

MUNICIPAL CORPORATIONS

CHAPTER 166

S. B. No. 139—(Jones.)

NUMBER OF ALDERMEN IN CITIES

An Act to amend and re-enact Chapter 168 of the Session Laws of North Dakota for the year 1929, relating to the number of aldermen in cities; and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 168 of the Session Laws of North Dakota for the year 1929 be amended and re-enacted to read as follows:

Chapter 168. NUMBER OF ALDERMEN.] The number of aldermen shall be as follows: In cities of six hundred inhabitants or less, four aldermen who shall be elected at large; exceeding six hundred, but not exceeding two thousand inhabitants, six aldermen; exceeding two thousand, but not exceeding four thousand, eight aldermen; exceeding four thousand, but not exceeding ten thousand, twelve aldermen; exceeding ten thousand, but not exceeding fifteen thousand, fourteen aldermen; and two additional aldermen for each ten thousand inhabitants or the major fraction thereof, over fifteen thousand; provided, that in cities of over one hundred thousand inhabitants there shall be elected thirty-six aldermen, and no more, the population to be determined by the last census; provided, however, if an official census has been taken by the Federal Government within one year it shall govern; provided, however, that whenever a census of the city shall show a population requiring more aldermen than are in the council at the time of taking such census, the city council shall not be required to make change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the legal voters thereof, to be determined by the number of names on the poll list of the last annual election, petition therefor.

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 All Acts or parts of Acts in conflict herewith are hereby repealed.

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

Approved February 27, 1933.

CHAPTER 167**S. B. No. 140—(Jones.)****TERMS OF OFFICE MAYORS AND ALDERMEN**

An Act to amend and re-enact Sections 3565 and 3583 of the Compiled Laws of North Dakota for the year 1913 relating to terms of office of mayors and aldermen.

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

§ 1. AMENDMENT.] Section 3565 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 3565. MAYOR.] The chief executive officer of the city is the mayor, who shall be a qualified elector within the city, and who shall hold his office for four years and until his successor is elected and qualified.

§ 2. AMENDMENT.] Section 3583 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 3585. TERM OF OFFICE.] Aldermen shall hold their office for four years and until their successors are elected and qualified; provided, however, that the aldermen elected shall alternate in their respective terms of office by electing only one-half the number of aldermen in any one election, and it is further provided, that when a city governed under the commission system of city government adopts the City Council form of City Government as provided by Section 3839 of the Compiled Laws of North Dakota for the year 1913, then shall the alternation of such aldermen be perfected as follows: The alderman receiving the greatest number of votes when elected, shall serve for four years, and the alderman receiving the lowest number of votes when elected shall serve for two years.

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

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

Approved March 7, 1933.

CHAPTER 168

(H. B. No. 168—(Swett, Twichell, Flannigan and Homnes.)

BOARD OF BUDGET REVIEW

An Act creating a Board of Budget Review, defining its powers and duties, and requiring the submission of preliminary budgets of certain taxing districts and proposed bond issues thereto for approval.

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

§ 1. There is hereby created in each city or village in this state having a population of one thousand or more, according to the last official census, a board of budget review. Such board shall consist of seven members and shall be constituted as follows: two members from the city council (or city commission), or village board, two members from the local school board, one member from the park board, and two members representing the public at large; except where there is no park board, there shall be three members representing the public at large.

§ 2. At the first regular meeting in January of each year the respective local boards shall appoint their representatives to serve on the board of budget review for the current year, such appointments to be certified to the city auditor or village clerk prior to the first day of February. If such certification is not received by the city auditor or village clerk by such date, it shall become his duty to notify each board failing to certify its appointments that the board of budget review will assemble for the purpose of organization and the appointment of members at large, giving the time and place of such meeting, and, unless such boards certify the appointment of its representatives on the board of budget review on or before the date of such organization meeting, the board so failing will be without representation on the board of budget review for the current year. The representatives of such boards shall meet on the day appointed by the city auditor or village clerk, which shall not be later than the 15th day of February, and shall organize by the election of a chairman and vice chairman. The city auditor or village clerk shall serve as clerk of such board of budget review. Such representatives shall thereupon appoint the members at large from the resident freeholders of the city or village, or school district. All members shall serve without compensation. Each member shall, before entering upon the duties of his office, take, subscribe, and file with the city auditor or village clerk the oath required by law of county officers. All vacancies on such board shall be filled in the same manner as the original appointment was made.

