value thereof, and the proceeds thereof credited to such fund, and used for paying such improvements. It shall be the duty of the city treasurer to pay such warrants and interest coupons as they mature and are presented for payment out of the district funds on which they are drawn, and to cancel the same when paid.

Approved March 1st, 1923.

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## CHAPTER 288.

(S. B. No. 278—Garberg.)

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### WATER MAIN ASSESSMENTS.

An Act to Amend and Re-enact Section 3718 of the Compiled Laws of North Dakota for the year 1913, Relating to Extension of Water Main Assessments.

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

Sec. 1. AMENDMENT.) That Section 3718 of the Compiled Laws of North Dakota for the year 1913, is hereby amended and re-enacted to read as follows:

Sec. 3718. WATER MAIN ASSESSMENTS EXTENDED TWENTY YEARS.) The special assessments herein provided for the payment of the cost of any water mains, shall be payable in equal annual amounts, extending over a period of not exceeding twenty years, and shall bear interest at a rate not to exceed seven per cent per annum on the total amount of such assessments remaining from time to time unpaid; provided, however, that in all cities having less than two thousand inhabitants, the city council may by ordinance or resolution provide that any such special assessment, which has heretofore or may hereafter be levied, shall be

extended over a period of less than twenty years; and the city council is authorized by ordinance or resolution to fix the period over which such assessments shall be extended, not exceeding, however, in all twenty years.

Sec. 2. REPEAL.) All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 26th, 1923.

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## STATE BONDS

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### CHAPTER 289.

(H. B. No. 232—Ulland.)

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#### CANCELLATION AND RE-ISSUE OF BONDS.

An Act Providing for the cancellation and destruction of negotiable bonds and interest coupons accompanying the same, heretofore, or hereafter issued by the State of North Dakota, in any case where such bonds have matured and have been paid, or where such bonds have become mutilated or defaced in the course of issuing, negotiating or delivering the same, or where such bonds have been issued and remain unsold, or where bonds are re-transferred for cancellation; and providing for the re-issue of New Bonds in lieu of such unsold, mutilated or defaced or retransferred bonds which have been cancelled and destroyed.

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

Sec. 1. At any time after the maturity and payment of any negotiable bond or bonds heretofore or hereafter issued by the State of North Dakota; or in any case where any negotiable bond or bonds heretofore or hereafter issued by the State of North Dakota have become mutilated or defaced in the course of issuing, negotiating or delivering the same; or in case any bonds of denominations of less than \$1,000.00 each have been heretofore issued and sold, and are re-transferred to the State of North Dakota for cancellation, or at any time after the expiration of six months from the date of issue of any negotiable bonds heretofore or hereafter issued by the State of North Dakota, and such bonds are and remain unsold; such bonds, and the interest coupons accompanying the same, shall be cancelled and destroyed in the presence of the Governor, the Secretary of State, and the State Treasurer. Provided, that before any such unsold bonds, or any mutilated or defaced bonds, or bonds re-transferred

for cancellation, and the interest coupons accompanying the same, are so cancelled and destroyed, a resolution, directing such cancellation and destruction, and designating the bonds and coupons to be cancelled and destroyed, shall be adopted and signed, in duplicate, by the Industrial Commission or by a majority of the members thereof. One duplicate of said resolution shall be filed in the office of the Industrial Commission, and the other duplicate of said resolution shall be filed in the office of the State Treasurer. Within thirty days after the cancellation and destruction of said bonds and coupons, there shall be filed in each of said offices, there to be kept on file with the resolution to which it refers, a certificate, signed by the Governor, the Secretary of State, and the State Treasurer; showing the cancellation and destruction of such bonds and coupons to have been done and performed in accordance with the terms of said resolution. Provided, that after the cancellation and destruction of such unsold bonds and coupons or bonds re-transferred to the State for Cancellation, they shall not be considered as constituting any part of the series or issue of bonds to which they belonged, and there may be issued in lieu thereof, by the proper authorities and in conformity with the provisions of the Act authorizing their issue in the first instance, new bonds of the same series, in such denominations and bearing such rate of interest as the Act under which they are issued prescribes, but not exceeding in the aggregate the par value of the bonds so cancelled and destroyed. And provided further, that in any case where mutilated or defaced bonds have been so cancelled and destroyed, such bonds shall not be considered as constituting any part of the series or issue of bonds to which they belonged, and there shall be issued in lieu thereof, by the proper authorities, new bonds of like amount, and upon the same terms and conditions as the bonds which they replace.

Sec. 2. EMERGENCY.) This act is hereby declared to be an emergency, and shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 1st, 1923.

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## CHAPTER 290.

(S. B. No. 275—Lynch.)

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### HOME BUILDING BONDS, REPEAL.

An Act to Repeal Chapter 24 of the Special Session Laws of North Dakota for the year 1919. Providing for the Issuing of Bonds of the State of North Dakota in a Sum not Exceeding Two Million Dollars to be Known as "Bonds of North Dakota, Home Building Series."

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

Sec. 1. That Chapter 24 of the Special Session Laws of

North Dakota for the year 1919 be, and the same hereby is, repealed.

Approved March 1st, 1923.

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## CHAPTER 291.

(H. B. No. 243—Freeman.)

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### MILLING BONDS.

An Act Authorizing the Issue of Milling Bonds of the State of North Dakota to the Amount of Two Million Dollars (\$2,000,000) and Providing for the Payment thereof.

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

Sec. 1. There is hereby authorized to be issued, from time to time, Milling Bonds of the State of North Dakota to the amount of Two Million Dollars (\$2,000,000), in denominations of One Thousand Dollars (\$1,000.00) each, becoming due not more than twenty years after date and bearing interest at the rate of not more than six (6) per centum per annum payable semi-annually. Both principal and interest of said bonds shall be payable at the office of the State Treasurer at Bismarck, North Dakota and at some bank in the City of New York, state of New York. Said bonds shall be signed by the Governor and State Treasurer and attested by the Secretary of State, with the seal of the State affixed. The coupons evidencing the interest thereon shall be executed with the facsimile signature of the State Treasurer. The State Auditor and the Secretary of State shall endorse upon each bond a certificate showing the same to have been issued pursuant to law and within the debt limit.

Sec. 2. Before any bonds shall be issued the Industrial Commission shall cause an appraisal to be made of the grain and grain products parcel of the personal property of the North Dakota mill and elevator Association, and thereafter may by resolution authorize the said bonds to the extent of the value of said grain and grain products as fixed by said appraisal. The proceeds of said bonds shall be used for the sole purpose of purchasing grain for said industry, and the said grain so purchased shall at once become subject to the lien of the mortgage securing said bonds hereinafter authorized. In making appraisals, after the first, there shall first be set apart and excluded therefrom sufficient grain and grain products fully to cover prior pledges thereof under this act. The amount of grain and grain products on hand shall at all times have an appraised value equalling or exceeding the par value of the Milling bonds at any time outstanding. Copies of all appraisals, authenticated

by the signatures of the appraisers, shall be filed with the State Treasurer and be attached to the said mortgage. Each appraisal shall include all grain and grain products on hand when the same is made.

Sec. 3. In order at all time amply to secure the said Milling Bonds there shall be made, executed and delivered to the State Treasurer and his successors in office, a first mortgage on grain and grain products owned by said North Dakota Mill and Elevator Association to the extent of an appraised value equal to the amount of such outstanding milling bonds pledging the same for the payment of said Milling Bonds. The said Milling bonds and the mortgage securing the same shall be authorized by the Industrial Commission by resolution duly passed and said bonds when executed shall be delivered to the Industrial Commission for sale.

Sec. 4. Authority is hereby granted to said North Dakota Mill and Elevator Association to manufacture all wheat owned by it into flour, and the lien of the mortgage authorized by Section 3 of this Act shall continue on the same during the process of manufacture and remain upon the finished products. The finished product may be sold, whereupon the proceeds to the extent of the value of the raw product contained therein shall be deposited in the Bank of North Dakota and withdrawn for the sole purpose of purchasing additional grain which shall at once become pledged under the said mortgage. All such monies not used for the purchase of grain shall be and remain as a fund for the purchase or payment of the principal and interest of said Milling Bonds. Every such bond and coupon must be presented for payment at the office of the State Treasurer within six years from the date of its maturity; and no such bond or coupon shall bear interest after maturity unless payment thereof shall not be made upon due presentation for payment.

Sec. 5. From time to time the Industrial Commission shall, out of the earnings derived from the operation of the Association, pay to the State Treasurer such moneys as the Commission shall deem available to devote to the purpose of paying said bonds and interest. In making such payment the Commission shall file a statement with the State Treasurer specifying the purpose of such payment. When moneys shall have been so paid to the State Treasurer, he shall apply the same to their specified purpose as hereinafter directed.

Sec. 6. At the time of each annual meeting of the State Board of Equalization hereafter, the Industrial Commission shall deliver to said board an exact written statement of all bonds issued under the provisions of this Act outstanding at that time, including therein the dates of maturity, interest rates and all other information proper to enable the board intelligently to comply with the provisions of this Act in regard to tax levies. On the

basis of such information, the State Board of Equalization shall annually levy a tax, at the time other taxes are levied, sufficient in amount to pay such interest on said bonds as will become due during the year beginning on the next ensuing first day of January, and said tax shall be collected in the same manner as other state taxes are collected. In determining, however, the amount of the tax sufficient for such purpose the Board of Equalization shall take into account whatever moneys, if any, shall then have been paid to the State Treasurer by the Industrial Commission, as provided, in this Act, for the specific purpose of paying such interest. The Board of Equalization shall apply to the State Treasurer for information as to the amount of such moneys, and he shall forthwith supply the information requested. If the amount of such moneys shall equal or exceed the amount of the interest on said bonds payable during said year beginning on the next ensuing first day of January, then no tax shall be levied by the Board of Equalization for that purpose; but if the amount of such moneys shall be less than the amount of the interest on said bonds payable during said year, then the Board of Equalization shall deduct the amount of said moneys in the possession of the treasurer from the amount of the interest so payable, and shall levy the tax herein before in this section provided for at least the difference between said amounts.

Sec. 7. Whenever, it shall appear to the Board of Equalization from the information contained in any statement delivered to it by the Industrial Commission at any annual meeting of said Board, as provided in Section 6 above, that there will mature, within a period of five years from such annual meeting, any of the bonds provided for in this Act, the Board of Equalization shall thereupon, at such annual meeting, levy a tax in an amount equal to one-fifth of the amount of the principal of such bonds; provided, however, that in determining the amount of such tax, the Board of Equalization shall take into account whatever moneys, if any, shall have been paid to the State Treasurer by the Industrial Commission for the specific purpose of paying the principal of said bonds when due, as provided in Section 5 of this Act. The Board of Equalization shall apply to the State Treasurer for information as to the amount of such moneys and as to the times when paid to him. If the amount of such moneys paid to the treasurer since the date of the last preceding tax levy made by the Board of Equalization, shall equal or exceed one-fifth of the amount of the bonds so to mature, then such tax shall not be levied; but if the date of the last preceding tax levy shall be less than one-fifth of the amount of said bonds so to mature, then the Board of Equalization shall deduct the amount of such moneys, so paid from such one-fifth of said bonds, and shall levy the tax, hereinbefore in this Section provided, for the difference. It is the intention of this section to provide that in

each of the last five years before the maturity of any of said bonds, a state tax shall be levied which, together with such moneys as shall during the next preceding year have been paid to the State Treasurer, by the Industrial Commission for the purpose, shall be at least sufficient to pay one-fifth part of the principal of said bonds.

Sec. 8. There is hereby appropriated, all of the moneys obtained as proceeds of the taxes provided for in Sections 6 and 7 above, and all moneys paid to the State Treasurer by the Industrial Commission as specified in Section 5 above, and all moneys constituting the Mill and Elevator Bond Payment Fund, or so much thereof as may be from time to time necessary, to pay the interest and principal upon the said bonds as payments thereon shall become due; and whenever any of said bonds, or any coupons thereon being due, shall be presented for payment, the State Treasurer shall pay the same out of the fund applicable thereto. If for any reason the said fund shall, for the time being be insufficient the treasurer shall supply the deficiency out of any other available moneys of the state in his custody; but in that case he shall as soon as possible, out of the Mill and Elevator Bond Payment Fund, return the amount of such deficiency to the source whence taken.

Sec. 9. Delivery of the said bonds to the State Treasurer shall be deemed sufficient delivery in law, and no subsequent change in the officers signing the same shall affect their execution or standing as obligations of the State.

Sec. 10. An emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Approved February 27th, 1923.

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## CHAPTER 292.

(H. B. No. 305—Carr.)

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### REAL ESTATE SERIES.

An Act Providing for the Issue of Bonds on the State of North Dakota in a Sum Not Exceeding Twenty-five Million Dollars to be Known as "Bonds of North Dakota, Real Estate Series;" Prescribing the Terms and Stating the Purpose Thereof; Providing for a Tax and Making Other Provisions for the Payment of Interest and Principal on State Bonds, and to Carry Into Effect the Provisions of this Act; and Declaring this Act to be an Emergency Measure.

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

Sec. 1. An issue of bonds of the state of North Dakota to be known as "Bonds of North Dakota, Real Estate Series," is

hereby authorized and directed under the conditions and in the manner and for the purposes hereinafter set forth.

Sec. 2. Whenever first mortgages upon real estate, such as are authorized by Chapter 147 of the Laws of North Dakota for the year 1919, shall be held by the Bank of North Dakota, securing a total amount of unpaid mortgage loans in the sum of at least one hundred thousand dollars, the Industrial Commission may cause such mortgages, or such of them as it shall think proper, but not less than the total amount of one hundred thousand dollars, to be assigned together with the obligations thereby secured, to the State Treasurer. The assignment of each such mortgage and obligation shall be executed by the Manager of the Bank of North Dakota and shall recite that it is made to "The State Treasurer of North Dakota, and his successors in office in trust, as security for bonds to be issued under the designation of bonds of North Dakota, Real Estate Series, as provided by law" and it shall be duly recorded by said Manager in each County in which the lands affected by the mortgage are situated. As soon as such assignments are recorded, they with the instruments assigned shall be delivered to the State Treasurer, and at the same time the Manager of the Bank shall deliver to the State Treasurer a verified statement showing the amount remaining unpaid on each such obligation, secured by the mortgages so delivered.

Sec. 3. Upon receiving such instruments, the State Treasurer shall notify the Governor, the State Auditor and the Secretary of State, each of whom shall immediately inspect them. Thereupon the State Treasurer shall immediately prepare for issue, and the Governor and State Treasurer shall thereafter issue, negotiable bonds of the State of North Dakota in an amount not exceeding the principal of the outstanding loans secured by the mortgage so delivered to the State Treasurer. Each issue of bonds shall be designated by a serial figure or figures, or by a serial letter or letters, or by a combination of both figures and letters, which designation shall be different from that of every other issue, and all mortgages securing said bond issues shall be given a serial designation. Each of the bonds so issued shall contain a recital that it is secured by real estate first mortgages deposited with the State Treasurer of North Dakota in pursuance of the provisions of this act which may be cited as the "Second Real Estate Bond Act of North Dakota." Said bonds shall be executed by the Governor and State Treasurer under the Great Seal of the State and shall be attested by the Secretary of State. The Auditor and Secretary of State shall endorse and sign on each bond issued, a certificate showing that it was issued pursuant to law and is within the debt limit. The bonds so issued shall be designated "Bonds of North Dakota, Real Estate Series."



Sec. 4. The bonds so issued shall be payable to the purchaser or bearer; provided, however, that the provisions of Sections 151 and 152 of the Compiled Laws of North Dakota for the year 1913, are hereby declared to apply to them. They shall be issued in denominations of from One Thousand Dollars to Ten Thousand dollars, and shall be payable in not less than ten or more than thirty years from the passage of this Act; providing, however, that at the option of the Industrial Commission they may when issued be made payable at any time after five years from the date of their issue, upon notice given by the Industrial Commission that they shall mature and become payable at a date not less than one year from the time of the giving of such notice. They shall bear interest at a rate not exceeding six percent per annum from their date until maturity, payable semi-annually on the first day of January and July in each year; and coupons shall be attached to each bond, evidencing the amount of interest payable on each first day of January and July until maturity, unless and until the holder or purchaser shall have exercised the privilege granted by Sections 151 and 152 of the Compiled Laws of North Dakota for the year 1913. The principal and interest shall be payable at the office of the State Treasurer in Bismarck; or at a bank or trust company in the City of New York. The terms of said bonds as to denominations, period of maturity, and rate of interest shall be fixed by the Industrial Commission within the limitation above stated. Each such bond and coupon must be presented at the office where the same is payable within six years from the date of its maturity; and no such bond or coupon shall bear interest after maturity unless payment thereof shall not be made upon due presentation for payment.

Sec. 5. The said issue of bonds is authorized for the purpose of making delivery thereof to the Industrial Commission of North Dakota, as hereinafter provided, to the end that the said Commission may, by negotiation and sale of said bonds, procure necessary funds for the Bank of North Dakota, thus replacing in said Bank the funds employed by it from time to time in making loans upon first mortgages of real estate.

Sec. 6. In furtherance of the purposes declared by this Act, it is hereby made the duty of the Governor and the State Treasurer after the issue, execution, sealing and attestation of said bonds, to deliver them to the Industrial Commission, in such denominations and amounts, bearing interest at such rates, and running to such period of maturity, as may be required by the Commission, within the limitations hereinbefore stated. The Industrial Commission is authorized and directed, in connection with and in addition to its other powers and duties, to act as the agent of the State for the negotiation, sale and delivery of said bonds. It shall sell them at not less than par value for cash in such

manner and at such times as in its sound discretion it shall deem most advantageous to the interests of the State. The Commission is hereby authorized to receive all moneys paid by buyers of said bonds, upon the sale thereof, and upon receipt of the purchase price to deliver to each purchaser the bonds by him purchased. Upon such delivery of bonds so purchased and paid for, the faith and credit of the State of North Dakota is pledged for the payment thereof, both principal and interest, to the lawful holder and owner thereof, upon presentation for payment, according to law. The moneys so derived and received from the sale of said bonds shall be placed by the Industrial Commission in the funds of the Bank. Provided, however, where any bonds issued hereunder shall be sold at a premium, such moneys to the extent of the amount of such premium shall be delivered to the reimbursement of the Bank of North Dakota for the expenses of conducting the work in the department.

Sec. 7. After such assignment of any mortgage, and the obligation thereby secured, all payments accrued thereon, shall be made to the State Treasurer. He shall hold and use said mortgages, obligations and the moneys paid thereon, in trust; First, for the security and payment of bonds to be issued as herein provided, and, second, for re-delivery to the Bank of such remaining part or balance thereof as may come within the provisions hereinafter stated. He shall keep said moneys in a separate fund designated the "Real Estate Bond Payment Fund," apart from all other funds in his possession; and the provisions of Section 7 of Chapter 147 of the Laws of 1919 and Acts amendatory thereof, shall not apply thereto. He shall also keep in said fund, as a part thereof, for the same purpose and in the same manner and under the same conditions, all moneys received by him, whether from the proceeds of taxes, or from payments made by the Industrial Commission or from Legislative Appropriation, or otherwise, which shall be by law or by other authoritative designation made applicable to said bonds, or interest thereon. No other disposition, by appropriation or otherwise, shall ever be made of the moneys in said funds until said bonds shall be fully paid, or until the time limit by law for the payment thereof shall have expired; provided, however, that if any of said bonds issued and delivered to the Industrial Commission, as hereinbefore provided, shall be returned to the State Treasurer, not sold, then such returned bonds shall not be deemed a part of the bond issue secured by such fund.

Sec. 8. The State Treasurer shall pay interest on said bonds upon presentation to him of the coupon for such interest when due, and shall redeem said bonds upon their maturity by paying the principal thereof, all such payments being made from the Real Estate Bond Payment Fund, without Auditor's warrant.

Each payment so made, in addition to other accounting as provided by law, shall be reported to the Bank of North Dakota. Provided, however, the Board of Auditors and the Governor may designate a bank or trust company as the fiscal agent of the State in the City of New York, at which or to whom bond, principal, or interest may be payable; which agent shall act for the State in the making of such payments under such rules and regulations as shall be made by the Board of Auditors and the Governor. All moneys in said fund except an administration fee of one half of one per cent hereinafter required to be paid to the Bank of North Dakota, are hereby appropriated for the payment of interest and principal of said bonds, and this appropriation shall not be repealed, and no provisions made in the Act for the payment of said bonds and interest shall be discontinued until the debt evidenced by said bonds, both principal and interest shall have been paid.

Sec. 9. If the obligation secured by any such mortgage so held by the State Treasurer shall not be performed by the mortgagor, according to its terms, or if any condition expressed in any such mortgage shall not be performed and kept according to its terms, the State Treasurer shall certify the facts to the Manager of the Bank of North Dakota, who shall proceed as Agent of the State Treasurer as Trustee for the State of North Dakota by foreclosure or otherwise to make collection of the obligation secured, and it is hereby made the duty of the Bank of North Dakota to make collection of principal and interest on all mortgages taken hereunder, and it shall be the duty of the State Treasurer, from time to time, to certify to the Bank of North Dakota a list of such obligations and mortgages delivered to him, showing payment made and amounts remaining unpaid, to the end that a duplicate record may at all times be kept up to date in the Bank of North Dakota. The Bank of North Dakota, shall each business day, turn over to the State Treasurer and take receipt for all moneys collected by it on the preceding business day with an itemized statement showing on which obligations such payments and collection have been made and are to be credited, together with the date of payment. The mortgagor may make payment direct to the State Treasurer and he shall daily as such payments are made, make an itemized statement and report thereof to the Bank of North Dakota. In case default shall occur in the payments or conditions of any mortgage, heretofore or hereafter taken, which default shall continue for a period of one year, then, and in that case, it shall be the duty of the Bank of North Dakota to foreclose upon such mortgage or to otherwise make collection of the obligation thereby secured: provided, however, that no Power of Attorney or Attorneys Affidavit as to fees, shall be required, but there shall be included in the item of cost of such foreclosure all legal costs and disbursements incurred

which shall belong to the Bank of North Dakota and be credited to the Department therein handling such collection and foreclosure proceedings. If at such foreclosure sale no bid is made equal to the amount due at the date of sale including costs, disbursements and statutory attorney's fees, the property shall be bid in in the name of the State Treasurer as trustee for the State of North Dakota. After deducting the cost and expenses of foreclosure including any interest paid to affect redemption from such sale, the proceeds of such sale or the proceeds of a redemption from such sale in case redemption is made, shall be paid over to the State Treasurer and shall by him be used to purchase at the then current market price, as nearly as may be possible, an equivalent amount in bonds issued in accordance with this Act, or he may require the Bank of North Dakota to substitute new mortgages therefor as provided in Section 10 of this Act. The bonds so purchased by the State Treasurer shall be cancelled by a Board consisting of the Governor, State Treasurer and Secretary of State. An appropriate record thereof shall be made and kept by the State Treasurer. In case no redemption is made from such foreclosure sale in a manner provided for by law, a Sheriff's deed shall be issued to the "State Treasurer as Trustee of the State of North Dakota." Any taxes then remaining unpaid thereon shall be cancelled and abated by the Board of County Commissioners of the county wherein such land is situated. Any land, title to which is acquired through foreclosure, may be sold by the State Treasurer as such Trustee, through the Bank of North Dakota acting as his Agent, for the best price and terms obtainable, all proceeds of such sales shall accrue to the Real Estate Bond Payment Fund. Any such sale must be approved in writing by the Industrial Commission, and any deed or contract for deed, shall be executed by the Treasurer of the State of North Dakota as Trustee.

Sec. 10. The State Treasurer shall from time to time, at the request of the Bank of North Dakota, give information as to the amount of cash balance in his hands credited to said Real Estate Bond Payment Fund. If such balances shall include funds received by him upon the payment of the principal sum loaned upon any such mortgage, the Bank may, to the extent of such principal sums so paid, substitute therefor new mortgages, together with the obligations thereby secured, to the same effect as in the case of the mortgages and obligations originally delivered as the basis of the issue of such bonds, and upon such delivery and substitution of such new mortgages the State Treasurer shall pay to the Bank the amount thereof, and such mortgages so substituted shall become and continue a part of the body of said trust, the same as the mortgages and obligations originally delivered to the State Treasurer therefor; provided, however, that unless the amount of the mortgages in such fund falling due

before bonds secured thereby, is sufficient to pay such bonds, the Treasurer shall reserve sufficient cash for that purpose.

Sec. 11. All such bonds shall be exempt from State, County and municipal taxes of any and all kinds.

Sec. 12. If at the time of the annual meeting of the State Board of Equalization, the moneys in the Real Estate Bond Payment Fund shall appear to the State Treasurer to be insufficient to meet the payments of interest or principal upon said bonds accruing within a period of one year thereafter, he shall so inform the State Board of Equalization, which shall thereupon proceed to include in the annual tax levy, such tax as in its judgment shall be necessary to meet the indicated deficiency, and the proceeds of such tax shall be placed by the State Treasurer in said fund.

Sec. 13 The powers herein granted may be repeatedly exercised and the duties following thereupon shall be likewise repeatedly performed, from time to time as the occasion may arise under the terms of this Act; provided, however, that at no time shall the amount of bonds issued and outstanding pursuant to the terms of this Act, exceed the amount of twenty-five million dollars. The State Treasurer shall pay to the Bank of North Dakota, quarterly on the first day of January, April, July, and October in each year, the administration charge included in the interest rate upon all mortgages deposited with him.

Sec. 14. From and after the taking effect of this Act no further bonds shall be issued by the State of North Dakota under the provisions of Chapter 154 of the Laws of 1919, as amended by initiated law approved by the people on June 28th, 1922. but no part of said act is repealed or limited in any other respect, but as to all other matters the same shall remain in full force and effect until all of the obligations incurred thereunder have been fully paid; provided, however, that, in case any section or clause of this act shall be declared by the courts to be inoperative, the remainder thereof shall nevertheless be in full force and effect.

Sec. 15. EMERGENCY.) Whereas, the Bank of North Dakota is about to prepare a new amortization table and it is desirable that the period of amortization be made approximately thirty years, now, therefore, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after March 31, 1923.

Approved March 3rd, 1923.

## CHAPTER 293.

(S. B. No. 224—Levang.)

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## STATE BONDS, WHERE PAYABLE.

An Act Relating to the Place of Payment of All State Bonds of the State of North Dakota.

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

Sec. 1. All state bonds hereafter issued shall be made payable at the State Treasurer's office, Bismarck, North Dakota, or at some bank or trust company in the City of New York, State of New York. The parties who are charged with the duty of preparing such bonds may make them payable at either of the above places as they deem most expedient.

Approved February 24th, 1923.

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## STATE INDUSTRIES

## CHAPTER 294.

(S. B. No. 277—Lynch.)

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## LIQUIDATING THE HOME BUILDING ASSOCIATION.

An Act Transferring to the Industrial Commission the Custody, Control and Management of the Property and Assets of the Home Building Association of North Dakota for the Purpose of Liquidating and Winding up the Business and Affairs of said Home Building Association of North Dakota, Defining the Powers and Authority of the Industrial Commission with Reference thereto, Defining the Rights and Liabilities of Applicants for Homes and Purchasers, and Repealing Chapter 150 of the Session Laws of North Dakota for the year 1919, and Chapter 39 of the Special Session Laws of North Dakota for the year 1919.

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

Sec. 1. There is hereby transferred to the Industrial Commission, and said Industrial Commission is hereby authorized and empowered to receive, accept and take over, the custody, control and management of all the property and assets, of whatsoever name, nature and description, heretofore owned, held, controlled, or possessed by the Home Building Association of North Dakota, for the purpose of liquidating and winding up the business affairs of said Home Building Association of North Dakota. To that end the Industrial Commission is hereby vested with full power and authority to

do any and all acts and things necessary, convenient or incident to effect such liquidation and winding up of the business and affairs of said Home Building Association of North Dakota, hereinafter referred to as the Association.

Sec. 2. As a part of the power and authority so vested in the Industrial Commission, but not as a limitation or restriction upon its powers and authority, the Industrial Commission shall have the power to bring and defend actions or proceedings relating to the business and affairs of said Association, or relating to the liquidating or winding up of its business and affairs; to take and keep possession of the property and assets of said Association; to receive the rents and payments of the purchase price of homes built, or homes and property sold by said Association; to collect the debts of said Association; to compromise claims or accounts; to rent homes and property owned by said Association; to sell for cash or upon deferred payments, at the best price and terms obtainable, the property of said Association, including homes already built; to take, satisfy, discharge or assign mortgages, notes and contracts, and to make conveyances; provided, that in all sales of homes hereafter made, the purchaser shall be required to pay all taxes and assessments levied or assessed against the premises, before the same shall become delinquent, and also to keep the buildings thereon insured against loss or destruction by fire, windstorm or tornado, at the expense of the purchaser, with a provision in the contract or mortgage that the loss, if any, shall be payable to the Industrial Commission, as its interest may appear.

Sec. 3. Written instruments, assignments, contracts and conveyances shall be executed in the name of "The State of North Dakota, as Successor in Interest of the Home Building Association of North Dakota, Dissolved," signed by any two members of the Industrial Commission, of whom the Governor shall be one. Any such written instrument shall contain a recital that it is made pursuant to this Act, and citing the same by its Bill number and title, with the date of the approval thereof, or by its proper chapter number of the Session Laws of 1923.

Sec. 4. All valid contracts entered into by said Association, as provided for in Chapter 150 of the Session Laws of North Dakota for the year 1919, and Acts amendatory thereof, are hereby expressly recognized, and any rights or liabilities accrued in favor of, or against, said Association, as provided for in said Chapter and Acts amendatory thereof, shall be deemed existing in favor of and binding upon the Industrial Commission.

Sec. 5. The Industrial Commission shall have the power and authority to sell, assign, transfer and deliver to the Bank of North Dakota, or to any other purchaser or assignee, any and

all mortgages, notes and contracts heretofore or hereafter held or owned by said Association, or by the Industrial Commission under this Act. Funds coming into the hands of the Industrial Commission in connection with the liquidating and winding up of the business and affairs of said Association, and any funds that have heretofore accrued, or that may hereafter accrue, to the said Association by law or from any source, shall be used by the Industrial Commission to pay and discharge the debts, liabilities and obligations of said Association, and of the Industrial Commission in affecting such liquidation and winding up of said business and affairs, after the payment of salaries, expenses and other expenditures necessary or incident to such liquidation and winding up of said business and affairs.

Sec. 6. In any case where said Association has heretofore built a home for an applicant, and there is a dispute between the Industrial Commission and the applicant as to the amount of the sale price of such home, all other terms and conditions of such sale being agreed to in writing, and the applicant desires to purchase said home at the market price thereof at the time such applicant entered into possession of such home, the applicant may, by an application therefor, in writing, made to the Industrial Commission, demand that the question as to the market value of said home at the time such applicant entered into possession thereof shall be submitted to arbitration in the following manner: The applicant shall name one arbitrator, the Industrial Commission shall name one arbitrator, and the Supreme Court, upon application made to it, in writing, by said two arbitrators, shall name the third arbitrator. Before entering upon their duties, the arbitrators shall take and subscribe an oath faithfully and fairly to hear and examine the allegations and evidence of the parties in relation to the matters in controversy, and to make a just award as to such market price, according to their understanding. Each arbitrator shall have the power to administer oaths to witnesses. Said three arbitrators, constituting a board of arbitration, shall, at such times and places appointed by them, hold one or more hearings, hear testimony, examine witnesses and documentary evidence relative to the market value of said home, as of the time when the applicant entered into possession thereof, and shall make such other inspection and investigation as they may deem proper. The arbitrators shall make their finding, determining the market value of said home at the aforesaid time. The finding must be in writing, signed by the arbitrators, or a majority of them, and shall be filed with the Industrial Commission, and a duplicate thereof shall be given to the applicant. The market value, as determined by the arbitrators, shall be the selling price of such home, as between such applicant and the Industrial Commission, and each party shall be bound thereby. Witnesses testifying



before such arbitrators shall be entitled to the same fees as witnesses in the district court, which shall be paid by the party calling the witness. Each arbitrator shall receive the sum of five dollars per day for each day's attendance at such hearing, to be paid by the Industrial Commission.

Sec. 7. Civil actions may be brought against the State of North Dakota on account of causes of action claimed to have arisen heretofore out of transactions connected with the operation of said Association, upon condition that the provisions of this section are complied with. In such actions the State shall be designated as "The State of North Dakota, as Successor in Interest of the Home Building Association of North Dakota, Dissolved," and the service of process therein shall be made upon the Governor or the Attorney General. Provided, that any action involving any contract or transaction heretofore had with said Association must be brought against the State, using the aforesaid designation, before the first day of July, 1924, and thereafter all such actions shall be barred. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions brought pursuant to the provisions of the Code of Civil Procedure. Such actions shall be brought, however, in Burleigh County except as provided in Sections 7415, 7416 and 7418, Compiled Laws of North Dakota, 1913. The provisions of Sections 375 and 657 of the Compiled Laws of 1913 shall not apply to claims against the State, affected by the provisions of this section.

Sec. 8. The Industrial Commission is hereby authorized and empowered to employ such agents, attorneys, clerks, stenographers, and accountants as the Commission may deem necessary in order to carry out the provisions of this Act, and shall define their duties and fix the compensation and bonds of all such persons so employed.

Sec. 9. That Chapter 150 of the Session Laws of North Dakota for the year 1919, and Chapter 39 of the Special Session Laws of North Dakota for the year 1919, are hereby repealed.

Approved March 2nd, 1923.

## CHAPTER 295.

(S. B. No. 261—Storstad.)

## NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION.

An Act Re-establishing the North Dakota Mill and Elevator Association, Defining its Powers and Duties, and Providing for the Control, Management, and operation of State Owned Grain Warehouses, Elevators and Flour Mills and the Conduct of all Business relating thereto, especially as Relates to the State Owned Mill and Elevator at Grand Forks and Providing for the appointment of a Board of Managers thereof and Repealing Chapter 152 Laws of North Dakota of 1919, entitled "An Act Declaring the Purpose of the State of North Dakota to Engage in the Business of Manufacturing and Marketing of Farm Products, and for establishing a Warehouse, Elevator and Flour Mill System under the Name of North Dakota Mill and Elevator Association operated by the State, and defining the scope and manner of its Operation, and the Powers and duties of the persons charged with its Management; and Making an Appropriation therefor."

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

Sec. 1. ESTABLISHING NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION.) For the purpose of encouraging and promoting agriculture, the State of North Dakota shall engage in the handling of grain and in the manufacture and sale of flour and its by-products, and for that purpose shall operate and conduct the system of state owned elevators and flour mills now established and heretofore created by law under the name of "North Dakota Mill and Elevator Association," hereinafter for convenience called the Association.

Sec. 2. CONTRACTS RECOGNIZED.) All valid contracts entered into by the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the Session Laws of North Dakota for the year 1919, known as the North Dakota Mill and Elevator Association Act, are hereby expressly recognized, and any rights or liabilities accrued in favor of or against said North Dakota Mill and Elevator Association as Provided for in Chapter 152 of the Laws of 1919 aforesaid, shall be deemed existing in favor of and binding upon the North Dakota Mill and Elevator Association created by this Act. All valid sales and conveyances of property made by the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the laws of 1919, aforesaid, shall be deemed the acts of the North Dakota Mill and Elevator Association, as created by this act, and the title to all property acquired in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the Laws of 1919, aforesaid, shall remain vested in the State of North Dakota, doing business as the North Dakota Mill and Elevator Association under this act.

**Sec. 3. BOARD OF MANAGERS CREATED. APPOINTMENT. TERMS. COMPENSATION.)** There is hereby created a board to be known as the Board of Managers for the North Dakota Mill and Elevator Association, hereinafter referred to as "The Board."

The Board shall be composed of five members. The members shall be appointed within thirty days after the taking effect of this act and for the following terms: Two members whose terms shall expire March 1st, 1925; Two whose terms shall expire March 1st, 1927, and one whose term shall expire March 1st, 1929. Thereafter all members shall be appointed on the first Monday in February in odd numbered years and for terms of six years, such terms to commence March 1st following.

Such Board shall consist of at least one person who has had personal experience as a farmer on the farm and at least two who are experienced in the milling industry and the grain handling business.

If any member of the Board or the Auditor or any other executive officer in the Mill and Elevator Association becomes a candidate for any public office a vacancy shall automatically exist in such position and the vacancy shall be filled immediately by the party whose duty it was to appoint or employ the person whose position has become vacant under this provision.

Board members shall be entitled to a per diem of ten dollars and necessary expenses incurred while in attendance at meetings of the Board.

**Sec. 4. AUDITOR, AND SECRETARY OF BOARD.)** There shall be appointed by the Industrial Commission an Auditor who shall also act as Secretary of the Board, but who shall at all times, be ready to give to the Governor, the Legislature, the Board of Managers, and the Public, any data pertaining to the operations of the Mill and Elevator Association that he can reasonably be expected to furnish. As Secretary of the Board he shall keep a detailed record of all business transacted by it. He shall have his office at the Mill and shall devote his entire time to the duties of his office and shall receive an annual compensation of \$3,000.00 payable monthly. He shall be appointed for a term of three years.

**Sec. 5. VACANCIES.)** Vacancies on the Board or in the office of Auditor, shall be filled by the Industrial Commission for the unexpired term.

**Sec. 6. INDUSTRIAL COMMISSION MAY REMOVE. PROCEEDING NO APPEAL.)** The Industrial Commission may at any time remove the Auditor or any appointive Board Member for inefficiency, neglect of duty, misconduct or malfeasance in office. Before such removal the Industrial Commission shall give such appointive Board Member a copy of the charges against him and

fix the time when he shall be heard in his own defense, which shall not be less than ten days thereafter, and such hearing shall be open to the public. If such appointive Board Member or Auditor shall be removed, the Industrial Commission shall file in the office of the Secretary of State a complete copy of all charges made against such appointive Board Member or Auditor and his findings thereon, with a record of the proceedings. Such power of removal shall be absolute and there shall be no right of review in any court whatsoever.