§ 3. It shall be the duty of the city council or city commission, or board of trustees of the village, and the board of education or board of school directors, and the park board, if there be one, to

submit its annual preliminary budget required by law to be prepared by them, before the same is finally adopted, to the board of budget review ; and it shall be the duty of the board of budget review to carefully review and examine in detail the items of each preliminary budget submitted to it by such local boards and to certify its approval, disapproval or modification thereof, before the time provided by law for the final adoption of such budgets. The board of budget review may approve, or disapprove any item in any of such preliminary budgets, and may lower, but not raise, any such item or items, or the total of any such budget. The action of the board of budget review on any preliminary budget shall be final. In reviewing such preliminary budgets, the board of budget review shall take into consideration the combined totals of all budgets submitted by such taxing districts and the probable total tax levies within such city or village, so far as the same can be determined, including levies for sinking funds and interest on bonds, the total combined bond indebtedness of such taxing districts, the total warrants and certificates of indebtedness outstanding, and other obligations, if any ; and shall, before approving such preliminary budgets, have due regard for the combined tax levies which shall result from the approval thereof, and shall exercise their supervisory authority in such a manner as to protect the taxpayers of such city or village from an undue burden of property taxes. The action of the board of budget review on the budget of each such taxing district shall be certified to the county auditor before the tax levy for each such taxing district shall spread, and the county auditor shall not spread such tax levies until such certificate of action is received by him.

§ 4. All proposed bond issues of the city or village, school district or park districts, shall, before being submitted to a vote of the electors, be submitted to the board of budget review for approval, disapproval or modification. Should any such proposed bond issue be disapproved, it shall not be submitted to the voters unless the governing board of such taxing district is requested to do so by petition signed by not less than twenty-five per cent of the electors of such district, as determined by the vote cast at the last general election for the office of governor.

§ 5. The board of budget review shall allow public hearings on each preliminary budget and on each proposed bond issue submitted to it for review, and shall give public notice of the time and place of such public hearings. The board of budget review shall keep a record of all of its proceedings, which record shall be preserved in the office of the city auditor or village clerk, and shall be open to inspection to the taxpayers of such city or village.

Approved March 3, 1933.

CHAPTER 169**S. B. No. 238—(Stucke.)**

CITY ENGINEER TO ACT AS STREET COMMISSIONER

An Act providing that in cities having no street commissioner the city engineer shall perform the duties and have the authority of street commissioner and that in cities having no street commissioner and no city engineer the chief of police shall perform the duties and have the authority of street commissioner.

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

§ 1. In cities having no street commissioner the city engineer shall perform the duties and have the authority of street commissioner.

§ 2. In cities having no street commissioner and no city engineer, the chief of police shall perform the duties and have the authority of street commissioner.

Approved March 4, 1933.

CHAPTER 170**H. B. No. 215—(State Affairs Committee.)**

ELECTION MUNICIPAL BOND ISSUES

An Act to amend and re-enact Section 5, Chapter 196 of the Session Laws of North Dakota for 1927, relating to municipal bond issues and elections therefor.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 196 of the Session Laws of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 5. ELECTION REQUIRED. EXCEPTIONS.] It shall be unlawful for any municipality, as herein defined, or for the governing board thereof, to issue bonds without first being authorized to do so by a vote equal to sixty-six and two-thirds per cent of all the qualified voters of such municipality voting upon the question of such issue, except as otherwise provided in Section 3 of this Act, and except that the governing body may issue bonds of the municipality for the purpose and within the limitations specified by paragraph (g) of Subsection 2 of Section 4, including village bonds for such purpose, and Subsections 7 and 8 of Section 4 of this Act without an election.

Approved March 3, 1933.

CHAPTER 171

H. B. No. 205—(Carlson.)

OATH AND BOND TOWNSHIP, VILLAGE AND CITY OFFICERS

An Act to amend and re-enact Section 3807 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota and Sections 3615, 3869, 4161, 4165, 4166, 4167, and 4200 of the 1913 Compiled Laws of North Dakota relating to the official oath and official bond of township, city, and village officers and providing that the official bonds of such township, city, and village officials shall be with the North Dakota State Bonding Fund or private surety company.

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

§ 1. AMENDMENT.] That Section 3807 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 3807. BONDS. WHAT OFFICERS GIVE.] The treasurer, auditor, city manager, city or village justice of the peace, and such other officers as the board of city commissioners may direct, shall, before entering upon the discharge of the duties of their respective offices, execute and deliver to the city or village a bond in such sum as the board of city commissioners may determine, conditioned for the faithful discharge of the duties of their respective offices. Such bond shall be in an amount to be fixed by the board; provided that the bond of the treasurer shall be for at least the maximum amount of money that shall be subject to such treasurer's control at any one time. All bonds must be approved by the president of the board of city commissioners, and when so approved shall be filed in the office of the city auditor. No personal sureties shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund, or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the city in the manner provided by law, but no city shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 2. AMENDMENT.] That Section 3615 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 3615. OATH. BOND.] All officers of any city, whether elected or appointed, shall before entering upon the duties of their respective offices, take and subscribe the oath of office prescribed in Section 211 of the Constitution. Such oath shall be filed in the office of the city auditor, provided the oath of city auditor, city treasurer, shall be filed in the office of county auditor.

The treasurer, auditor, city manager, police magistrate, justice

of the peace, and such other officers as the city council may direct shall, before entering upon the discharge of the duties of their respective offices, execute and deliver to the city a bond payable to the city, conditioned for the honest and faithful discharge of the duties of their respective offices. Such bond shall be in an amount to be fixed by the city council; provided that the bond of the city treasurer shall be at all times for not less than the full amount of any and all moneys in the hands of such official. The city council may at any time require new and additional bonds of any officer. No personal sureties shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund, or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the city in the manner provided by law, but no city shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 3. AMENDMENT.] That Section 3869 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 3869. VILLAGE OFFICERS TO GIVE BONDS.] The clerk, assessor, treasurer, marshal and justice of the peace of any village and such other officers as the village board may direct shall, within ten days after their election or appointment and before entering upon the discharge of the duties of their respective offices, execute and deliver to the village a bond in such sum as the village board may determine, conditioned for the faithful discharge of the duties of their respective offices. Such bond shall be in an amount to be fixed by the board; provided that the bond of the treasurer shall be for at least the maximum amount of money that shall be subject to such treasurer's control at any one time. No personal sureties shall be accepted on any such bond, but all such bonds must be with the North Dakota State Bonding Fund, or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the village board in the manner provided by law, but no village board shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 4. AMENDMENT.] That Section 4161 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 4161. JUSTICE TO TAKE OATH AND GIVE BOND.] Each person elected or appointed to the office of township justice of the peace shall within ten days after receiving notice thereof take and subscribe before any officer authorized to administer oaths, the oath of office prescribed in Section 211 of the Constitution. Such township justice shall give a bond to the township conditioned for the honest and

faithful discharge of the duties of his office and that he will safely keep and render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bond shall be in the amount of \$500 and shall be filed with the Clerk of the District Court of the proper county for the benefit of any person aggrieved by the acts of such justice and any person aggrieved may maintain an action on said bond in his own name against such justice and his sureties. No personal sureties shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the township in the manner provided by law but no township shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 5. AMENDMENT.] That Section 4165 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 4165. BOND OF TOWNSHIP TREASURER.] Each person elected or appointed to the office of township treasurer, before entering upon the duties of his office, shall give bond to the township conditioned for the honest and faithful discharge of the duties of his office and that he will safely keep and render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bond shall be in an amount to be fixed by the board not less than the maximum amount of money that shall be subject to such treasurer's control at any one time. No personal sureties shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the township in the manner provided by law, but no township shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 6. AMENDMENT.] That Section 4166 of the 1913 Compiled Laws be and the same is hereby amended and re-enacted to read as follows:

§ 4166. CONSTABLE TO TAKE OATH AND GIVE BOND.] Each person elected or appointed to the office of township constable, shall before entering upon the duties of his office and within ten days after he is notified of his election or appointment take and subscribe the oath of office and such constable shall also give bond to the township conditioned for the honest and faithful discharge of the duties of his office and that he will safely keep and render a true account of all funds and property that shall come into his hands and pay and de-

liver the same according to law. Such bond shall be in the amount of \$500 and shall be filed with the County Auditor. No personal sureties shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the township in the manner provided by law, but no township shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 7. AMENDMENT.] That Section 4167 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 4167. BOND OF TOWNSHIP ASSESSOR.] Each person elected or appointed to the office of assessor shall give a bond in the official sum of \$1000 conditioned for the honest and faithful discharge of the duties of his office according to law. No personal sureties shall be accepted on any such bond, but all such bonds must be with the North Dakota State Bonding Fund or with a corporate surety company authorized to do business within this state. The premiums for bonds of the North Dakota State Bonding Fund shall be paid by the township in the manner provided by law but no township shall pay the premium upon any other bond except for such bonds as are procured to replace bonds cancelled by the State Bonding Fund.

§ 8. AMENDMENT.] That Section 4200 of the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 4200. CLERK TO GIVE BOND AND TAKE OATH.] Each person elected or appointed to the office of township clerk shall, before entering upon the duties of his office and within the time prescribed by law for filing his oath of office, give a bond in such sum as the board of township supervisors may determine, conditioned for the faithful discharge of his duties. Such bond shall be filed in the office of the county auditor. No personal surety shall be accepted on any such bond but all such bonds must be with the North Dakota State Bonding Fund, or with a corporate surety company authorized to do business within this state. Premiums for bonds of the North Dakota State Bonding Fund shall be paid by the township in the manner provided by law but no township shall pay the premium on any other bond except for such bonds as are required to replace bonds cancelled by the State Bonding Fund.

Approved March 9, 1933.

CHAPTER 172

H. B. No. 138—(Muus and Patterson.)

CITY MANAGER PLAN

An Act to amend and re-enact Chapter 44b of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, providing a city manager plan; providing the manner of adoption of such a plan; authorizing the employment by cities of City Managers; defining the duties and powers of city managers and providing for the suspension of powers granted by law to the mayor, city council, or Board of City Commissioners, if and when such powers are in conflict with the powers, hereby granted to a City Manager, and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 44b of the 1925 Supplement to the Compiled Laws of North Dakota, for the year 1913, be amended and re-enacted to read as follows:

§ 2. ADOPTION OF PLAN. ELECTION AS TO.] Upon the filing with the city auditor, and within thirty days thereafter, of a petition signed by twenty-five per cent of the legal voters as shown by the number of votes cast for mayor at the last preceding city election, praying therefor, the city council or city commissioners shall submit, at an election to be held within ninety days thereafter to the electors of the city, the question whether or not the city manager plan shall be put in force in said city; thirty days notice of the date of such election and the purposes thereof shall be given by the city auditor, and which said notice shall briefly state the powers of such city manager if the plan should be adopted; said election shall be held, the votes canvassed and the results declared in the same manner as city elections.

§ 3. FOUR-SEVENTHS MAJORITY NECESSARY TO ADOPTION.] If four-sevenths of the legal vote cast at such election shall be in favor of adopting the city manager plan, then the city council or city commissioners shall declare said plan adopted, and fix the time when the same shall go into force and effect, which shall not be before the first regular meeting of the Council or City Commission in the month of May following such election.