Sec. 7. BOARD ORGANIZATION. PLACE OF BUSINESS. FREQUENCY OF MEETING.) The members of the Board of Managers shall meet in the city of Grand Forks at ten o'clock A. M. on any day within forty days after the taking effect of this act, for the purpose of organization, and shall elect one of the members as chairman to serve for a term of two years, and shall adopt a seal and rules for the conduct of their business. A majority of the Board shall constitute a quorum for the transaction of all business.

The Board shall keep its office at the State-Owned Mill and Elevator at Grand Forks and shall provide itself with suitable rooms and necessary furniture and fixtures. The Board may, however, hold sessions at any other place within the state when the occasion requires.

The Board shall hold regular meetings not oftener than once every month, and not less frequently than every sixty days, but in emergencies may hold special meetings at such times as may be agreed upon call of the Chairman or upon demand of three members of the Board.

Sec. 8. POWER AND DUTIES OF THE BOARD.) Except as otherwise provided by law, the Board of Managers shall have the power to make contracts, to sue and be sued, to purchase, sell and convey real and personal property as may be necessary to carry out the purpose of this act, to locate and maintain the places of business of the Association, and to make and enforce orders, rules regulations and by-laws, for the transaction of its business. The business of the Association, in addition to other matters herein specified, may include anything that any private individual or corporation may lawfully do in conducting a similar business except as herein restricted.

The Board may by purchase, lease or the exercise of the right of eminent domain, as provided by Chapter 36 of the Code of Civil Procedure, Compiled Laws of 1913, acquire all necessary property and property rights, and may purchase, least or repair all necessary buildings or other structures, and may purchase, lease, construct or otherwise acquire offices, machinery, equipment, and all things necessary, convenient or incidental to the manufacture of flour and its by-products, and for the storage,

sale and disposal of grain, flour and its by-products, and may dispose of the same; Provided, That until otherwise provided by law the Board shall not lease, sell or convey to any person or persons the Mill and Elevator now located near the City of Grand Forks; and Provided, further, That unless expressly authorized by law, the Board shall not purchase any lands, mills, elevators or other buildings or structures, or any other real property.

The Board shall have power to purchase grain and to resell such part thereof as may not be needed in the operation of the mill; Provided that the Board shall purchase grain from outside the state only when such grain can be purchased, milled and marketed at a cost less than grain of like quality available within the state may be purchased, milled and marketed; And Provided, further, That no mill owned or operated by the state shall import from any foreign country any grain in bond for milling purposes, or mill any grain so imported in bond, or any grain from any foreign country for the purpose of milling and exporting the products thereof under the drawback provision of the United States Tariff Act except when necessary to insure the efficient operation of such mill.

All purchases by the Association of grain and produce of every kind, on which there is a future market in which the products may be adequately hedged shall be immediately hedged by the sale in such future market of an equal quantity of the same product or the equivalent thereof. All sales of flour, feed, millstuffs or other mill products, on which there is a futures market in which the products may be adequately hedged shall be immediately hedged by the purchase in such futures market of an equal amount of the same product or the equivalent thereof. The equivalent of any specific quantity of flour shall be the quantity of wheat required to produce it.

In so far as consistent with the recognized practices of the milling industry, sales shall be made for cash on or before delivery.

All grain, flour, feed, millstuffs and produce belonging to the Association or for which the Association is responsible to the owners, and all buildings and machinery belonging to the Association shall be fully insured against loss by fire in Fire Insurance companies authorized to do business in the State or the Fire and Tornado fund of the State of North Dakota.

Except as hereinafter provided the business of the North Dakota Mill and Elevator Association shall be limited to the operation and management of the Mill and Elevator now owned by said Association and located at the City of Grand Forks, but the Board shall have power to establish and maintain purchasing and selling agencies in this and other states, and in Canada and in foreign countries and shall fix the purchase price of all things bought and the selling price of all things

sold; such prices shall be fair and reasonable, and in fixing them provision shall be made for all necessary costs and a reasonable allowance for depreciation, overhead expense, a reasonable surplus, a sinking fund, and for the repayment with interest of all sums advanced by the state, including Mill and Elevator Bonds. No discrimination in prices other than the difference in freight rates, shall be made as between persons or localities within or without the state in the purchase of grain or sale of flour and other products except as required to meet competition, but this shall not be held to prevent the Board from quoting a lower price on carload lots or sales in larger quantities.

Sec. 9. SALE OF DRAKE MILL AND OTHER PROPERTY.) It shall be the duty of said Board to take steps upon taking office to obtain bids in response to ninety days public notice of intention to sell the Drake Mill and Elevator. Such property shall be sold as soon thereafter as is consistent with proper prices and terms. No sale of any such property shall be made without the written approval of the Governor. Power is hereby expressly granted to the Board to execute and deliver any conveyances necessary to carry out the purposes of this section. Such conveyances shall be made in the name of the North Dakota Mill and Elevator Association by the chairman and Secretary of the Board and must bear the signature of the Governor signifying his approval. All funds derived from such sales shall be paid forthwith to the State Treasurer to be credited by him to the Sinking Fund for the payment of interest upon and the retirement of outstanding bonds of North Dakota Mill and Elevator series or shall be retained for use as working capital as may be determined by the Board. Until said Mill and Elevator located at Drake is disposed of, the Board shall have the same power to operate and the same responsibility for the operation of the Drake Mill as it has with reference to the Grand Forks project.

Sec. 10. MANNER OF CONDUCTING BUSINESS.) All business of the Association shall be conducted under the name of the North Dakota Mill and Elevator Association. Title to property pertaining to the operation of the Association shall be obtained and conveyed in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association. Deeds and other instruments conveying or affecting real property shall be executed under the authority of the Board and shall be signed by the Chairman of the Board and attested by its secretary, and the seal of the Association shall be affixed thereto. All contracts and other instruments requiring a seal shall be executed in the same manner. The Board may delegate to the general manager, Treasurer or Secretary hereinbefore provided for, the execution of papers and instruments the manner of the execution of which is not herein specifically prescribed.

Sec. 11. EMPLOYEES, DUTIES, COMPENSATION, BONDS.) The Board shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance and operation of the Association. To that end it shall appoint a general manager, and may constitute such manager its general agent, subject to the supervision, limitation and control of the Board. It may appoint and employ such subordinate officers, architects, builders, contractors, experts, accountants, assistants, clerks, agents and other employees as may be required and shall designate their titles, duties and compensation. Such compensation, together with the expenditures for operation and maintenance shall remain within the earnings lawfully available in each year for such purpose. The Board may remove any such appointee or employee with or without cause. All officers and employees of the Association charged with its financial functions shall, before entering upon their duties, respectively furnish a sufficient bond to the state in such amount and upon such conditions as the Board may require and approve; but the bond of the manager and of the Secretary and Treasurer shall not be less than fifty thousand (\$50,000.00) dollars each. The members of the Board shall give good and sufficient surety bonds to the State of North Dakota to guarantee honesty in the performance of their duties. The bonds of the Members of the Board shall be in the sum of Ten Thousand (\$10,000.00) dollars each. Such bonds shall be filed with the Secretary of State. The form of all bonds shall be approved by the Attorney General. The bonds shall be approved by the Governor and deposited with the Secretary of State.

Sec. 12. BOOKS, RECORDS, STATEMENTS.) The Board shall cause to be kept a complete record of all transactions of said association, such record shall show at all times all liabilities of such Association, the current value of the plant and property owned, all purchases made for plant account, all money received from sales of plant equipment and property, all disbursements for expense and for the purchase of supplies of every kind and all receipts from sales. An inventory showing current cost values shall be taken during June and December in each year and on the first days of July and January of each year a statement shall be prepared and presented to the Governor showing in a detailed and itemized manner the condition of the business and the results of operation during the preceding six months' period. A record shall be kept of all meetings of the Board and all decisions of the Board shall be determined by a record vote. All such books, records, and statements shall be public documents. The Board shall make a detailed report of the operations of the Association with inventories as of date December 31st of each year, and shall file the same with the Governor not later than the 1st day of the following February which report shall be printed

and copies thereof delivered to the State Board of Audit and all members of the Legislature.

Sec. 13. ACTIONS MAY BE BROUGHT.) Civil actions may be brought against the State of North Dakota on account of any cause of action claimed to have arisen out of transactions connected with the operation of the Association, upon condition that the provisions of this section are complied with. In such actions the state shall be designated as the State of North Dakota, doing business as North Dakota Mill and Elevator Association, and the service of process therein shall be made upon the general manager of the Association. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other Civil actions brought pursuant to the Code of Civil Procedure. Such actions shall be brought, however, in the county where the Association shall have its principal place of business, except as provided in Sections 7405, 7416, 7418, Compiled Laws of North Dakota of 1913. The provisions of Sections 375 and 657 of the Compiled Laws of 1913 shall not apply to claims against the state affected by the provisions of this act.

Sec. 14. DEPOSIT OF FUNDS.) All funds of the Association shall be deposited in the Bank of North Dakota.

Sec. 15. EXAMINATION BY STATE EXAMINER.) The State Examiner shall personally or through a deputy examiner visit the Association at least twice annually, and shall inspect and verify the various assets in its possession and under its control, and shall ascertain its liabilities with sufficient thoroughness of investigation to ascertain whether such assets and liabilities be correctly carried on its books. He shall investigate its method of operation and accounting. He shall report the result of such examination and investigation to the Board within thirty days thereafter, and shall in such report make recommendations as to changes in such method of accounting, and shall file a copy of such report with the Governor, the State Auditor, the Manager of the Bank of North Dakota, the Auditor of the Association and each member of the Board of Managers, and the General Manager of the Mill.

Sec. 16. REPEAL.) Chapter 152 of the Session Laws of the State of North Dakota for the year 1919, known as "An Act Declaring the purpose of the State of North Dakota to engage in the business of manufacturing and marketing of farm products, and for establishing a warehouse elevator and flour mill system under the name of North Dakota Mill and Elevator Association operated by the State, and defining the scope and manner of its operation, and the powers and duties of the persons charged with its management; and making an appropriation therefor," and



all other acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6th, 1923.

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## STATES ATTORNEY

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### CHAPTER 296.

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(S. B. No. 381—Rusch.)

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#### ASSISTANTS.

An Act Providing for Assistant States Attorneys in Counties with a Population Exceeding Thirty-five Thousand.

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

Sec. 1. ASSISTANT STATES ATTORNEYS.) In counties having a population exceeding thirty-five thousand, the States Attorney may be entitled to appoint two Assistant States Attorneys with the approval of the Board of County Commissioners; one to receive a salary of Fifteen hundred (\$1500.00) dollars, and one to receive One thousand (\$1,000.00) dollars.

Sec. 2. EMERGENCY.) An emergency is hereby declared to exist, therefore this Act shall take effect from and after its passage and approval.

Approved March 2nd 1923,

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## SUNDAY

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### CHAPTER 297.

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(H. B. No. 156—Trubshaw.)

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#### SUNDAY DANCES.

An Act to Prohibit the keeping open, running, or permitting the running of any place for public dancing on the First Day of the Week, commonly called the Sabbath, and providing a penalty therefor.

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

Sec. 1. It shall be unlawful to keep open, or to run or to permit the running of any place for public dancing on the first day

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

Approved March 5th, 1923.

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## TAXES

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### CHAPTER 298.

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

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#### BASIS OF ASSESSMENT.

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

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

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

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

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6th, 1923.

## CHAPTER 299.

(S. B. No. 301—Storstad.)

## ASSESSMENT OF BANK STOCK.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 6th, 1923.

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## CHAPTER 300.

(S. B. No. 375—Van Camp.)

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### VALIDATING BANK STOCK TAXES.

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

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

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

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

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

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

Approved March 1st, 1923.

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

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## CHAPTER 301.

(H. B. No. 40—Twichell.)

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

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

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

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

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

Approved February 19th, 1923.

## CHAPTER 302.

(S. B. No. 150—Thorson.)

## CAPITAL STOCK TAX, REPEAL.

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

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

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

Approved March 7th, 1923.

## CHAPTER 303.

(S. B. No. 289—Byrne.)

## ABATEMENT OF IRRIGATION ASSESSMENTS.

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

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

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

Approved March 10th, 1923.

## CHAPTER 304.

(S. B. No. 89—Thorson, By request.)

## CONSOLIDATED TAX ACCOUNT.

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

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

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

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

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

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

Approved March 8th, 1923.

## CHAPTER 305.

(S. B. No. 300—Storstad.)

## TAXATION OF CORPORATE EXCESS.

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

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

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



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

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

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

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

3. The amount of capital stock paid up.

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

5. The value of all its real estate.

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

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

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

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

Approved March 1st, 1923.

## CHAPTER 306.

(S. B. No. 292—Van Camp.)

## STATE BOARD OF EQUALIZATION.

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

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

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

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

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

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

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

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

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

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

Approved March 1st, 1923.

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## CHAPTER 307.

(S. B. No. 299—Storstad.)

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### MONEY AND CREDITS.

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

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

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

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

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

Sec. 2. EMERGENCY.) Whereas an emergency exists in that bank stock was inadvertently exempted from taxation by the section above amended and there is now no adequate method provided by law for the taxation of bank stock, therefore, this act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6th, 1923.

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## CHAPTER 308.

(S. B. No. 146—Ettestad.)

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### TAX EXEMPTIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 6th, 1923.

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#### CHAPTER 309.

(S. B. No. 253—Van Camp.)

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#### REPEAL, TAX EXEMPTIONS, LIMITATIONS.

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

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

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

Approved March 5th, 1923.

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#### CHAPTER 310.

(S. B. No. 302—Storstad.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 7th, 1923.



## CHAPTER 311.

(S. B. No. 341—Thorson.)

## GASOLINE TAX.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 16. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6th, 1923.

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## CHAPTER 312.

(S. B. No. 21—Thorson.)

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### INCOME TAX.

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

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

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

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

Article 1.

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Article II.

### General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Sec. 8. ALLOCATION IN SPECIAL CASES.)

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

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

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

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

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

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

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

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

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

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

### Article III.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Article IV.

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

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

Sec. 17. GROSS INCOME DEFINED.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Personal living or family expenses.

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

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

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

Sec. 21. EXEMPTIONS.)

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

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

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

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

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

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

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

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

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

## Article V.

## Returns of Individuals and Fiduciaries.

## Sec. 22.

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

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

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

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

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

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

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

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

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

#### Article VI.

##### Imposition of Tax on Corporations.

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



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

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

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

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

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

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

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

#### Article VII.

##### Computation of Tax On Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Article VIII.

#### Corporation Returns.

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

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

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

### Article IX.

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

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

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

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

#### Article X.

##### Penalties.

##### Sec. 37.

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

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

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

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

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

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

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

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

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

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

#### Article XI.

##### Revision and Appeal.

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

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

## Article XII.

### Administration.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

Approved March 6, 1923.

## CHAPTER 313.

(S. B. No. 342—Rusch.)

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

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

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

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

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

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

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

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

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

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

Approved March 7th, 1923.

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## CHAPTER 314.

(H. B. No. 195—Freeman.)

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### INTEREST ON DELINQUENT INHERITANCE TAXES.

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

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

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

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

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

Approved March 1st, 1923.

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## CHAPTER 315.

(S. B. No. 329—Rusch.)

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### INHERITANCE TAXES.

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

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

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

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

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

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

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

Approved March 7th, 1923.

## CHAPTER 316.

(S. B. No. 272—McCoy.)

## CARE OF PATIENTS AT STATE INSTITUTIONS.

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

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

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

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

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

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

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

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

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

Approved March 8th, 1923.

## CHAPTER 317.

(H. B. No. 212—Orange.)

## HOME BUILDING ASSOCIATION DEFICIT TAX.

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

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

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

Approved March 1st, 1923.

## CHAPTER 318.

(H. B. No. 131—Jardine.)

## TAX LEVY LIMITATIONS.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 7th, 1923.

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## CHAPTER 319.

(S. B. No. 288—Baird.)

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### TAX UPON MINERAL RESERVES.

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

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

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

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

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

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

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

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

To.....

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

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

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

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

.....  
State Auditor of North Dakota.

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

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

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

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

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

Approved March 10th, 1923.

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## CHAPTER 320.

(H. B. No. 13—Hempel.)

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### PENALTY ON DELINQUENT TAXES.

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

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

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

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

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

Sec. 2. This Act is hereby declared to be an Emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

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## CHAPTER 321.

(H. B. No. 165—Hempel.)

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### COLLECTION OF DELINQUENT TAXES.

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

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

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

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



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

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

Sec. 3. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 1st, 1923.

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## CHAPTER 322.

(H. B. No. 193—Trubshaw.)

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### PUBLICATION OF DELINQUENT TAX LIST.

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

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

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

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

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

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

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

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

Approved March 1st, 1923.

STATE OF NORTH DAKOTA

Office of the Governor

Bismarck

R. A. Nestos, Governor

March 1, 1923.

To the Honorable Secretary of the State:

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

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

Very truly yours,

R. A. NESTOS,  
Governor.

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CHAPTER 323.

(H. B. No. 57—Doyle.)

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TAXATION OF RANGE STOCK.

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

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

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

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

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

Approved February 19th, 1923.

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## CHAPTER 324.

(H. B. No. 139—Harrington.)

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### TAX CERTIFICATE ON STATE LAND.

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

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

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

Sec. 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect upon its passage and approval.

Approved March 6th, 1923.

## CHAPTER 325.

(H. B. No. 224—V. L. Anderson.)

## SALE OF LOTS BID IN BY COUNTY.

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

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

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

Approved February 27th, 1923.

## CHAPTER 326.

(H. B. No. 129—Jardine.)

## PLACING TAXING DISTRICTS UPON A CASH BASIS.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Approved March 10th, 1923.

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## CHAPTER 327.

(H. B. No. 130—Jardine.)

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

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

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

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

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

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

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

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

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

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

Sec. 5. The procedure prescribed in this act shall not be required in case bonds or certificates of indebtedness are sold to the state board of university and school lands, or in case other trust funds administered by public officials are invested in them.

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

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

Approved March 10th, 1923.

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## CHAPTER 328.

(H. B. No. 143—Jackson.)

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### NOTICE OF LIEN FOR FEDERAL TAXES.

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

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

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

Approved February 19th, 1923.

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## TREASURER

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### CHAPTER 329.

(H. B. No. 44—Larson.)

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### PUBLICATION OF STATE TREASURER'S REPORT.

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

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

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

Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 147. STATE TREASURER'S: REPORT.) It shall be the duty of the State Treasurer on or before the tenth day of January, April, July and October of each year to make a report in writing, under oath to the Governor, showing the total amount of all moneys in his hands or under his control, and showing the balance in all funds on the last day of the preceding month, showing separately the amount of the average daily balance in each of the state depositories and the amount on time deposits therein, together with the rate of interest paid on each class of deposits and the amount of the bond furnished by each depository; also the amount on hand in the vaults of the State Treasurer. Under the latter head, he must specify the amount on hand in cash, and separately the amount held as cash items. Such report must be verified by the State Auditor and the State Treasurer shall, before the fifteenth day of each of said months, cause to have printed said report in pamphlet form and must forthwith mail a copy thereof to each depository, one to each County Auditor in the state and one to each official county paper in the state. Proof of the mailing of such report must be made by affidavit of some person having a personal knowledge thereof and such report, with such other proof, then filed in the office of the Governor.