§ 4. SELECTION OF MANAGER. COMPENSATION. TERM OF OFFICE. REMOVAL.] The city manager shall be the chief administrative officer of the city and shall be chosen by the council or city commissioners solely on the basis of his qualifications, and in his choice the council or city commissioners shall not be limited to the inhabitants of the city or state; a majority of the members elect of the council or city commissioners shall be required to make a choice; the city manager shall receive a compensation of not less than \$1,000.00 per year and shall be chosen for an indefinite term; he may be removed from

office by the council or city commissioners at any time within six (6) months from and after his appointment summarily; after that period, he may be removed by the Council or Board of City Commissioners only pursuant to written charges made and filed with the City Auditor by the Mayor or some member of the council, or by a member of the board of city commissioners, and upon the filing of such charges the city manager shall, if he desires a hearing thereon, file a written demand for such hearing within three days after notice of the filing of such charges has been served upon him. In the absence of such demand he shall be deemed to have waived a hearing upon such charges and his final removal shall not take place until such hearing has been had or waived as aforesaid; pending the hearing he may be suspended by the Council or City Commissioners; during the absence or disability of the City Manager, the council or city commissioners shall designate some properly qualified person to perform the duties of the office. The decision of the City Council or City Commission shall be final.

§ 5. The City Manager shall be responsible to the Council or City Commissioners for the proper administration of all of the affairs of the city, and shall have power to appoint all appointive officers and power to remove such officers at will. Provided, however, that the appointment and removal of the City Auditor, City Health Officer, City Attorney, and City Assessor, shall be confirmed by the City Council or City Commission. He shall be entitled to be present at all meetings of the council or city commissioners, and of its committees, unless excused by the same, and may take part in their discussions and make recommendations to them. He may prepare and submit to the council or city commissioners an order of business for any meeting. He shall prepare and submit to the council or board of city commissioners, between the 1st and 10th days of July in each year, an annual preliminary budget as provided for under Article 17a of Chapter 44 of the Supplement to the Revised Code of 1913, and Acts amendatory thereto, and shall fix the salaries of all appointive officers, provided that the total of said salaries does not exceed the total sum appropriated for such purpose by the city council or city commission, other than himself, and shall have the right to add to, take from, alter and change the duties of the various appointive officers of the city, other than himself, save as the same are fixed by statute; provided however, that when and if the powers hereby granted to a city manager shall conflict with or be opposed to the powers or duties imposed upon or granted by law to mayors, councils, or city commissioners, that such powers or duties imposed or granted by law to mayors, councils, or city commissioners, shall be deemed to be suspended for and during the period that the City Manager plan is in force in the city, and during the employment of a City Manager thereunder.

§ 6. ELECTION AS TO RETENTION OF PLAN.] At any time after

said city manager plan shall have been in force in any city for the period of five years the city council or city commissioners may, and upon petition signed by forty per cent of the legal voters, as provided for under Section 2 of this Act, shall submit, at an election to be called for that purpose within thirty days after the filing of the petition, the question of whether or not said city manager plan shall be retained, and if a majority of the legal votes cast at such election shall be against retaining said plan, then said city shall revert to the plan theretofore in force therein and the provisions of this law shall thereafter not be applicable thereto save after another compliance with its terms; the council or city commissioners shall fix the date at which the plan shall cease to be operative therein, which shall not be less than three months nor more than six months after the election.

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

Approved March 3, 1933.

CHAPTER 173

S. B. No. 259—(Stucke.)

CONTRACTS FOR SIDEWALKS, CURBING AND GUTTERS IN CITIES

An Act relating to the letting of contracts for sidewalks, curbing and gutters in cities.