Sec. 2. REPEAL.) That Section 147a of the Compiled Laws of North Dakota for the year 1913 is hereby repealed.

Approved February 19th, 1923.

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## TRIAL

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### CHAPTER 330.

(H. B. No. 38—Twichell.)

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#### CONVERSION OF GRAIN OF PUBLIC WAREHOUSE.

An Act Regulating Procedure and Prescribing Rules of Evidence in Actions Brought by Holders of Grain Storage Tickets, for the Recovery of the Possession or Value of Grain stored in Public Warehouses, which Grain has been Converted or Improperly Detained from the Owner.

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

Sec. 1. WHO MAY BRING ACTION AND EFFECT THEREOF.) In any case where the grain of different owners has been stored

in warehouses or elevators and has become mingled in a common mass, and any part thereof has been converted or is wrongfully detained by any person, the owner of any part of such common mass may maintain an action against the wrongdoer for the recovery of the possession or the value, as the case may be, of the quantity of such person's contribution to such common mass, and it shall not be necessary to join as a party any other person who may likewise have contributed, or be alleged to have contributed to such common mass, but the commencement of such action shall be deemed to be a selection or segregation of such person's interest, in all things the same as though upon a demand made therefor, such grain or the value thereof had been set aside and delivered to such party.

Provided, however: In case two or more persons shall have brought separate actions against the same defendant to recover the value or possession of different amounts of such common mass, the court in which such actions are pending may in its discretion consolidate such actions, and dispose of them as justice and equity shall require.

Sec. 2. STORAGE TICKETS PRIMA FACIE EVIDENCE.) In any action involving the ownership or right of possession of stored grain, the storage tickets or warehouse receipts issued by any public warehouseman or grain dealer who commonly receives such grain for storage, in substantially the form prescribed by statute, shall be received in evidence, and shall be prima facie evidence that grain of the kind and quantity recited therein was received by such warehouseman at about the date of such ticket, and that the same was the property of the person named in said receipt as having deposited the same.

Sec. 3. VALUE OF GRAIN MAY BE PROVED, HOW.) In any such action it shall be permissible to prove the value of the grain in question by any of the following classes of evidence:

(a) By market reports published in any newspaper or trade journal which commonly publishes such reports, purporting to give market values or selling prices of such grain at the market in question. No further foundation for the introduction of such reports in evidence shall be necessary than the showing that such newspaper or journal is in circulation as such or is commonly sold at public news stands and the court may take judicial notice of the character and circulation of such newspaper or journal without proof.

(b) The buying and selling price of similar grain may be shown by the records of any chamber of commerce, board of trade or similar organization which is shown to keep a record of permanent character of the prices at which such, or similar grain sold in the market at which such organization is situated.

(c) Witnesses engaged in the business of buying or selling grain may likewise testify to the value of grain at any given market at any given time, upon showing their knowledge thereof, and for the purpose of refreshing his recollection such witness may examine and consider the permanent records of sales or purchases made in the regular course of business of such witness or the firm or concern with which he is or was connected.

Sec. 4. METHOD OF PROOF NOT EXCLUSIVE.) The methods of proof herein provided for shall not be exclusive but cumulative, and shall be taken and received together with any other competent evidence tending to establish the value in question.

Sec. 5. APPLICABLE IN WHAT CASES.) The provisions of this act shall be applicable to all actions hereafter tried, without regard to when the same were commenced.

EMERGENCY.) Whereas it is a matter of common knowledge that during the past year large amounts of grain belonging to farmers and represented by storage tickets have been appropriated by buyers of grain and commission men at terminal markets, and the same is being held against the claims of the owners thereof, and a large amount of litigation is pending in the courts of the state, and being contemplated, and there is great uncertainty as to the admissibility of ordinary and convenient evidence to prove the value thereof, and large expense is being cast upon the citizens of the state, an emergency exists and this act shall take effect immediately upon its passage and approval.

Approved January 26th, 1923.

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## CHAPTER 331.

(S. B. No. 205—Kaldor.)

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### CHANGE OF JUDGES.

An Act to Amend and Re-enact Section 7644 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 1 of the Session Laws for the Year 1919, (Regular Session) and Chapter 129 of the Session Laws for the Year 1921, Relating to Change of Judges in Civil and Criminal Actions in the District Court, for Prejudice or Bias of Judge thereof; Providing for the Calling in of Another Judge of Another Judicial District, and the Payment of His Expenses, and the Discharge of Jurors Therein, and Repealing all Acts or Parts of Acts in Conflict Herewith.

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

Sec. 1. AMENDMENT.) That Section 7644 of the Compiled Laws of North Dakota for the Year 1913, as amended by Chap-

ter 1 of the Session Laws for the year 1919, (Regular session), as amended by Chapter 129 of the Session Laws for the year 1921, is hereby amended and re-enacted to read as follows:

Sec. 1. FOR PREJUDICE OR BIAS.) When either party to a criminal or civil action pending in any of the District Courts of the state, shall after issue joined and before the opening of any regular, special or adjourned term at which the cause is to be tried file an affidavit stating that he has reason to believe and does believe that he cannot have a fair and impartial trial or hearing before the Judge of the District Court by reason of the bias and prejudice of such judge, the court shall proceed no further in the action and shall thereupon be disqualified to do any further act in said cause; provided that where the information in a criminal action is filed in term time such affidavit may be filed at any time before trial.

Sec. 2. AFFIDAVIT OF PREJUDICE. BY WHOM MADE.) Such affidavit shall be made by the defendant or his attorney or the attorney for the state in a criminal action and in civil actions by the party to the action desiring such change of Trial Judge or by his attorney.

Sec. 3. AFFIDAVIT TO BE FILED.) Such affidavit with two copies thereof shall be filed with the Clerk of the Court in which the action is pending. Upon the filing of such affidavit the Clerk shall immediately give notice to the Judge so disqualified by delivering to him a copy of such affidavit. Said Clerk shall promptly forward to the Clerk of the State Supreme Court a copy of such affidavit.

Sec. 4. THE SUPREME COURT TO DESIGNATE TRIAL JUDGE.) The Supreme Court shall upon receipt of such affidavit of prejudice from the Clerk of the District Court designate a District Judge to act in the place and stead of the Judge disqualified.

Sec. 5. EXPENSES OF JUDGE.) Any Judge of the District Court designated by the Supreme Court to act in said cause shall as soon as possible after receiving such notice from the Supreme Court and during said term, unless otherwise agreed by the parties to said action, proceed with the trial of said cause, first giving reasonable notice of the date of trial to the parties to said action, or their attorneys, and the actual expenses of such incoming Judge shall upon the furnishing of a voucher therefor by said Judge to the State Auditor be approved for payment and paid to the State Treasurer out of the General Fund.

Sec. 6. JURORS NOT TO BE EXCUSED BY DISQUALIFIED JUDGE.) After the filing of such affidavit of prejudice with the



Clerk of the District Court no juror shall be excused except for good cause shown to the incoming judge and by such incoming judge.

Sec. 7. NUMBER OF CHANGES ALLOWED.) No more than one change shall be granted on the application of either party in any action.

Sec. 8. All acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 332.

(S. B. No. 316—Baird.)

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### TRIAL JURY.

An Act To Amend and Re-enact Section 7625 of the Compiled Laws of North Dakota for 1913, Relating to a Trial Jury in Civil Cases.

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

Sec. 1. AMENDMENT.) Section 7625 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

Sec. 7625.) When the case is finally submitted to the jury they may decide in court or retire for deliberation. If they retire, they must be kept together in some convenient place under charge of an officer, until they agree upon a verdict or are discharged by the court. Unless, by order of the court, the officer having them under his charge must not suffer any communication to be made to them, or to make any himself except to ask them if they have agreed upon a verdict; and he must not before their verdict is rendered communicate to any person the state of their deliberations or the verdict agreed upon. Provided, however, that where a trial jury contains both men and women members, the trial judge in his discretion, if he deems it proper to so do, direct that the women members of the jury be placed in charge of a woman bailiff and permitted to retire to a suitable place for rest; and the men members of the jury placed in charge of a man bailiff for a similar purpose. In all cases where the jury is permitted to be separated, as above stated, the trial judge shall admonish the jury that they must not in any manner discuss the case among themselves, or permit anyone to discuss it with them, while they are so separated; and that they must discuss and consider the case only in the jury room when all members of the jury are present.

Sec. 2. **EMERGENCY.**) This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6th, 1923.

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## CHAPTER 333.

(S. B. No. 206—Fleckten.)

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### VERDICT BY FIVE-SIXTHS OF JURY.

An Act Providing for a verdict in civil cases by five-sixths of the jury after twelve hours deliberation.

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

Sec. 1. In all civil actions or proceedings in any court of record in this state after twelve hours deliberation the agreement of five-sixths of any jury therein shall be a sufficient and valid verdict; the deliberation of the jury shall be deemed to have commenced when the officer taking charge of the jury has been sworn, and the clerk shall enter such time in his records.

Sec. 2. Where the verdict is agreed to by the full membership of the jury, the foreman shall sign the verdict; when less than the full membership agree on the verdict, the same shall be signed by all the jurors who agree therein and the clerk of said court shall enter on his minutes the number of said jurors agreeing in said verdict.

Sec. 3. All acts in conflict herewith are hereby repealed.

Approved March 1st, 1923.

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## CHAPTER 334.

(S. B. No. 268—Tofsrud.)

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### CAUSES FOR NEW TRIAL.

An Act to Amend and Re-enact Chapter 7660, of the Compiled Laws of the State of North Dakota, for the year 1913, as Amended by Chapter 131, of the Session Laws of 1921, Relating to Causes for a New Trial in Civil Actions.

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

Sec. 1. **AMENDMENT.**) Section 7660 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 131 of the Session Laws of 1921, is hereby amended and re-enacted to read as follows:

Sec. 7660. CAUSES FOR NEW TRIAL.) The former verdict or other decision may be vacated and a new trial granted on the application of the party aggrieved for any of the following causes materially affecting the substantial rights of such party:

1. Irregularity in the proceedings of the Court, Jury or adverse party, or any order of the court or abuse of discretion by which either party was prevented from having a fair trial.

2. Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent to any general or special verdict or to a finding on any question submitted to them by the court by a resort to the determination of chance, such misconduct may be proved by the affidavit of any one of the jurors.

3. Accident, or surprise, which ordinary prudence could not have guarded against.

4. Newly discovered evidence material to the party making the application, which he could not with reasonable diligence have discovered and produced at the trial.

5. Excessive damages appearing to have been given under the influence of passion or prejudice. Where a new trial is asked for on this ground, and it appears that the passion and prejudice affected only the amount of damages allowed, and did not influence the findings of the jury on other issues in the case, the trial court on hearing the motion, and the supreme court on appeal, shall have power to order a reduction of the verdict in lieu of a new trial; or to order that a new trial be had unless the party in whose favor the verdict was given remit the excess of damages.

6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against law.

7. Error in law occurring at the trial and excepted to by the party making the application.

8. Loss or destruction, without fault on the part of the party aggrieved, of the official shorthand minutes, taken at the trial containing the testimony offered and the instructions of the court when given orally to the jury, or either, before a transcript thereof has been made.

Approved March 6th, 1923.

## CHAPTER 335.

(S. B. No. 280—Lynch.)

## DIRECTED VERDICTS.

An Act to Amend and Re-enact Section 7643 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended by Chapter 133, of the Session Laws of 1921, Relating to Directed Verdicts.

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

Sec. 1. That Section 7643 of the Compiled Laws of the State of North Dakota for the year 1913 as Amended by Chapter 133 of the Session Laws of 1921 be, and the same hereby is, amended and re-enacted to read as follows:

Sec. 7643. JUDGMENT NOTWITHSTANDING VERDICT.) When at the close of the testimony any party to the action moves the court to direct a verdict in his favor, and the adverse party objects thereto, such motion shall be denied and the court shall submit to the jury such issue or issues, within the pleadings on which any evidence has been taken, as either or any party to the action shall request, but upon a subsequent motion, by such moving party after verdict rendered in such action, that judgment be entered notwithstanding the verdict, or if the jury have failed to agree upon a verdict, for a directed verdict, the court shall grant the same if, upon the evidence as it stood at the time such motion to direct a verdict was made, the moving party was entitled to such directed verdict. An order for judgment notwithstanding the verdict may also be made on a motion in the alternative form asking therefor, or if the same be denied, for a new trial. The ruling on the motion for a directed verdict may be reviewed by the Supreme Court without a motion for judgment notwithstanding the verdict or a motion in the alternative for such judgment or for a new trial having been first made in the trial court. If the motion for judgment notwithstanding the verdict be denied, the supreme court, on appeal from the judgment, may order judgment to be entered, when it appears from the testimony that a verdict should have been so directed; and it may also so order on appeal from the whole order denying such motion when made in the alternative form whether a new trial was granted or denied by such order.

Approved March 1st, 1923.

## VAGRANCY

### CHAPTER 336.

(S. B. No. 114—Atkins.)

#### VAGRANCY.

An Act to Amend Sections 9658 and 9659 of the Compiled Laws of 1913 relating to the Crime of Vagrancy.

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

Sec. 1. AMENDMENT.) That Section 9658 of the Compiled Laws of 1913 be amended to read as follows:

Sec. 9658. VAGRANCY DEFINED.) All persons who are idle and dissolute, and who go about begging; all persons who use any juggling or other unlawful games or plays; all persons participating in any game of chance upon which money or property usually wagered in or upon premises not owned nor kept by them; runaways, pilferers; confidence men; common drunkards, common night walkers, lewd, wanton and lascivious persons, in speech or behavior; common railers and brawlers, persons who are habitually neglectful of their employment or their calling and do not lawfully provide for themselves, or for the support of their families, and all persons who are idle or dissolute and who neglect all lawful business, and who habitually misspend their time by frequenting houses of ill-fame, gambling houses or tippling shops; all persons not giving a good account of themselves, who are found lodging in, or found in the night time, in any out-houses, sheds, barns or unoccupied building, or found lodging in the open air; and all persons trespassing in or upon property, land or premises not owned nor kept by them, and all persons who are known to be thieves, burglars or pickpockets, either by their own confession or otherwise, or by having been convicted of larceny, burglary or other crime against the laws of the state, punishable by imprisonment in the state prison, or in any house of correction of any city, and having no lawful means of support, are habitually found prowling around any steamboat landing, railroad depot, banking institution, broker's office, place of public amusement, auction room, store, shop, or crowded thoroughfare, car or omnibus, or at any public gathering or assembly or lounging about any court room, private dwelling house or out houses, or are found in any house of ill-fame, gambling house or tippling shop, shall be deemed to be and they are declared vagrants.

Sec. 2. AMENDMENT.) That Section 9659 of the Compiled Laws of 1913 be amended to read as follows:

Sec. 9659. PENALTIES.) Every person convicted of vagrancy, under Section 9658, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding thirty days, or by both such fine and imprisonment, or by being compelled to work upon the streets or public highways not to exceed twenty days.

Sec. 3. TRESPASS DEFINED.) Trespass as used in this Act is the wilful intrusion by one person upon or into the property, land or premises of another.

Approved February 7th, 1923.

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## VALIDATING ACTS

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### CHAPTER 337.

(S. B. No. 75—Steel.)

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#### VALIDATING CITY WARRANTS.

An Act Legalizing and Validating Certain Acts of City Officials with Reference to Electric Light or Distribution Systems.

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

Sec. 1. CERTAIN ACTS LEGALIZED.) Where the officers of an incorporated city of this state, prior to the passage of this act, shall have incurred indebtedness and issued warrants or orders for the erection, purchase, installation, construction or extension of a municipally owned lighting system for the purpose of lighting the streets and public places of the city and furnishing lights to the inhabitants thereof, and distributing the same and said warrants or orders are outstanding or held in a general revenue or other funds of said city, the same are hereby legalized and declared to be the valid indebtedness of such city, and where in any such case there shall have been defective notice, or lack of notice, as required by law, or irregularity in the proceedings of said officers, the said defects or irregularities are hereby validated.

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

Approved February 3rd, 1923.

## CHAPTER 338.

(H. B. No. 128—Harrington.)

VALIDATING MUNICIPAL BONDS AND WARRANTS.  
An Act Legalizing Certain Acts of City and Village Officials.*Be It Enacted by the Legislative Assembly of the State of North Dakota.*

Sec. 1. ACTS LEGALIZED.) Where the officers of any incorporated city or village of this state shall have incurred indebtedness and issued warrants or orders for the erection, purchase, repair or maintenance, within and for said city or village, of water works, gas electric light plants, public wells, cisterns, fire apparatus or legitimate corporate purposes for said city or village or to pay for or to raise money for any such purpose, and said warrants or orders are outstanding, or held in general revenue or other funds of said city or village in any or all such cases where said warrants or orders are within the debt limit, the same are hereby legalized and are declared to be valid indebtedness of such city or village, and in every case where the city council or city commissioners or village board of trustees, shall have heretofore or shall hereafter determine by resolution or ordinance issue its negotiable bonds in the name of the city or village for the sole purpose of funding such indebtedness and shall have been or shall be authorized to issue such bonds, by a majority vote of the qualified electors of such city or village voting thereon at any regular or special election legally called and held after public notice thereof as required by law, and if such bond shall have been or shall be executed, sold or delivered for value, and the proceeds arising from such sale shall have been or shall be applied exclusively to the express purpose of funding such warrants or orders, then in every case such bonds whether engraved, lithographed or printed on bond paper shall, when executed, sold and delivered as provided by law, be deemed and hereby are declared to be valid and subsisting indebtedness of the city or village issuing the same.

Sec. 2. PENDING ACTIONS NOT AFFECTED. DEBT LIMIT.) This act shall not affect any actions now pending in which the validity of such warrants or orders of indebtedness is called in question; providing, however, that the issue of such bonds shall not be construed to be an increase of the indebtedness of the municipality and the proceeds from sales of such bonds shall be applied exclusively toward the discharge of the indebtedness of such city or village referred to in Section 2 of this act.

Sec. 3. EMERGENCY.) This act shall be declared to be an emergency measure and shall take effect immediately upon its passage and approval.

Approved March 9, 1923.

## VILLAGES

### CHAPTER 339.

(S. B. No. 212—McLachlin, by Request.)

#### PUBLICATION OF VILLAGE TREASURER'S REPORT.

An Act To Amend and Re-enact Section 3890 of the Compiled Laws of 1913 Relating to Publishing of Village Treasurer's Reports and Prescribing the Form Thereof.

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

Sec. 1. AMENDMENT.) Section 3890 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

Sec. 3890. DUTIES OF TRUSTEES TO PUBLISH STATEMENT. FORM OF REPORT.) It shall be the duty of the board of trustees immediately after the annual settlement with the treasurer of said corporation to publish in a newspaper if one is published therein, or if there is no newspaper then by posting in three or more public places, an exhibit of the receipts and expenditures specifying the sources of such receipts, what appropriations were made, for what objects, and the specific amount of each. The treasurer's report shall be published provided such report shall be set in single column of figures and that all officers' titles shall be set in abbreviated form and on the same line with the officers' names, when possible, and such report shall be paid for at the legal rate, or posted on or before the tenth day of March of each year, and shall be substantially in the following form:

*Village Treasurer's Report.*  
*Receipts.*

The amount on hand at the beginning of the year  
(date) .....  
The amount received from the collection of general, road and  
bridge taxes  
The amount received from the collection of special taxes (if  
any)  
The amount received from license fees (if any)  
The amount received from fines (if any)  
The amount received from all other sources (if any)

Total Receipts.

*Expenditures.*

The amount paid for lighting public streets and alleys (if  
any)



The amount paid for improvement and care of streets, roads,  
bridges and cross walks  
The amount paid for the equipment and maintenance of fire  
department (if any)  
The amount paid for the erection of village halls, bandstands  
and other public buildings (if any)  
The amount paid for heating, lighting and care of public  
buildings (if any)  
The amount paid for charity (if any)  
The amount paid for publication of official proceedings and  
legal notices (if any)  
The amount paid for election expenses  
The amount paid for salaries  
The amount paid for incidental expenses (if any)  
The amount paid on outstanding warrants (if any)  
The amount paid for interest on bonds and outstanding war-  
rants (if any)  
The amount transferred to sinking fund (if any)

Total Expenditures.

Balance on hand at the close of the year ending .....

*Relating to Sinking Funds.*

The amount on hand in sinking fund beginning of year.....  
..... (if any)  
The amount transferred to sinking fund during the year (if  
any)

Total Amount.

The amount paid out of sinking fund (if any)  
Balance on hand in sinking fund at close of year..... (if any)  
The above is a correct account of all money received and paid  
out by me during the year  
Dated this .....day of .....19.....

Treasurer

Approved by

.....  
President

*Clerk's Statement of Indebtedness of Village.*

Total amount of warrants outstanding (if any) date .....  
Total amount of bonds outstanding (if any) date .....  
Total indebtedness of village (date) .....  
Approved this .....day of .....19.....  
By order of the Village Board.

.....  
Clerk

Approved March 10th, 1923.

## CHAPTER 340.

(H. B. No. 47—Sproul, by Request.)

## VILLAGE TRUSTEES.

An Act to Amend and Re-enact Section 3854 of the Compiled Laws of North Dakota of 1913, Providing for the election and Terms of Office of Village Officials.

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

Sec. 1. AMENDMENT.) Section 3854 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 3854. VILLAGE OFFICERS TO BE ELECTED. TERMS OF OFFICE. COMPENSATION.) There shall be elected at the first annual village election of each village, held after the taking effect of this act, one Trustee from each district in such village. Those Trustees elected from the even numbered districts of such village shall hold office until the third Tuesday in March of the next year thereafter, or until a successor is elected and qualified; those Trustees elected from the odd numbered districts of such village shall hold office until the third Tuesday of March of the second year following, or until a successor is elected and qualified. Thereafter all such Trustees elected shall hold office until the third Tuesday in March of the second year following their election or until a successor is elected and qualified. Such village Trustee shall receive as compensation for services two dollars (\$2.00) for each meeting actually attended, but not to exceed twenty-five (\$25.00) as such compensation for any one year of such term of office. There shall also be elected at each such annual village election, a Village Clerk, Assessor, Treasurer, Marshal and Justice of the Peace who shall respectively hold their offices until the Third Tuesday in March next following, or until their successors are elected and qualified; provided, however, that nothing herein contained shall prevent the respective offices of Clerk, Treasurer, Assessor and Marshal from being held by one and the same person.

Approved February 5th, 1923.

## CHAPTER 341.

(H. B. No. 180—Burns.)

## FIRE PROTECTION IN UNINCORPORATED VILLAGES.

An Act Providing for a Tax Levy in Unincorporated Villages for the Purpose of Purchasing and Maintaining Adequate Apparatus for the Extinguishment of Fires, and Maintaining a Fire Department.

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

Sec. 1.) Whenever 65% of the resident owners of real estate in any unincorporated village petition the Board of Supervisors of the township in which it is situated to levy a tax upon all property within said village for the purpose of purchasing and maintaining apparatus for the extinguishment of fires and for the purpose of maintaining an adequate fire department, it shall be the duty of said supervisors to determine and fix the amount necessary for said purposes and at the time the general township tax levy is made, levy upon all property within said village, the amount fixed by them.

Sec. 2.) The amount so levied shall be certified at the time of certifying other township taxes, by the proper authority to the county auditor, who shall calculate and fix the rate per cent necessary to raise that sum, and extend the same upon the tax list of such township against the property within said village, in a column therein to be provided, headed "Village Fire Protection Fund."

Sec. 3.) The tax so levied shall be collected and paid over as other township taxes are collected and paid, and the treasurer of the township shall keep a separate account thereof.

Sec. 4.) The fund herein provided shall be expended by the Board of Supervisors at such time and in such manner as is by said board deemed best to secure proper and adequate protection from fire hazards; provided, however, that no expenditure shall be authorized until approved by the village fire department.

Payments from said fund shall be by warrants drawn upon the township treasurer, and based upon verified, itemized bills.

Sec. 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 February 27th, 1923.

## WAREHOUSES

### CHAPTER 342.

(H. B. No. 133—Kopp.)

#### INSURANCE OF STORED GRAIN.

An Act to Amend and Re-enact Section 3116 of the Compiled Laws of North Dakota for the year 1913.

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

Sec. 1. AMENDMENT.) That Section 3116 is hereby Amended and Re-enacted to read as follows:

Sec. 3116. RATES OF STORAGE.) The charges for Storage and handling of grain shall not exceed the following rates: For Receiving, elevating, insuring, delivering and twenty days' storage, two cents per bushel. Storage rates after the first twenty days, one-half cent per bushel for each fifteen days or fraction thereof, and not exceeding five cents per bushel for six months.

All grain whether on storage ticket or on deposit with the warehouse man shall be kept insured at the expense of such warehouse man for the benefit of the owner.

Approved February 27th, 1923.

### CHAPTER 343.

(S. B. No. 34—Kaldor.)

#### ABSTRACT OF CROP LIENS.

An Act to Amend and Re-enact Section 1 of Chapter 89 of the Session Laws of 1921, relating to the furnishing by the Register of Deeds of each county to elevators making application and paying the fee provided therefor, of an abstract of all mortgages and liens upon grain grown during each year, and filed in the office of the Register of Deeds.

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

Sec. 1. AMENDMENT.) Section 1 of Chapter 89 of the Laws passed by the Seventeenth Legislative Assembly of the State of North Dakota for the year 1921, is hereby amended and re-enacted to read as follows:

Sec. 1. APPLICATION.) Any elevator company doing business in this state may annually make written application to the

Register of Deeds for an abstract of all mortgages and liens upon grains grown during the year within the county. Such application shall be made prior to June 1st in each year and shall state the name of the elevator and the post office address thereof and shall be accompanied by a fee, in counties wherein the number of such liens so abstracted in the preceding calendar year did not exceed 2,500, of \$5.00; in counties where more than 2,500 and not to exceed 5,000 were so abstracted a fee of \$10.00; and in counties where more than 5,000 liens were so abstracted a fee of \$15.00, to be turned over by the Register of Deeds to the County Treasurer, who shall credit the same to the county general fund.

Sec. 2. EMERGENCY.) An emergency is hereby declared to exist. Therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 19th, 1923.

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## WEIGHTS AND MEASURES

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### CHAPTER 344.

(S. B. No. 387—Stevens, Kaldor and Murphy.)

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#### INSPECTION OF WEIGHTS AND MEASURES.

An Act Designating the Sheriff of the Different Counties in the State as Inspectors and Sealers of Weights and Measures, and Giving him power to Appoint a Deputy Inspector; Prescribing his Powers and Duties; Defining the Standard of Weights and Measures; Prescribing Fees to be Charged for Inspection; Providing for Complaints and Penalties for its Violation; Providing for Inspector's Compensation; Naming Custodian of State Standards and Prescribing his Duties; and Repealing Sections 2999, 3000, 3003, 3004, 3005, of the Compiled Laws of North Dakota for 1913 and Chapter 241 of the Session Laws of North Dakota for the year 1919.

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

Sec. 1. The sheriff of each county within the state shall be the inspector and sealer of weights and measures. He shall have power to appoint a deputy to perform the duties herein-after provided, who must be a person qualified by experience and training to intelligently perform the same, but he may be a regular deputy sheriff provided he has the qualifications above described. The deputy shall have the same power and perform the same duties under this article as the inspector and sealer, and shall take and subscribe the oath required by other county officers.

Sec. 2. The inspector and sealer or his deputy shall once in each year, test all weights and measures, scale beams, patent balances, steelyards and other instruments used in weighing or measuring any commodity sold by weight or measure in his county by the duplicates of said weights and measures as hereinafter provided; provided, the inspector of weights and measures or his deputy may test wagon scales oftener than once each year if he has reason to believe that the same are not weighing correctly. He shall give to the person in charge of such weights or measures a certificate of the correction thereof, if found to be correct, and if found to be incorrect, he shall cause the same to be corrected, if he can, and if not he shall mark the same "condemned" and in case of short weights or measures that cannot be corrected he shall condemn, confiscate and keep the same for evidence. He shall keep a record of all such certificates issued by him and of all his transactions under this article, and shall file with the county auditor during the month of December of each year's statement showing the date of examination and giving the names of the persons, firms or corporations whose scales, weights and measures have been by him examined, and setting out against such names an enumeration of any scales, weights or measures by him so condemned.

Sec. 3. The standard of weights and measures shall be the standard adopted by the government of the United States, and any person who knowingly uses for the purpose of purchase or sale or keeps for public use a weight, measure, scale, balance or beam, which does not conform to the standard of weights and measures adopted by the state, or who alters a weight, measure, scale, balance or beam after it has been adjusted and sealed so that it does not conform to such standard and fraudulently makes use thereof, shall be fined for each offense fifty dollars.

Sec. 4. The board of county commissioners of each county shall purchase such duplicates of weights and measures enumerated in Section 10 of this act, as are deemed necessary for the use of the inspector in the carrying out of the provisions of this article, which duplicates shall be paid for by the county and be delivered to the inspector, who shall be responsible to the county under his bond as sheriff for their delivery to his successor in office.

Sec. 5. The inspector of weights and measures shall demand and receive for the inspection herein provided for, and the furnishing to the person whose weights and measures are inspected, a certificate of such inspection, the following fees, which fees shall belong to the inspector and need not be turned over to the county:

For inspecting and sealing railroad and track scales of capacity of twenty tons and upwards.....	\$3.00
For inspecting and sealing dormant scales, each.....	\$2.00
For inspecting and sealing movable platform scales.....	\$1.00
For inspecting and sealing beams weighing one hundred pounds and upwards.....	\$ .25
For inspecting and sealing hopper scales, each.....	\$1.50
For inspecting and sealing counter scales, each.....	\$ .25
For inspecting and sealing every patent balance, beam, steelyard or other instrument used for weighing other than the above enumerated, each .....	\$ .25
For inspecting and sealing any two-bushel or one-bushel measure .....	\$ .25
For inspecting and sealing any other dry measure, each....	\$ .10
For inspecting and sealing liquid measures of a capacity of five gallons or more, each.....	\$ .25
For inspecting and sealing anything less than one gallon....	\$ .10
For inspecting and sealing liquid measures of less than five gallons and not less than one gallon.....	\$ .15
For inspecting and sealing any board or cloth measure, each .....	\$ .10

When the inspector or his deputy shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted, misconstrued, out of repair, or in any other condition which can be remedied by him, it shall be his duty to correct such scale or measure and he shall collect for such services seventy-five cents per hour for the actual and necessary time consumed in making such corrections and just compensation for any material used in such correction.

Sec. 6. If any person knowingly uses a false weight, measure, scale, balance or beam after such weight, measure, scale, balance or beam has been adjusted and sealed and alters it so that it does not conform to the public standard and fraudulently makes use of it, he shall forfeit for each offense fifty dollars, and every inspector and sealer who has reasonable cause to believe that a weight, measure, balance or beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same and if found tampered with, shall have power to seal them in such a manner that they cannot be used until such disability is removed and such scale, balance or beam shall be kept sealed until such fine is paid. The inspector or sealer shall in no case seal or mark as correct any weights, measures or balances which do not conform to the standard. If such weights, measures or balances can be readily adjusted as heretofore provided, he may adjust and seal them, but if they cannot by him be adjusted he shall affix to such weights, measure or balance a notice prohibiting their use until he is satis-

fied that they have been so adjusted as to conform to the standard, and whoever removes said notice without the consent of the officer affixing the same, shall for each offense forfeit a sum not exceeding fifty dollars. The sealer or deputy sealer of weights and measures may seize without warrant such weights, measures or balances as may be necessary to be used as evidence in case of violation of the law relating to the sealing of weights and measures, such weights, measures or balances to be returned to the owner or forfeited as the court may direct.

Sec. 7. Any person believing any dealer is violating the provisions of this act may make complaint, in writing, to any inspector or sealer or his deputy and deposit with him five dollars, setting forth the particular facts relating to such violation and that he has reason to believe that the same are true. Upon such complaint such sealer or his deputy shall forthwith test the scales, weights and measures respecting the matter complained of, by his duplicates, and if found to conform thereto he may convert the five dollars so deposited to his own use as his fee for such services. If he finds that any of the matters so complained of are true he shall return the five dollars to the complainant and it shall be his duty forthwith to arrest the person in charge of such scale, and take him before a justice of the peace in the county for trial and upon conviction such person, whether the owner or not, shall be guilty of a misdemeanor and punished accordingly. In all such cases the sealer or deputy sealer making the test shall make and swear to the complaint and shall be entitled to the same fees as allowed officers making an arrest upon a warrant, besides the sum of one dollar for making the test.

Sec. 8. Any person who shall willfully obstruct or mislead the inspector or sealer in the execution of his duties as herein provided, shall be subject to conviction and punishment therefor in the same manner as is now provided for the conviction and punishment of persons opposing or hindering an officer, ministerial, judicial or executive, under the laws of the state, and the inspector and sealer shall have full power and authority for the various purposes named to examine any weights, measures, scales, balances or beams.

Sec. 9. All standards of weights and measures and all other property, apparatus for weighing and measuring supplies, records and correspondence now in the possession of the State Inspector of Grades, Weights and Measures, as provided in Chapter 241 of the Session Laws of North Dakota for the year 1919, shall be transferred to the Commissioner of Agriculture and Labor who shall then become responsible to the State of North Dakota for the proper use and care of the same.



Sec. 10. The Commissioner of Agriculture and Labor shall procure and keep in his office the following standards of weights and measures, which shall conform in every particular to the United States standards of weights and measures; One bushel, one-half bushel, one peck, one-half peck, one quart, one wine gallon, one wine half gallon, one wine quart, one wine pint, one wine gill. Such measures shall be made of copper or other suitable and substantial material; also one surveyor's chain, thirty-three standard feet in length, one yard measure, one foot measure and one inch measure; also one one hundred pound weight, one fifty pound weight, one twenty-five pound weight, one ten pound weight, one one pound weight, one half pound weight, one quarter pound weight, one one-eighth of a pound, one one-sixteenth of a pound or one ounce weight, one set of apothecaries' weights from one pound to one grain, one set of troy weights from one pound to one grain; besides such other scales, beams and balances as shall be necessary to test other weights by these standards; which measures, weights, scales, beams and balances are hereby declared to be the legal standards of weights and measures for this state. Such commissioner of agriculture and labor shall be charged with the custody and be accountable to the state for the proper use and care of the same. Such standards shall be used only for testing the standards provided for in this article, and such commissioner of agriculture and labor shall keep a record of all county weights, measures, beams and balances marked and tested by him.

Sec. 11. That Sections 2999, 3000, 3003, 3004, 3005 of the Compiled Laws of North Dakota for the year 1913, and Chapter 241 of the Session Laws of 1919, and all acts and parts of acts in conflict herewith are hereby repealed.

Sec. 12. An Emergency is hereby declared to exist and this act shall be in full force and effect immediately after its passage and approval.

Approved March 8th, 1923.

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## WHITE STONE HILLS BATTLEFIELD

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### CHAPTER 345.

(S. B. No. 263—Kelsh.)

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#### WHITE STONE HILLS BATTLEFIELD.

An Act Relating to the White Stone Hills Battlefield Grounds in Dickey County, and Vesting the Care, Custody, Control and Maintenance of the same in the State Historical Society of North Dakota, as Trustee for the State.

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

Sec. 1. That the care, custody, control and maintenance of

the White Stone Hills Battlefield grounds, with the monuments, markers and improvements thereon, in Dickey County, the title to which is in the State of North Dakota, is hereby vested in the State Historical Society of North Dakota, as Trustee for the State.

Approved February 24, 1923.

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## WOMEN

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### CHAPTER 346.

(S. B. No. 363—Whitman, by request.)

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#### HOURS OF LABOR FOR FEMALES.

An Act to Amend and Re-enact Chapter 170 of the Session Laws of North Dakota for the year 1919, Being an Act regulating and fixing the hours of labor for Females, and providing penalties for the violation thereof.

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

Sec. 1. AMENDMENT.) Chapter 170 of the Session Laws of North Dakota for the year 1919, is hereby amended and re-enacted to read as follows:

Sec. 1.) No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel or restaurant, or telephone or telegraph establishment or office, or in any express or transportation company, in the State of North Dakota more than eight and one-half (8½) hours in any one day, or more than six (6) days or more than forty-eight (48) hours in any one week; provided, however, that this Act shall not apply to females working in rural telephone exchanges or in villages or towns of less than five hundred (500) population. Provided, further, the above law shall not apply in case of an emergency at which time female help may be employed 10 hours in one day and seven days in one week, and not over 48 hours in one week. An emergency is defined to exist in case of sickness of more than one female employee, in which case a doctor's certificate must be furnished, for the protection of human life, banquets, conventions, celebrations, sessions of the state legislature, or where a female is employed as reporter in any of the District Courts of the State of North Dakota. In case an emergency exists the proper authorities that have the enforcement of this law must be notified at once, stating full particulars and probable duration of such emergency and permission must be obtained from such authorities as soon as possible.

Sec. 2.) Any person who violates any provision of this Act shall, upon conviction thereof, be punished by a fine of not less than Twenty-five dollars nor more than two hundred dollars.

Sec. 3. REPEAL.) All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1st, 1923.

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## WORKMEN'S COMPENSATION

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### CHAPTER 347.

(H. B. No. 149—Anderson of Burleigh.)

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#### POWERS OF WORKMEN'S COMPENSATION BUREAU.

An Act To Amend and Re-enact Section 7 of Chapter 162 of the Laws of North Dakota for the year 1919, to Empower the Workmen's Compensation Bureau to Classify Employments, fix rates for Premium, provide for Reserves and Surplus, provide for Establishment of a System of Merit Rating, and to Provide for the Payment of Premiums into the Workmen's Compensation Fund.