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

§ 1. The provisions of Article 19 and Article 20 of Chapter 44 of the Compiled Laws of North Dakota for 1913 and Acts amendatory thereof and supplementary thereto, in so far as the same apply to the letting of contracts for the construction or repair of sidewalks, may, by resolution of the City Council or Board of City Commissioners of any city, be made applicable to the letting of contracts for the construction or repair of curbing and gutters. Provided that the city council or board of City Commissioners may, by resolution prior to the advertising for bids for contracts for any such work, provide that, in lieu of a certified check in the amount of \$50.00 and bidder's bond in the amount of \$500.00, a certified check only may be required to accompany such bids. Provided further that all other provisions in the above said Article 19 and said Article 20 of said Chapter 44 of the Compiled Laws of North Dakota for 1913 shall be complied with.

Approved March 6, 1933.

CHAPTER 174**H. B. No. 231—(Fitch and Johnson.)****REPEAL RECALL CITY OFFICIALS**

An Act to repeal Section 3835 of the Compiled Laws of 1913 as amended by Chapter 81 of the 1919 Session Laws and as amended by Chapter 173 of the 1923 Session Laws of the State of North Dakota, relating to the recall of elective officials in cities operating under the commission form of government.

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

§ 1. REPEAL.] That Section 3835, Compiled Laws of 1913, as amended by Chapter 81 of the Session Laws of 1919, and as amended by Chapter 173 of the Session Laws of 1923, be and the same is hereby repealed.

§ 2. EMERGENCY.] Inasmuch as the removal of an elective officer by means of the recall in cities operating under the commission form of government involves undue public expense in determining the sufficiency of recall petitions and in calling and conducting a special recall election if the petitions are found sufficient, and other methods for the removal of elective city officials for proper cause are now provided by law at a minimum of expense and public turmoil, this Act is hereby declared to be an emergency and shall be in force and effect from and after its passage and approval.

Approved March 9, 1933.

CHAPTER 175**H. B. No. 70—(Committee on Cities and Municipal Corporations.)****GRANT SPECIAL POWERS CITIES**

An Act conferring additional powers upon cities; defining the duties and powers of city councils and boards of city commissioners in the exercise, administration, and enforcement of the powers of cities; prescribing the manner in which grants of power shall be construed and exercised; validating certain acts and ordinances of municipalities; and repealing conflicting laws.

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

§ 1. GRANT OF SPECIAL POWERS.] The city council or board of city commissioners of each city created, organized, and existing under the laws of this state shall have and enjoy the following additional powers:

First: To license and regulate the operation of taxicabs, and fix their charges for services rendered wholly within the city.

Second: To regulate, control, or restrict within designated zones or congested traffic districts the use of streets, alleys, or other

public ways by various classes of traffic, provided that any municipal regulations shall not be effective as to common carriers licensed by the state under a certificate of public convenience and necessity until such regulations are approved by order of the State Board of Railroad Commissioners.

Third: To license, regulate, and fix the location of any public or private tourist camp within the city.

Fourth: To provide by ordinance for the taking, storage, and disposal of any personal property abandoned or left unclaimed upon the streets, alleys, or other public ways of the city for a period exceeding ten days, and after holding such property for a period of not less than sixty days, to sell same at public sale upon such published or posted notice of not less than ten days before such sale, and at such place, and in such manner as may be provided by ordinance. At any time within six months after such sale the owner of such property shall be entitled to receive from the city the proceeds of the sale of such property, less the necessary expense of taking, storing, and selling the same, upon written application therefor. Upon the sale of such property the city shall be entitled to convey to the purchaser thereof merchantable title thereto by bill of sale. The owner of such property may reclaim same at any time prior to the sale thereof on payment of the necessary expense of taking and storing the same.

Fifth: To prohibit by ordinance the driving of any motor vehicle or other conveyance upon the streets, alleys, or other public ways of the city by any person under the influence of intoxicating liquor, or narcotics, and to punish the offender by a fine not to exceed one hundred (\$100) dollars; or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment.