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

Sec. 1. AMENDMENT.) That Section 7 of Chapter 162 of the Laws of North Dakota for 1919 relating to the classification of employments, the fixing of premiums and the maintenance of reserves and surplus in the Workmen's Compensation Fund is hereby amended and re-enacted to read as follows:

Sec. 7. The Workmen's Compensation Bureau shall classify employments with respect to their degree of hazard and shall determine the risks of different classification and shall fix the rates of premium for each of said classifications sufficiently high to provide for the payment of the expenditures of the Bureau, the payment of compensation according to the schedules established by this act for the maintenance of adequate reserves and surplus by the North Dakota Workmen's Compensation Fund to the end that such fund may be kept at all times in an entirely solvent condition.

The Bureau may establish a system of merit rating within any class which will tend to equitable treatment of individual employers.

It shall be the duty of the Workmen's Compensation Bureau in the exercise of the powers and discretion conferred upon it, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the payment of the expenditures of the Bureau, the maintenance of a solvent

compensation fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury and death that it may authorize to be paid from the North Dakota Workmen's Compensation Fund for the benefit of the injured and the dependents of deceased employees, and in order that said object may be accomplished, the Bureau shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same.

It shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries, and the disbursements on account of injuries and death of employees thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the Workmen's Compensation Fund on account of injuries and death of the employees of such employer.

Ten per cent of the money that is paid into the Workmen's Compensation Fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of fifty thousand dollars (\$50,000.00) after which time the sum of five per cent of all the money paid into the Workmen's Compensation Fund shall be credited to such surplus fund, until such time as, in the judgment of the Bureau, such surplus shall be sufficiently large to guarantee the Workmen's Compensation Fund from year to year.

Every employer subject to this Act, shall pay annually into the Workmen's Compensation Fund the amount of premium determined and fixed by the Workmen's Compensation Bureau for the employment or occupation of such employer, the amount of which premium to be so paid by such employer to be determined by the classification, rules and rates made and published by the Bureau; and a receipt or certificate certifying that such payment has been made shall immediately be mailed to such employer by the Bureau, which receipt or certificate, attested by the seal of the Bureau shall be a prima facie evidence of the payment of such premium. The Bureau may make provision so that premiums fall due on different dates so as to distribute the business of the Workmen's Compensation Fund as evenly as possible throughout the year.

In the event the amount of premiums collected from any employer at the beginning of any premium period is ascertained and calculated by using the estimated expenditures of wages for the period of time covered by such premium payments as a basis, an adjustment of the amount of such premium shall be made at the end of such period and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for said period.

In case a subsequent injury occurs to an employee who has sustained another injury not in the same employment the employer shall not be penalized in his premium rate for any disability in excess of the degree of incapacity which would have resulted from the later injury if the earlier disability or injury had not existed.

Approved March 8th, 1923.

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## CHAPTER 348.

(H. B. No. 150—Anderson of Burleigh.)

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### REPORTING PUBLIC CONTRACTS.

An Act Providing for the Reporting to the Workmen's Compensation Bureau of All Contracts Involving Labor Entered Into By All Political Subdivisions of the State.

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

Sec. 1. As soon as a county, city, village, township, or school district or any other political subdivision of the State of North Dakota shall have entered into a contract with any other person, firm or corporation for any construction, building, improvement, road, bridge or other contract requiring manual labor, it shall be the duty of the auditor or clerk of every such political subdivision to report to the Workmen's Compensation Bureau of North Dakota at Bismarck, such details and information regarding such contract as is necessary for the Bureau to approximately determine the size and extent of the contract and the cost of the amount of labor therein, and shall give the name and postoffice address of the person, firm, or corporation with which the said subdivision has contracted, the date on which such labor shall begin and approximately when it will end, together with a brief description of where the labor is to be performed.

Approved March 8th, 1923.

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## CHAPTER 349.

(H. B. No. 215—Anderson.)

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### ENFORCEMENT OF PAYMENT OF PREMIUMS.

An Act To Amend Section 1 of Chapter 144 of the Session Laws of North Dakota for the year of 1921, Relating to Enforcement of Payment of Premiums to the Workmen's Compensation Fund.

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

Sec. 1. AMENDMENT.) That Section 1 of Chapter 144 of

the Session Laws of North Dakota for the year of 1921, relating to the enforcement of payment of premiums to the Workmen's Compensation Fund, is hereby amended and re-enacted to read as follows, to-wit:

Sec. 8. If any employer subject to the act is not a subscriber to the Workmen's Compensation Fund, the Bureau shall determine the amount of premium due from said employer for the next succeeding twelve months from the date notice is given by the Bureau of the amount so due, and shall inform said employer of the amount thereof in such notice, and shall order the same to be paid into said fund; provided, that if the annual premium payable to the Fund by any employer amounts to \$200.00 or more, one-half thereof shall be paid in cash within a period of thirty (30) days from the date said notice is received, and one-half thereof shall be paid within a period of six (6) months from date of said notice provided such employer files a certified check, a Certificate of Deposit, or a bond within said period of thirty (30) days with the Workmen's Compensation Bureau with sureties to the approval of said Bureau, guaranteeing that such portion to be paid after the said thirty (30) days will be paid to said Bureau within said period of six (6) months, together with the court costs which may be incurred on account of suit on such bond; and provided, also, if the annual premium payable to the Fund by any employer amounts to more than \$100.00 and less than \$200.00, \$100.00 thereof shall be paid in cash within said period of thirty (30) days, and the remaining portion thereof shall be paid within said period of six (6) months, provided a certified check, a Certificate of Deposit or a bond is filed with said Bureau within said period of thirty (30) days with sureties to the approval of the Bureau guaranteeing that such portion to be paid after the said thirty days (30) will be paid to said Bureau within said period of six (6) months, together with court costs as aforesaid. Nothing in this Act shall be construed to prevent any employer from paying the whole amount of premium in cash.

In case of default of any employer in making any payment or in filing any proper bond as herein required, a penalty shall attach at the rate of 5% of the amount of the premium demanded for every period of thirty days or major fraction thereof during which such default shall continue, but in case 5% of such premium demanded does not exceed \$25.00 then a penalty of \$25.00 shall immediately attach and shall be in lieu of the penalty above provided for the first thirty days or major fraction thereof, and after the first thirty days of default, such penalty shall be computed at the rate of one per cent of such premium for every default period of thirty days or major fraction thereof, and it shall be the duty of the Workmen's Compensation Bureau to Certify or cause to be certified, to the

Attorney General, of the State the name and place of business of such employer and the amount due from such employer and it shall then be the duty of the Attorney General forthwith to bring, or cause to be brought, for the collection of such amount so due, a civil action against such employer, in the name of the state and such action shall be brought in either the District Court of Burleigh County, North Dakota, or in any county in which such employer is engaged in business, at the option of the Attorney General. If upon final hearing of said cause it is found and determined that the defendant is an employer within the meaning of this act, the court shall render judgment against said defendant for the amount of said premium, with interest and penalties from the date of the determination of said amount by the Bureau, together with costs, which judgment shall be paid into the Workmen's Compensation Fund. The payment of such judgment shall entitle such employer and employees to the benefits of the act from the date said notice is issued by this Bureau notifying such employer of the amount of premium due. If the judgment cannot be paid in full, the Bureau shall determine the date upon which said employees' right to participate in the fund shall cease.

The payment of premium into the Workmen's Compensation Fund by an employer shall entitle such employer and the employees of such employer to the benefits of this Act from the date notice is issued by this Bureau notifying such employer of the amount of premium due.

All judgments obtained in any action prosecuted by the Bureau or by the state under authority of this Act, shall be prior lien over all other judgments and liens, except those now in existence.

If any employer, who has complied with this Act, shall be in default in any payment required to be made by him or it to the Workmen's Compensation Fund for a period of thirty days after notice that such payment is due, the same penalty shall attach and the same proceedings be had as in the case of an employer who had not previously been a subscriber to the Fund. The payment of a judgment for such premium and penalty shall entitle such employer and employees to the benefits of this Act continuously from the expiration date of such employer's previous period of insurance and the payment of premium by such employer into the Workmen's Compensation Fund shall entitle such employer and his employees to the benefits of this Act for such continuous period. If the judgment cannot be paid in full the Bureau shall determine the date upon which said employees' right to participate in the Fund shall cease. This act shall not operate retrospectively, but shall operate only from the date it becomes effective as a law. All rights and liabilities and causes of action as regards

employers and employees and the Bureau which are in existence or have accrued prior to the date this law becomes effective shall be governed by the law in force at the time such rights or obligations arose.

All such cases shall have precedence over all other civil actions and shall be assigned for trial as soon as the issues are made up.

If the defendant is a non-resident of this State, or a foreign corporation doing business in this State, service of summons may be made upon any agent, representative or foreman of said defendant wherever found in the state, or service may be made in any other manner designated by statute.

In any action, provided for herein for the collection of premiums the remedies of garnishment or attachment or both shall be available, and in any action for the collection of premiums, no exemptions, except absolute exemptions, shall be claimed by or allowed to such employer.

Approved March 10th, 1923.

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## CHAPTER 350.

(H. B. No. 153—Anderson of Burleigh.)

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### COMPENSATION FOR INJURIES OCCURRING OUTSIDE THE STATE.

An Act To Amend and Re-enact Section 10 of Chapter 162 of the Laws of North Dakota for the Year 1919, Providing for the Payment of Compensation Out of the Workmen's Compensation Fund and Providing that Compensation Shall be Paid for Injuries and Deaths from Injuries Occurring Outside the State of North Dakota only Under Circumstances as Provided in the Act.

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

Sec. 1. AMENDMENT.) That Section 10 of Chapter 162 of the Laws of North Dakota for 1919 Relating to the disbursement of the Workmen's Compensation Fund to employees who have been injured in the course of their employment wheresoever such injuries have occurred is hereby amended and re-enacted to read as follows:

Sec. 10.) The Workmen's Compensation Bureau shall disburse the Workmen's Compensation Fund to such employees of employers as have paid into the said fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wheresoever such injuries have occurred, or to their dependents in case death has ensued, and such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against



the employer of such injured or deceased employee, but no compensation shall be paid on account of injuries occurring outside of the State of North Dakota, nor because of death due to an injury occurring outside of the State of North Dakota, unless the employer and the Bureau shall have previously contracted for insurance protection for employees while working outside of the State in the employment in which the injury occurred. Provided that no such contract shall be issued to any employer unless his principal plant and main or general office is located in North Dakota and at least two-thirds of whose entire payroll is used or expended for work performed in the State of North Dakota.

Approved March 8th, 1923.

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## CHAPTER 351.

(H. B. No. 151—Anderson, of Burleigh.)

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### EMPLOYER INSURANCE.

An Act Relating to the insurance of employers with the Workmen's Compensation Fund providing for compensation for injuries or death of the employer himself, in cases where the employer has contracted for such protection with the Bureau also providing for the basis of premium for such protection.

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

Sec. 1. Any employer may by special contract with the Workmen's Compensation Bureau secure insurance protection against injuries to his own person or for his own death when such injury or death occurs in the course of his work in an industry in which he has insured his employees with the Workmen's Compensation Fund, and in case such contract is entered into, premium for such protection and compensation shall be based on a reasonable weekly wage for employees in the same class of industry, such reasonable wage to be determined by the Workmen's Compensation Bureau, and the injured employer, or, in case of his death, his dependents shall be entitled to the same compensation as is provided in Chapter 162 of the Session laws of 1919 and any amendments thereto for injuries or death of employees.

Approved February 27th, 1923.

## CHAPTER 352.

(H. B. No. 148—V. L. Anderson.)

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## LIST OF AUDITORS AND CLERKS.

An Act providing for the Annual Reporting by County Auditor to the Workmen's Compensation Bureau of all elective Auditors and Clerks of Political Subdivisions of the County.

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

Sec. 1. Between the dates of July 1 and July 15 of each year the County Auditor shall furnish to the Workmen's Compensation Bureau of North Dakota, at Bismarck, a full report, giving the name and post office address of each and every city auditor, village clerk and township clerk at that time holding office in the various political subdivisions within his County, together with the name of such political subdivisions in which each of the officials mentioned are elected and serve.

Approved February 27th, 1923.

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## CHAPTER 353.

(H. B. No. 152—V. L. Anderson.)

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## LIST OF SCHOOL DISTRICT CLERKS.

An Act Requiring the County Superintendant of Schools of all counties to report names of School District Clerks to the Workmen's Compensation Bureau.

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

Sec. 1. Between the dates of July 1 and July 15 of each and every year, the county superintendent of schools shall report to the Workmen's Compensation Bureau of North Dakota at Bismarck, the name and address of all clerks of the school districts within said county, together with the name and number of the school district in which each one serves.

Approved February 27th, 1923.

## SCHOOL FINANCE AND ADMINISTRATION COMMISSION

### CONCURRENT RESOLUTION.

(Trubshaw.)

Whereas, the problem of providing the necessary funds to efficiently maintain the public schools of the State, and not overburden the taxpayers, is a most serious one, and is yearly becoming more difficult to solve; and it is apparent that a crisis is impending in a large number of school districts in the State, unless this problem is shortly solved; and

Whereas, the whole problem of school finance and school administration is so comprehensive and complicated that it calls for extended study and analysis by a body of persons especially qualified for the task; and

Whereas, it is not possible for this Legislative Assembly to thoroughly investigate and consider such problems at this Session.

Now Therefore, Be it Resolved by the House of Representatives, the Senate concurring, that the Governor be authorized and directed to appoint a Commission of Five persons, two of whom shall be members of the 18th Legislative Assembly, to be known as the "School Finance and Administration Commission." It shall be the duty of such commission to make as thorough and comprehensive a study, investigation and analysis of the whole problem of school finance, school taxation and school administration, as possible, with a view to eliminate any unnecessary course of study, and to the reduction of taxation for school purposes; to make a report to the Governor not later than September 1st, 1924, containing its findings and recommendations; and it shall be the duty of the Governor to transmit such report to the next Legislative Assembly.

Approved March 5th, 1923.

## VETOES

(H. B. No. 76—Olafson.)

### APPROPRIATION, BOVINE TUBERCULOSIS FUND.

An Act Appropriating Ten Thousand (\$10,000.00) Dollars to the Bovine Tuberculosis Fund for carrying out the provisions of Article 17—Revised Code 1913 and Amendments thereto. Relating to the Reimbursement of Owners of Tuberculosis Cattle.

March 3, 1923

## VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 76, being an act appropriating ten thousand (\$10,000.00) dollars to the bovine tuberculosis fund for carrying out the provisions of Article 17, Revised Code 1913 and amendments thereto. Relating to the reimbursement of owners of tuberculosis cattle, without my approval for the reason that House Bill No. 113 makes an appropriation of \$80,000 which should be sufficient to take care of the accumulating claims of the next few months as well as the needs of the coming biennium.

Therefore, I withhold my approval of this bill.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. There is hereby appropriated out of any moneys of the State Treasury, not otherwise appropriated, the sum of Ten Thousand (\$10,000.00) Dollars for the Bovine Tuberculosis Fund.

Sec. 2. EMERGENCY.) An emergency exists, whereas the Federal Government cooperates on an equal basis with the State Government in the payment of indemnity for cattle slaughtered for tuberculosis, and there remains \$15,000 of the Federal Allotment and insufficient moneys available in the Bovine Tuberculosis Fund to correspond with said allotments; therefore, this Act shall take effect and be in force from and after its passage and approval.

Vetoed March 3rd, 1923.

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(H. B. No. 51—Cart.)

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## APPROPRIATION, DES LACS BRIDGE.

An Act To appropriate the Sum of Thirty-five Thousand (\$35,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota under the Provisions of Chapter 73 of the Session Laws of North Dakota for the year 1919 and that such Appropriation be Made from the State Highway Fund.

## VETO.

March 3, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 51, being an act to appropriate the sum of thirty-five thousand (\$35,000.00) dollars

for the purpose of aiding in the construction of a bridge and approaches across the Des Lacs Lake on the county line between Burke and Ward counties in the state of North Dakota under the provision of Chapter 73 of the Session Laws of North Dakota for the year 1919 and that such appropriation be made from the state highway fund, without my approval for the following reasons:

That, during the last couple days of the session there were passed by both houses of the legislature, appropriations for new bridge projects in Cass County, between Burke and Ward counties, and between McKenzie and Williams counties, which said appropriations were in the aggregate amount of \$196,500, and that with the obligations already established against the fund from which these appropriations were made, there will remain an insufficient amount available during the coming biennium with which to meet these three bridge appropriations.

In the second place, I feel that the financial condition within our state and within the counties wherein these bridges are to be constructed, is such that we are not warranted at this time in entering upon the building of new bridge projects that in the aggregate will involve an expenditure of between one and two millions of dollars. It seems both wise and necessary to defer action thereon and for these reasons I withhold my approval of the above bill.

Very respectfully yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. There is hereby appropriated out of any moneys in the State Highway Fund under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919, the sum of thirty-five thousand (\$35,000.00) dollars or so much thereof as may be necessary between the date of the passage and approval of this Act and June 30th, 1925, inclusive, for the purpose of aid in the construction of the sub-structure, super-structure and approaches or embankment to a bridge across the Des Lacs Lake on or near the county line between Burke and Ward counties within the State of North Dakota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

Sec. 2. Provided, however, that any money appropriated by this Act shall not be available or expended until the Counties of Burke and Ward in the State of North Dakota, shall have raised and appropriated a sum equal to the amount appropriated by this Act, nor until the Federal Government

shall have appropriated its proportionate share towards the completion of the bridge provided for herein.

Vetoed March 3rd, 1923.

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(H. B. No. 30—Boyd.)

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APPROPRIATION, FARGO BRIDGE.

An Act To appropriate the sum of \$75,000.00 from any moneys in the State Highway Fund, for the purpose of aiding in the construction of a Bridge across the Red River of the North, between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

VETO.

March 3, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 30, being an act to appropriate the sum of \$75,000.00 from any moneys in the state highway fund, for the purpose of aiding in the construction of a bridge across the Red River of the North, between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota, under the provisions of Chapter 73 of the laws of North Dakota for the year 1919, without my approval for the following reasons:

That, during the last couple days of the session there were passed by both houses of the legislature, appropriations for new bridge projects in Cass County, between Burke and Ward counties, and between McKenzie and Williams counties, which said appropriations were in the aggregate amount of \$196,500, and that with the obligations already established against the fund from which these appropriations were made, there will remain an insufficient amount available during the coming biennium with which to meet these three bridge appropriations.

In the second place, I feel that the financial condition, within our state and within the counties wherein these bridges are to be constructed, is such that we are not warranted at this time in entering upon the building of new bridge projects that in the aggregate will involve an expenditure of between one and two millions of dollars. It seems both wise and necessary to defer action thereon and for these reasons I withhold my approval on the above bill.

Very respectfully yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. It is hereby appropriated out of any moneys in the State Highway Fund under Paragraph 2a of Section 11 of

Chapter 44 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919 the sum of \$75,000.00 or so much thereof as may be necessary between the date of the passage and approval of this Act and June 30, 1925, inclusive, for the purpose of aid in the construction of the substructure, superstructure, and structural approaches to a bridge across the Red River of the North between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

Sec. 2. Provided however, that any money appropriated by this act shall not be available or expended until the counties of Cass, in the State of North Dakota, and Clay in the State of Minnesota, and also the State of Minnesota shall have raised and appropriated a sum equal to the amount appropriated by this act, or until the Federal Government shall have appropriated its proportionate share towards the completion of the bridge provided for herein.

Vetoed March 3rd, 1923.

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(H. B. No. 66—Eckert.)

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#### APPROPRIATION, WILLISTON BRIDGE.

An Act To appropriate the sum of \$86,500.00, From any Moneys in the State Highway Fund, for the Purpose of Aiding the Construction of a Bridge Across the Missouri River, Between Williams County, North Dakota, and McKenzie County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

March 3, 1923.

#### VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 66, being an act to appropriate the sum of \$86,500.00, from any moneys in the state highway fund, for the purpose of aiding the construction of a bridge across the Missouri River, between Williams county, North Dakota and McKenzie county, North Dakota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919, without my approval for the following reasons:

That, during the last couple days of the session there were passed by both houses of the legislature, appropriations for new bridge projects in Cass County, between Burke and Ward counties, and between McKenzie and Williams counties, which said appropriations were in the aggregate amount of \$196,500, and that with the obligations already established against the fund from which these appropriations were made, there will

remain an insufficient amount available during the coming biennium with which to meet these three bridge appropriations.

In the second place, I feel that the financial condition within our state and within the counties wherein these bridges are to be constructed, is such that we are not warranted at this time in entering upon the building of new bridge projects that in the aggregate will involve an expenditure of between one and two million of dollars. It seems both wise and necessary to defer action thereon and for these reasons I withhold my approval of the above bill.

Very respectfully yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. It is hereby appropriated out of any moneys in the State Highway fund under Paragraph 2a of Section 11 of Chapter 44 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919 the sum of \$86,500.00 or so much thereof as may be necessary between the date of the passage and approval of this Act and June 30th, 1925, inclusive, for the purpose of aid in the construction of the sub-structure, superstructure, and structural approaches to a bridge across the Missouri River between Williams County and McKenzie County, North Dakota, under the provisions of Chapter 73 of the Laws of North Dakota for the year 1919.

Vetoed March 3rd, 1923.

(S. B. No. 142—Committee on Appropriations.)

APPROPRIATION, MISCELLANEOUS REFUND.)

An Act Making an Appropriation of the Sum of \$25,000.00 for the Biennium, which is known as a Miscellaneous Refund.

VETO.

March 3, 1923.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 142, being an act making an appropriation of the sum of \$25,000.00 for the biennium, which is known as a miscellaneous Refund, without my approval for the reasons that the appropriations of the legislature exceed the available income and that there does not appear to be a need for such an appropriation.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. APPROPRIATION.) There is hereby appropriated



out of any not otherwise appropriated funds in the State Treasury, the sum of \$25,000.00, or so much thereof as shall be necessary for the purpose of making certain refunds, for the biennium, and is known as the Miscellaneous Refunds account.

Vetoed March 3rd, 1923.

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(S. B. No. 325—Baird.)

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CERTIFIED PUBLIC ACCOUNTANTS.

An Act to Amend and Re-enact Section 557 of the Compiled Laws of North Dakota for 1913, Governing the Practice of Certified Public Accountants in the State, and providing a Penalty for Violation of the Laws Governing Accountancy.

March 12, 1923.

VETO.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 325, being an act to amend and re-enact Section 557 of the Compiled Laws of North Dakota for 1913, governing the practice of certified public accountants in the state, and providing a penalty for violation of the laws governing accountancy, without my approval for the reason that the said act is so loosely drawn and some of the provisions thereof so indefinite that neither the public nor the accountant who might be charged thereunder have their rights properly safeguarded. For these reasons, I withhold my approval.

Very truly yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. AMENDMENT.) That Section 557 of the Compiled Laws of North Dakota, for 1913, be amended and re-enacted to be read as follows:

Sec. 557. MISCONDUCT PENALTY.) Any certified Public Accountant who shall be found guilty of falsifying a report, statement, investigation or audit, shall have his certificate revoked and be deemed guilty of a felony, and upon conviction thereof, shall be punished by a fine of not less than One Hundred Dollars, or more than Five Hundred, or by imprisonment in the State Penitentiary, for a period of not less than one year or more than three years, or by both such fine and imprisonment, in the discretion of the Court.

Sec. 557A. GENERAL PENALTY.) Any person representing himself or herself to the Public as having received a certificate as a Certified Public Accountant, as provided for in this act,

or who shall assume to practice as a Certified Public Accountant, without first having received such certificate, or if any person having received such certificate, shall hereafter lose the same by revocation, as provided for in this act and shall continue to practice as a Certified Public Accountant, or use such title or any other title mentioned in Section 551 of this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished, by a fine of not less than Fifty Dollars and not exceeding Three Hundred Dollars, or by imprisonment for a period not to exceed ninety days, or by both such fine and imprisonment in the discretion of the Court.

Sec. 2. REPEAL.) All acts or parts of acts, in so far as they conflict with the provisions of this act, are hereby repealed.

Sec. 3. EMERGENCY.) Whereas the Supreme Court of North Dakota recently held that the present accountancy law being Article 21, Chapter 5 Compiled Laws of North Dakota for 1913, contains no penalty with which to enforce the act, against persons assuming the title of Certified Public Accountant, without first receiving the necessary certificate, to practice as such and as this act is to correct such omission in the law, an emergency exists, and this act shall become effective from and after its passage and approval.

Vetoed March 12th, 1923.

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(S. B. No. 236—Ward.)

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#### CONVERSION AND EXCHANGE OF BONDS.

An Act Authorizing the Cancellation, Conversion and Exchange of Bonds  
Issued Under and By Virtue of Chapter 148, Session Laws of 1919.  
March 8, 1923.

#### VETO.

To the Honorable Secretary of State:

I file herewith Senate Bill No. 236, being an act authorizing the cancellation, conversion and exchange of bonds issued under and by virtue of Chapter 148, Session Laws of 1919, without my approval for the reason that House Bill No. 232 which has already been enacted into law takes care of the same situation more adequately, and the approval of this measure would be but a duplication of legislation.

Very truly yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. Whenever there is delivered and surrendered for conversion to the Industrial Commission bonds issued under and

by virtue of Chapter 148 of the Session Laws of 1919, by the purchaser of such bonds, the Industrial Commission may in its discretion cancel such bonds of record and convert, exchange and re-issue same for the purchaser in different denominations for an amount equal to the bonds so delivered, surrendered and cancelled. The rate of interest and dates of maturity of such re-issued bonds shall remain the same as those cancelled. Upon the cancellation of such bonds the Industrial Commission shall forthwith notify the State Treasurer who shall also cancel same of record and shall file the bonds so cancelled in his office, and thereupon the bonds shall be re-issued in accordance with the provisions of this act and with Chapter 148 of the Session Laws of 1919.

Vetoed March 8th, 1923.

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(H. B. No. 245—Freeman.)

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#### MILL AND ELEVATOR BONDS.

An Act To Amend and Re-enact Section 2 of Chapter 153 of the Session Laws of North Dakota for 1919, Relating to Bonds of North Dakota, Mill and Elevator Series.

#### VETO.

March 8, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 245, being an act to amend and re-enact Section 2 of Chapter 153 of the Session Laws of North Dakota for 1919, relating to bonds of North Dakota, Mill and Elevator series, without my approval for the reason that the only change made in the law by the proposed enactment is that it relieves the industrial commission of the duty of securing a verified appraisal of the property which is the basis of our bond issues, and I am confident that such a change in the law would shake the confidence in our purposes and in the value and validity of our bonds.

I do not feel that any good purpose can be served by enacting this measure. For that reason, I withhold my approval.

Very truly yours,

R. A. NESTOS,  
Governor.

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

Sec. 1. AMENDMENT.) That Section 2 of Chapter 153 of the Session Laws of North Dakota for 1919, be amended and re-enacted to read as follows:

Sec. 2. Whenever the Industrial Commission shall deem it expedient so to do, for the purpose of authorizing the is-

suance of bonds of the State of North Dakota as contemplated by this Act, it shall cause mortgages to be executed in the manner prescribed by Section 7 of the Act entitled "An Act declaring the purpose of the State of North Dakota to engage in the business of manufacturing and marketing farm products, and for establishing a warehouse, elevator and flour mill system under the name of North Dakota Mill and Elevator Association operated by the state, and defining the scope and manner of its operation, and the powers and duties of the persons charged with its management; and making an appropriation therefore," enacted in the year 1919, by the Sixteenth Session of the Legislative Assembly of North Dakota, being Senate Bill Number 20. The grantee and mortgagee designated in said mortgages shall be "the State Treasurer of North Dakota and his successors in office in trust." Each mortgage shall be executed and delivered to the Treasurer of North Dakota and his successors in office, in trust as security for bonds to be issued by the State of North Dakota under the designation of "Bonds of North Dakota Mill and Elevator Series," as provided by law, and shall contain a recital to that effect. The property described in and covered by said mortgages shall be such property as is owned by or may be acquired for the State of North Dakota, doing business as North Dakota Mill and Elevator Association, and dedicated to or acquired for the use thereof by the Industrial Commission. All property dedicated to or acquired for the State of North Dakota doing business as North Dakota Mill and Elevator Association shall be described in and covered by first mortgages so that at all times all of the property of the State of North Dakota doing business as North Dakota Mill and Elevator Association shall be pledged to the payment of all of the bonds issued, sold and delivered under the provisions of this Act; and attached to each of said mortgages, and incorporated by reference into the provisions thereof; shall be an itemized statement of all of the property specified and covered therein, showing the true value thereof. Said mortgages shall be a first lien upon all of said property without prior lien or incumbrance of any kind whatsoever.

Vetoed March 8th, 1923.

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(H. B. No. 226—Goranson and Craig.)

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**NON-RESIDENT TUITION FEE, COUNTY AGRICULTURAL AND TRAINING SCHOOLS.**

An Act To Amend and Re-enact Section 1462 of the Compiled Laws of the State of North Dakota for the year 1913 relating to the Admission of Non-resident Students to County Agricultural and Training Schools, providing for the payment of Tuition of such Non-resident Students by the County of their Residence.

## VETO.

March 12th, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 226, being an act "to amend and re-enact" Section 1462 of the Compiled Laws of the State of North Dakota for the year 1913 relating to the admission of non-resident students to county agricultural and training schools, providing for the payment of tuition of such non-resident students by the county of their residence," without my approval for the reason that I do not believe in the policy that makes it possible for an institution, receiving five thousand dollars in aid from the state of North Dakota, to make tuition charges of approximately one hundred dollars per pupil, against other counties, the tax payers of which are helping to pay the state aid already received and who also support an agricultural college to which such students may go.

I think it proper that these schools should be permitted to charge tuition but I do not feel that they should be granted the power to tax these tuition fees against any county without the consent of the county commissioners, or by a vote of the people of such county.

If fifty pupils were to enter the school at Maddock, for instance, from Eddy county, the school at Maddock could collect five thousand dollars from Eddy county, even tho neither the county commissioners nor the citizens of Eddy county had agreed thereto, and in spite of the fact that the parents of these pupils might be abundantly able to provide for their education and in spite of the further fact that the taxpayers of Eddy county are now contributing a part of the aid already received and are also helping to support an agricultural college at Fargo.

For these reasons, I withhold my approval.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. AMENDMENT.) That Section 1462 of the Compiled Laws of the State of North Dakota for the year 1913, be and the same is amended and re-enacted to read as follows:

Sec. 1462. SCHOOL FREE TO WHOM. ADMISSION OF NON RESIDENTS.) Any school organized under the provisions of this act shall be free to the residents of the county in which the school is located; but the Board of Trustees of such school may admit students from counties in which no County Agricultural and Training School shall have been organized under this act, whenever the facilities for seating and instructions

will warrant it, and shall prescribe terms and conditions under which such non-resident student may be admitted. Provided, however, that no non-resident student or students who have not completed the course of study prescribed by the State Superintendent of Public Instruction for the common schools of the state shall be admitted except upon passing an Examination in all the subjects required to obtain a common school diploma. Non-resident students, under twenty-one years of age, may also be admitted to advanced standings upon presentation of satisfactory evidence of having completed the required work in some standardized graded school or standardized high school or other educational institution of recognized standing or upon passing a satisfactory examination in the required subjects.

It shall be the duty of any county in which no county agricultural and Training School shall have been organized under this act to pay the tuition of qualified students residing in such county who enter any organized county agricultural and training school in the state. The board of trustees of such agricultural and training school where such students may enter shall be entitled to and is hereby authorized to charge a tuition fee for such non-resident students not to exceed two and one half dollars per school week for the time such non-resident students are in attendance. The county commissioners of the county from which such students may come are hereby authorized to pay to the treasurer of the county agricultural and training school such tuition fees in such sums as shall be shown due and payable under the rules and regulations adopted by said board of trustees for the admission of non-resident students.

On or before the twentieth day of June each year, the principal of the county agricultural and training school, which shall have admitted non-resident students under this act, shall file with the secretary of the board of trustees of said school a sworn statement, setting forth the residence, including county and political unit, name, age, and date of entrance to such county agricultural and training school, and the number of school weeks enrolled during the current year for each student so admitted from such county or counties. On or before the thirtieth day of June of each year the secretary of the board of trustees of said school shall file a copy thereof attached to a statement of account, executed in the usual form required for filing bills, showing the tuition fees, which under this act and the rules of the board of trustees, the county is entitled to receive for each person having been enrolled in such county agricultural and training school during the current year and the aggregate sum for all persons so admitted, which statement shall be filed with the county auditor of the county

from which said student or students were admitted as a claim against such county and shall be allowed by the board of county commissioners of such county as other claims are allowed and paid out of the general funds of the county.

Vetoed March 12, 1923.

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(H. B. No. 312—Quade.)

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LEGISLATIVE RE-APPORTIONMENT.

An Act To Amend and Re-enact Section 44 of the Compiled Laws of North Dakota for the Year 1913, as amended and re-enacted by Chapter 4 of the Session Laws of North Dakota for the year 1915 as Amended and re-enacted by Chapter 2 of the Session Laws of North Dakota for the year 1917, relating to Legislative Apportionment.

VETO.

March 12, 1923.

To the Honorable Secretary of State:

I file herewith House Bill No. 312, being an act to amend and re-enact Section 44 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by Chapter 4 of the Session Laws of North Dakota for the year 1915, as amended and re-enacted by Chapter 2 of the Session Laws of North Dakota for the year 1917, relating to legislative apportionment, without my approval for the following reasons:

The constitution provides that at the first legislative session after each census, the state shall be divided into senatorial districts as nearly equal to each other in the number of inhabitants entitled to representation as possible, and that a general reapportionment shall be made on such a basis. This should have been done in 1921, but it was not attended to. In my inaugural address, I recommended that it be done at this session and that the number of senators and representatives be decreased.

The above act on the face of it purports to make a general reapportionment, but a careful investigation of the provisions of the act reveals the fact that while there have been fair and proper changes in a few districts, that the act has failed to correct the inequalities existing in other districts, and is therefore not just and equitable thruout.

It is apparent that it was fair and just to join Grant and Sioux counties in one district. It is also apparent that, since Emmons county is considerably larger than Sheridan, that Sheridan and Kidder should be joined in the same senatorial district rather than Kidder and Emmons. It is just also to say that as between McHenry and Stutsman counties, if either of them is entitled to two senatorial districts, it is surely Stutsman with over 24,000 people rather than McHenry with less than 16,000.

Those preparing the act, however, seem to have overlooked the fact that in the forty-first district, McKenzie and Williams with a total population of 27,524 are combined, though the Missouri river separates the two, and that if Stutsman county is entitled to two senatorial districts, surely McKenzie and Williams were entitled to be divided into two such districts.

We also find that at the last census, the ninth legislative district consisting of Fargo had approximately 22,000 people and undoubtedly considerably more at this time, and yet no attempt was made to rearrange the lines of the senatorial districts in Cass County.

These, and a number of other inequalities, still remain and it is my judgment that rather than to approve the above act, it will be fairer to withhold the approval of the act now, and then to urge upon the next legislative session that a general reapportionment act be passed to correct all of these inequalities and, if possible, also to reduce the membership of the senate to about thirty-five and the membership of the house to about seventy.

For these reasons, I withhold my approval.

Very respectfully,

R. A. NESTOS,  
Governor.

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

Sec. 1. AMENDMENT.) That Section 44 of the Compiled Laws of North Dakota for the Year 1913 as amended and re-enacted by Chapter 4 of the Session Laws of North Dakota for the year 1915, as amended and re-enacted by Chapter 2 of the Session Laws of North Dakota for the year 1917 be and the same is hereby amended and re-enacted to read as follows:

Sec. 1. Unless otherwise provided by law under the terms of the constitution, the legislative assembly of the state of North Dakota shall consist of forty-nine senators and one hundred thirteen representatives, and the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned, as follows:

(1) The first district shall consist of the county of Pembina, and shall be entitled to one senator and three representatives.

(2) The second district shall consist of the city of Kenmare and that portion of Ward county situated and being in townships 154, 155 and 156 of ranges 85, 86 and 87; township 157 of ranges 84, 85, 86, and 87; township 158 of range 87; townships 159 and 160 of ranges 87, 88 and 89; and township



161 of range 88; and shall be entitled to one senator and one representative.

(3) The third district shall consist of the townships of Sauter, Shepherd, Dewey, Kinloss, Perth, Latona, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Opps, Prairie Center, Fertile, Glenwood, city of Park River, and the villages of Edinburg, Conway, Hoople, Pisek, Adams and Fairdale, in the county of Walsh, and shall be entitled to one senator and two representatives.

(4) The fourth district shall consist of the townships of Forest River, Walsh, Centre, Grafton, Farmington, Ardoch, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, St. Andrews, city of Grafton, city of Minto, village of Forest River, and village of Ardoch, in the county of Walsh, and shall be entitled to one senator and one representative.

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

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

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

(8) The eighth district shall consist of the county of Traill, and shall be entitled to one senator and three representatives.

(9) The ninth district shall consist of the township of Fargo, the city of Fargo, and the village of North Fargo, in the county of Cass and shall be entitled to one senator and three representatives.

(10) The tenth district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kinoyon, Gardiner, Berlin, Raymond, Mapleton, Warren, Normanna, Bell, Harmony, Durbin, Addison, Davenport, Casselton, and the fractional township 139 of range 48, the city of Cassel-

ton, the village of Mapleton, and the village of Davenport, in the county of Cass, and shall be entitled to one senator and two representatives.

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

(12) The twelfth district shall consist of the townships of Eagle, Abercrombie, Dwight, Ibsen, Centre, Mooreton, Brandenburg, Summit, Fairmount, Devillo, Lamars, Waldo and Greendale, the city of Wahpeton, and the villages of Abercrombie, Great Bend, and Fairmount, in the county of Richland, and shall be entitled to one senator and two representatives.

(13) The thirteenth district shall consist of the county of Sargent, and shall be entitled to one senator and two representatives.

(14) The fourteenth district shall consist of the county of Ransom, and shall be entitled to one senator and two representatives.

(15) The fifteenth district shall consist of that portion of the county of Barnes situated and being in townships 140 and 141 of ranges 58, 59, and 60, township 141 of range 61; and townships 142 and 143 of ranges 56, 57, 58, 59, 60 and 61; and shall be entitled to one senator and one representative.