Sixth: To withdraw from any stream, water course, or body of water within or without the city, or within or without, or bordering upon the State of North Dakota, a supply of water reasonably sufficient for the needs of the inhabitants thereof, and to supply the necessary storage and reserves of water for all other necessary municipal purposes, and to levy and collect reasonable charges for the furnishing of water to the inhabitants of such city; to erect dams upon or across streams, water courses, or bodies of water within or without, or bordering upon the boundaries of the State of North Dakota, and to improve, alter, or protect the bed, banks, or course thereof; to acquire by gift, grant, lease, easement, purchase, or by eminent domain; and to own, operate, and maintain and improve all lands, structures, power plants, public works, and personal property, whether within or without the state, necessary for the maintenance and conservation of its water supply.

Seventh: Each municipality may use its fire department to attend fires and render assistance to other municipalities within or without the state, or to private property including farm buildings located outside such city limits.

Eighth: To take charge of auditoriums or other property now fully completed, originally purchased or acquired for public use by public subscription, donation, sale of stock, or otherwise, where such auditorium or other property has been abandoned or lost by the original owner or owners, successors or assigns, thereof, and to operate, maintain, repair and keep such property for public use. In the ownership, management, use or operation thereof the city shall be deemed exercising a governmental function. The original owner or owners, or their successors or assigns, of such property may at any time within three (3) years, after taking effect of this Act, reclaim the property upon payment of the necessary expense actually incurred by the city in the repair and maintenance of such property.

§ 2. No city shall impose any license fee or charge against the producer or grower of any agricultural products grown or produced upon lands located in the State of North Dakota, or in any manner limit or restrict the free sale thereof by such grower or producer, except that the city may adopt reasonable health regulations and ordinances for the inspection and sale of milk and other articles intended for human consumption.

§ 3. Municipalities may, by ordinance, provide for the punishment of any person, firm, or corporation violating any of the provisions of such ordinance notwithstanding that such offence may also be punishable as a public offence by the State of North Dakota. The police magistrate of the city may suspend any sentence imposed during the good behavior of the person so sentenced, or for other reasonable cause.

§ 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 3, 1933.

CHAPTER 176

S. B. No. 263—(Hamilton and Miller.)

SALE AND DISTRIBUTION OF BEER AND VINOUS LIQUOR

An Act providing for the sale and distribution of beer and vinous liquor, not unlawful under the constitution and laws of the United States by cities, towns and villages; the establishment of municipal liquor stores; the manner of sale, possession or sale by clubs prohibited; the duties of officers; the penalties for violation of this Act; and repeal of Acts and parts of Acts in conflict herewith.

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

§ 1. That wines, beer and vinous liquors, the sale and distribution of which is not unlawful under the constitution and laws of the

United States, may be possessed and sold in the State of North Dakota.

§ 2. Any incorporated city, town or village in this state that on January first, 1933 had and now maintains a regular police department or paid police force may operate a municipal store for the sale of the beverages described in Section 1 of this Act; provided, however, that a city, town or village having a population of 5000 or less shall not maintain or operate more than one such store, and cities having a population in excess of 5000 may operate two such stores. Whenever the word "store" is used in this Act, it shall mean "municipal liquor store."

§ 3. No store as provided for herein shall be opened or maintained in any city, town or village unless the opening and maintenance thereof is approved by the governing board of such municipality by a majority vote of the board.

§ 4. If the governing board of any incorporated city or village approves the opening and maintenance of a store as defined herein, then and in that event, the board shall appoint a manager and such assistant manager as it may deem necessary to operate such store. The manager and assistant manager shall be required to furnish surety bonds or United States government bonds or bonds of the State of North Dakota to the municipality, conditioned for the faithful performance of their service and the faithful accounting to the municipality for all property, moneys and effects coming into their possession as such manager or assistant manager, the bond or bonds to be in such sums as the governing board may deem sufficient. The manager or any assistant manager of the store may be removed at any time and without cause by the mayor of the city, the president of the city commission or of the village or town board. The governing board of the municipality shall fix the salary of the manager and the assistants, if any, of such store and fix and prescribe such rules and regulations not inconsistent with the provisions of this Act as in its discretion may be necessary to the proper and effective management of the store.