(16) The sixteenth district shall consist of the counties of Steele and Griggs, and shall be entitled to one senator and three representatives.

(17) The seventeenth district shall consist of the county of Nelson, and shall be entitled to one senator and two representatives.

(18) The eighteenth district shall consist of the county of Cavalier, and shall be entitled to one senator and three representatives.

(19) The nineteenth district shall consist of the county of Rolette, and shall be entitled to one senator and two representatives.

(20) The twentieth district shall consist of the county of Benson, and shall be entitled to one senator and two representatives.

(21) The twenty-first district shall consist of the county of Ramsey, and shall be entitled to one senator and three representatives.

(22) The twenty-second district shall consist of the county of Towner, and shall be entitled to one senator and two representatives.

(23) The twenty-third district shall consist of that portion of the county of Stutsman situated and being in townships 137, 138, 139 and 140 of ranges 62, 63 and 64; and townships 141, 142, 143 and 144 of ranges 62 and 63; and shall be entitled to one senator and two representatives.

(24) The twenty-fourth district shall consist of the county of LaMoure, and shall be entitled to one senator and two representatives.

(25) The twenty-fifth district shall consist of the county of Dickey, and shall be entitled to one senator and two representatives.

(26) The twenty-sixth district shall consist of the county of Emmons, and shall be entitled to one senator and two representatives.

(27) The twenty-seventh district shall consist of the county of Burleigh, and shall be entitled to one senator and three representatives.

(28) The twenty-eighth district shall consist of the county of Bottineau, and shall be entitled to one senator and three representatives.

(29) The twenty-ninth district shall consist of the city of Minot, and that portion of the county of Ward situated and being in townships 151, 152 and 153 of ranges 81, 82, 83, 84, 85, 86 and 87; townships 154, 155 and 156 of ranges 81, 82, 83 and 84; and township 157 of ranges 81, 82, and 83; and shall be entitled to one senator and four representatives.

(30) The thirtieth district shall consist of the county of Morton, and shall be entitled to one senator and four representatives.

(31) The thirty-first district shall consist of the county of Stark, and shall be entitled to one senator and three representatives.

(32) The thirty-second district shall consist of the counties of Eddy and Foster, and shall be entitled to one senator and two representatives.

((33) The thirty-third district shall consist of the county of Wells, and shall be entitled to one senator and two representatives.

(34) The thirty-fourth district shall consist of that portion of the county of Stutsman situated and being in townships 137, 138, 139 and 140 of ranges 65, 66, 67, 68 and 69; and townships 141, 142, 143 and 144 of ranges 64, 65, 66, 67, 68 and 69; and shall be entitled to one senator and two representatives.

(35) The thirty-fifth district shall consist of the counties of Kidder and Sheridan, and shall be entitled to one senator and three representatives.

(36) The thirty-sixth district shall consist of the counties of Logan and McIntosh, and shall be entitled to one senator and three representatives.

(37) The thirty-seventh district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Nansen, Garbourg, Freeman, West End, Homestad, Antelope, Barney, Danton, Wyndmere, Dexter, Liberty Grove, Bedford, Brightwood, Moran, Grant, Durr and Elma, the village of Wyndmere, the town of Hankinson, and the city of Lidgerwood, in the county of Richland, and shall be entitled to one senator and two representatives.

(38) The thirty-eighth district shall consist of that portion of the county of Barnes situated and being in townships 137, 138, and 139 of ranges 56, 57, 58, 59, 60 and 61; townships 140 and 141 of ranges 56 and 57; and township 140 of range 61; and shall be entitled to one senator and one representative.

(39) The thirty-ninth district shall consist of the counties of Billings, Bowman, Slope and Golden Valley, and shall be entitled to one senator and three representatives.

(40) The fortieth district shall consist of the counties of Burke and Divide, and shall be entitled to one senator and three representatives.

(41) The forty-first district shall consist of the counties of Williams and McKenzie, and shall be entitled to one senator and five representatives.

(42) The forty-second district shall consist of the county of Pierce, and shall be entitled to one senator and two representatives.

(43) The forty-third district shall consist of the county of Renville, and shall be entitled to one senator and one representative.

(44) The forty-fourth district shall consist of the county of Mountrail, and shall be entitled to one senator and two representatives.

(45) The forty-fifth district shall consist of the county of McHenry and shall be entitled to one senator and three representatives.

(46) The forty-sixth district shall consist of the county of McLean, and shall be entitled to one senator and three representatives.

(47) The forty-seventh district shall consist of the counties of Grant and Sioux, and shall be entitled to one senator and two representatives.

(48) The forty-eighth district shall consist of the counties of Mercer, Oliver and Dunn, and shall be entitled to one senator and three representatives.

(49) The forty-ninth district shall consist of the counties of Adams and Hettinger, and shall be entitled to one senator and two representatives.

Sec. 2. In order that the Senate may consist of two classes of Senators, as nearly equal in number as may be, the senator elected in 1924 from the thirty-fourth district, as defined in this act, shall serve for a term of two years, and the senator elected in 1926 from the forty-fifth district, as defined in this act, shall serve for a term of two years. At the expiration of the terms of said senators their successors shall be elected for the constitutional term of four years. The senator elected in 1922 from the thirty-fourth district as then constituted, shall from and after the thirty-first day of December, 1924, serve as senator from the forty-fifth district for the remainder of the term for which he was elected.

Vetoed March 12, 1923.

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(H. B. No. 166—Sathre.)

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#### SURVIVAL OF PERSONAL INJURY ACTIONS.

An Act To Amend and Re-enact Section 8325 of the Compiled Laws of North Dakota for 1913, Relating to Actions Arising Out of Personal Injury or Death Resulting from Wrongful Acts.

March 12, 1923.

#### VETO.

To the Honorable Secretary of State:

I file herewith House Bill No. 166, being an act to amend and re-enact Section 8325 of the Compiled Laws of North Dakota for 1913, relating to actions arising out of personal injury or death resulting from wrongful acts, without my approval for the reason that the amendment and the existing law as proposed in the said act, does not appear to be a wise and proper one and in the interest of good public policy.

Very respectfully,

R. A. NESTOS,  
Governor.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

Sec. 1. AMENDMENT.) That Section 8325 of the Compiled Laws for 1913 be amended and re-enacted to read as follows:

Sec. 8325. All actions or causes of action, for personal injuries including pain and suffering and expense, where the injured party shall die from causes which are not the result of such injuries or pain and suffering, shall survive the death of the said injured person, and an action may be maintained against the person or corporation responsible for such injuries, pain and suffering and expense, by any of the persons named in Section 8323 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 106 of the Session Laws of North

Dakota for 1917, with the same force and effect as the said injured person could have maintained said action, were he still living. The action or cause of action shall not abate by reason of the death of either party to the record. If the plaintiff dies pending the action, the person next in order entitled to bring the action, shall, by order of Court, be made plaintiff therein, and if action shall not have been already commenced, such action may be brought by the persons, and in the manner provided in Section 8323, of the Compiled Laws of North Dakota for 1913, as amended by Chapter 106 of the Session Laws of North Dakota for 1917. That it shall not be necessary to present such claim created by such action, or cause of action, to the estate of the deceased tortfeasor, except that a copy of the summons and complaint may be served upon the executor or personal representatives of said estate.

Sec. 2. All acts or parts of acts in conflict herewith are hereby repealed.

Vetoed March 12, 1923.

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## INITIATED MEASURES

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### REPEAL OF TEACHERS MINIMUM TRAINING AND SALARY LAW.

Being an act providing for the repeal of Chapter 112 of the Session Laws of 1921, which provides for a minimum amount of training, a minimum salary for a teaching experience of less than one school year, and a schedule of salary minimum for a teaching experience of from one to six years inclusive, for teachers in the public schools of North Dakota.

*Be It Enacted by the People of the State of North Dakota:*

Sec. 1. Chapter 112 of the Session Laws of 1921 of the laws of the State of North Dakota is hereby repealed.

Approved June 28, 1922—101,167 to 70,372.

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### BONDS OF NORTH DAKOTA, REAL ESTATE SERIES.

Being an act amending the Bonds of North Dakota Real Estate Series Act, providing for the issuing of bonds of the State of North Dakota in a sum of not Exceeding \$10,000,000.00.

Amends Section 15 of Chapter 154 of the Laws of 1919, so as to increase the amount for which such bonds may be issued from a sum not exceeding \$10,000,000.00 to a sum not exceeding \$20,000,000.00.

*Be It Enacted by the People of the State of North Dakota:*

Sec. 1. That Section 15 of Chapter 154 of the Laws of the State of North Dakota for the year 1919 be amended and re-enacted to read as follows:

Sec. 15. The powers herein granted may be repeatedly exercised and the duties following thereupon shall be likewise repeatedly performed, from time to time as occasion may arise under the terms of this Act; provided, however, that at no time shall the amount of bonds issued and outstanding pursuant to the terms of this Act exceed the total of twenty million dollars.

Approved June 28th, 1922—99,866 to 58,186.

#### THE NORTH DAKOTA GRAIN GRADING ACT.

An Act declaring the purpose of the State of North Dakota to supervise and regulate the marketing of farm products; preventing unjust discrimination, fraud and extortion in the marketing of same; establishing a system of grading, weighing and measuring farm products; defining the scope and manner of such supervision and the powers and duties of the persons charged with same; providing for licensing buyers, solicitors, and warehouses handling such farm products; and making an appropriation therefor.

*Be It Enacted by the People of the State of North Dakota:*

Sec. 1. For the purpose of encouraging, promoting and safe-guarding agriculture, commerce and industry, and preventing confiscation of dockage, unjust discrimination, fraud and extortion in the marketing of all kinds of grain, seed and other agricultural products, we, the people of the state of North Dakota do hereby establish a uniform system of grading, weighing and measuring all kinds of grain, seed and other farm products, and this act shall be known as the "North Dakota Grain Grading Act."

Sec. 2. The Board of Railroad Commissioners of the state, on or before the 8th day of December, 1922, shall appoint for a term of four years, a supervisor of grades, weights and measures, who shall be an expert in the grading, weighing and measuring of all kinds of grain, seeds and other agricultural products; and such supervisor shall immediately assume the duties of his office and shall receive a salary of \$3,600 per annum. In case of death, resignation or inability of such supervisor, the vacancy shall be filled in like manner for the unexpired term, and thereafter such supervisor shall be appointed in like manner.

Sec. 3. The State Supervisor of Grades, Weights and Measures shall maintain his office and principal place of business at the Agricultural college of this state, and shall make and enforce such orders, rules and regulations as are necessary to carry out the provisions of this act. It is hereby made the duty of all of the departments of the Agricultural College, (and especially of the State Experiment Mill at said College), to assist and co-operate with the State Supervisor of Grades, Weights and

Measures in analyzing and testing all kinds of grain, seeds and other farm products for the purpose of establishing just and uniform grades, weights and measures for same.

Sec. 4. It shall be the duty of the State Supervisor of Grades, Weights and Measures to fix and establish as soon as may be after the enactment hereof for the purpose of preventing fraud and wrongful handling of grain, seed and other farm products, and protecting the producers of the same in connection with the marketing thereof, grades, weights and measures for all kinds of grain, seed and other farm products and he shall prescribe standards of quality and conditions of same, and shall in a general way investigate and supervise the marketing of same with a view of preventing unjust discrimination, unreasonable margins of profit, confiscation of valuable dockage, fraud and other unlawful practices; provided however that whenever the Secretary of Agriculture of the United States has established grades, weights and measures, or any standards of quality and condition of any grain, seed and other agricultural products under the United States Grain Standards Act, such grades, standards of quality and condition, weights and measures shall become the grades, standards of quality and conditions, weights and measures of this state. In establishing such grades, weights and measures, the value of dockage shall be considered and the buyer shall not be permitted to retain the same without just compensation. He shall pay the fair market value for same or separate it and return it to the producer.

Sec. 5. That whenever grades, weights and measures shall have been fixed and established under the provisions of this act for any grain, seed or agricultural products by the State Supervisor of Grades, Weights and Measures, or by the Secretary of Agriculture of the United States, then no person thereafter shall buy by grade any such farm product unless it shall have been inspected and graded by an inspector licensed under the provisions of this act, or under the provisions of the United States Grain Standards Act, and the grade by which it is bought be one of the grades fixed and recognized under the provisions of this act; provided, that any person may buy any such product by sample or by type or under any name, description or designation which is not false or misleading and which name, description or designation does not include in whole or part the terms of any official grade or grain standard established or recognized by this act. Nothing herein shall prohibit producers from buying grain, seed or other agricultural products from one another.

Sec. 6. The State Supervisor of Grades, Weights and Measures shall issue a license to grade to any person engaged in soliciting, buying, weighing and inspecting or grading grain,



seeds or other agricultural products, or to the buyer or agent of a privately or publicly owned warehouse, elevator or flour mill handling agricultural products provided that such buyer, solicitor or agent shall pass such reasonable examination as to his competency as may be prescribed by the State Supervisor of Grades, Weights and Measures. The condition of such license shall require such person to honestly and correctly fix grades and dockage of grain and seed inspected at their respective places of business and to honestly and correctly weigh the products so inspected and graded according to the provisions of this act and the rules and regulations made hereunder.

Sec. 7. The State Supervisor of Grades, Weights and Measures may suspend or revoke any license issued by him under this act whenever after investigation he shall determine that such licensee is incompetent or has knowingly or carelessly graded grain improperly or has short-weighed or has taken for his own use valuable dockage without compensation, or has issued any false certificate of grading or has violated any of the provisions of this act or of the United States Grain Standards Act. Upon such suspension or revocation, if the licensee is not satisfied with the decision of the State Supervisor of Grades, Weights and Measures, he may appeal to the District Court of his county and have such order reviewed. All licenses issued under this section shall terminate on the 30th day of June each year. Each person receiving such license shall cause same to be conspicuously posted at his place of business, provided that any person may without a license and according to provisions of the United States Grain Standards Act and the rules and regulations promulgated thereunder by the Secretary of Agriculture buy by grade any grain, seed, or other agricultural products that have been graded as provided by this act.

Sec. 8. A state warehouse license must be obtained through the State Supervisor of Grades, Weights and Measures for each and every public warehouse handling grain, seed or other farm products in the state. License fee for such warehouse to be fixed by the State Supervisor of Grade, Weights and Measures, and shall not exceed \$1.00 for each 1,000 bushels capacity of such warehouse. The license thus obtained shall be posted in a conspicuous place in such warehouse and shall expire on the 30th day of June each year following the issuance thereof.

Sec. 9. It shall be the duty of the Supervisor of Grades, Weights and Measures to inspect public warehouses handling grain, seed or other farm products and to establish and alter rules and regulations for handling, storing, weighing, grading and inspecting such farm products and he shall require the proprietor, lessee or manager of any such public warehouse, elevator or flour mill, or any individual buying or shipping grain for profit in this state, who does not pay cash in advance

for the grain so bought, to file with him a bond, running to the state, with good and sufficient surety in an amount sufficient to cover the value of all farm products bought and no paid for in cash and in addition thereto, he shall require a bond from such public warehouse in a penal sum of not less than five thousand dollars, as in his discretion he may deem fit for the faithful performance of their duties as public warehousemen, and the compliance with all of the laws of this state in relation thereto.

Sec. 10. And it shall be the duty of every public warehouseman in this state to keep a record of the names and addresses of their respective warehouses, elevators or mills; the price paid for agricultural products, the grades given; the price received and the grades received at the terminal markets or within the state, which information shall be furnished to the Supervisor of Grades, Weights and Measures upon written request.

Sec. 11. In case of any dispute as to grades, weights or measures between the producer and the purchaser, operating a public warehouse, elevator or flour mill, handling agricultural products, then a sample shall be taken from such farm product, and shall be sent to the Supervisor of Grades, Weights and Measures, and the proper grade weight or measure shall be determined by him under such rules and regulations as he may establish.

Sec. 12. It shall be unlawful for any person to grade grain, seed or other agricultural products who has not been licensed by the Supervisor of Grades, Weights and Measures or who does not hold a license to grade, weigh or measure grain, seed or other agricultural products under the United States Grain Standards Act. And it shall be unlawful for any person or persons, corporation or association to operate a public warehouse, or to grade grain, seed or other agricultural products without first securing a license from the Supervisor of Grades, Weights and Measures, provided, however that this section shall not prohibit any such person from buying such agricultural products if they have first been lawfully graded or provided he buys them by samples as otherwise provided for herein.

Sec. 13. To accomplish the purpose of this act, the State Supervisor of Grades, Weights and Measures may employ such deputies, assistants, accountants, expert agents and servants as in his judgment he deems necessary, and he shall define the duties and designate the titles, and fix the compensation and bonds of such persons so engaged, the total compensation of

such appointees and employees, together with the other expenditures for the operation and maintenance of the Department of Grain Grading, shall remain within the appropriation and the funds received from the licensing of elevators, warehouses and mills handling agricultural products available each year for such purpose; and the Supervisor of Grades, Weights and Measures may remove any such deputies, assistants, accountants, expert agents and servants whenever in his judgment the public interests require it, and he may do any and all such other acts as are necessary to carry out any and all of the provisions of this act. And it shall be the duty of the Attorney General of the state and his assistants and all of the states' attorneys of the various counties of the state to prosecute any violations of any of the provisions of this act upon complaint made to them in writing by the State Supervisor of Grades, Weights and Measures.

Sec. 14. The salary of the Supervisor of Grades, Weights and Measures shall be paid out of the grain grading fund, and he shall give bond to the state in the sum of ten thousand dollars.

Sec. 15. Any person who assaults or in any way resists any officer or employee of the North Dakota Grain Grading Department in the execution of his duties, or who violates any of the provisions of this act shall be guilty of a misdemeanor.

Sec. 16. There is hereby appropriated for the purpose of carrying out the provisions of this act out of any of the general funds of the State Treasury the sum of ten thousand dollars, together with all moneys in the State Treasury known as the State Grain Grading fund, and all fees for licenses collected under the provisions of this act shall be turned into the State Treasury and designated as the North Dakota Grain Grading Fund and when so turned in and designated, it shall be appropriated and available for the purpose of carrying out all of the provisions of this act.

Sec. 17. All of the duties and obligations which were formerly performed by the State Inspector of Grades, Weights and Measures, and all of the obligations placed upon him by law, are hereby transferred and made part of the duties of the Supervisor of Grades, Weights and Measures; and all acts or parts of acts in conflict with any of the provisions of this act are hereby expressly repealed.

Approved November 7th, 1922.—138,735 to 44,406.

## CONSTITUTIONAL AMENDMENT.

Chapter 41, Session Laws, 1921.

Adopted June 28, 1922—127,074 to 38,299.

## Article 40.

NORTH DAKOTA: AMENDMENT.) Every qualified elector, who shall have resided in the State one year, in the county 90 days and in the precinct 30 days next preceding any election, shall be entitled to vote at such election. Provided that where a qualified elector moves from one precinct to another within the *state* he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

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Farmers institutes .....	H. B.	205	280
Live stock association duties, repeal.....	H. B.	264	60
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