§ 5. The store referred to in this Act shall not be open for business prior to nine A. M. and shall close promptly at 9:00 P. M. and shall be closed on Sundays and legal holidays.

§ 6. The beverages described in Section 1 of this Act shall not be sold to minors.

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

§ 8. In every such store there shall be kept a record book in

which each purchaser must sign his name in his own hand writing, giving his address and a receipt for every package of beverage purchased, and the record shall designate the kind and the amount of the purchase, and such record shall be open to inspection by the governing board of the municipality or any member thereof at any time, and it shall be the duty of the manager or assistant manager or managers of the store to rigidly enforce this rule.

§ 9. It shall be unlawful for any person to possess the beverages described in Section 1 of this Act except in his home, or transporting the same thereto, and it shall be unlawful for any person to sell or barter any of the beverages described in Section 1 of this Act.

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

§ 11. Every person, who shall, directly or indirectly, keep or maintain by himself or by an association, or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other place of whatsoever nature, name, kind or description, in which any intoxicating liquor, including the beverages described in Section 1 of this Act, is received or kept for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any such club or association, by any means whatsoever; and every person who shall use, barter, sell or give away or assist or abet another in bartering, selling or giving away any intoxicating liquors, including the beverages described in Section 1 herein, so received or kept, shall be deemed guilty of a misdemeanor, and shall be punished as provided for in Section 13 of this Act.

§ 12. It shall be the duty of the States Attorney to rigidly enforce the provisions of this Act, and his failure so to do shall be sufficient grounds for his removal from office.

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

§ 14. REPEAL.] All Acts or parts of Acts in conflict with the provisions of this Act are hereby expressly repealed.

Not approved by Governor.

Filed with Secretary of State March 18, 1933.

CHAPTER 177

H. B. No. 110—(Sundby of McLean.)

MUNICIPAL BOND INTEREST SPECIFICATION

An Act providing that municipal bonds of cities, villages, school districts, and townships shall specify that interest shall cease thereon at maturity unless the holder shall present the same for payment and payment is refused.

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

§ 1. All municipal bonds of cities, villages, school districts, and townships hereafter issued shall contain a provision that interest thereon shall cease at maturity unless the holder thereof shall present the same for payment and payment is refused.

Approved March 3, 1933.

CHAPTER 178

H. B. No. 202—(Fitch.)

MUNICIPAL BONDS FUNDING OUTSTANDING INDEBTEDNESS

An Act to amend and re-enact Chapter 196 of the Laws of North Dakota for 1931, and to authorize and empower Municipalities as defined in Chapter 196, Laws of 1927, to issue bonds for the purpose of funding outstanding indebtedness thereof incurred prior to January 1, 1933, in certain cases.

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

§ 1. AMENDMENT.] That Chapter 196 of the Laws of North Dakota for 1931 is hereby amended and re-enacted to read as follows:

§ 1. Any municipality is hereby authorized to issue its bonds in the form and manner and subject to the limitations herein provided for the purpose of funding any outstanding indebtedness thereof incurred prior to January 1, 1933, represented by certificates of indebtedness, orders, contracts, or other instruments other than bonds. The terms "governing body" and "municipality" as used herein shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927.

§ 2. Such bonds may be issued pursuant to resolution or ordinance of the governing body and without submitting the question to the electors of the municipality. Prior to the determination of the

governing body to issue bonds hereunder it shall ascertain and determine, and in its resolution or ordinance determining to issue such bonds shall find and declare, that by reason of tax delinquency and anticipated tax delinquencies and because of local economic conditions it would be unduly burdensome on the taxpayers of the municipality to pay and discharge the indebtedness so outstanding in the manner heretofore provided by law, and that the best interests of the municipality and its taxpayers will be served by the issuance of funding bonds pursuant to this Act. Such resolution or ordinance shall also list and sufficiently identify all the items of indebtedness to be funded by such bonds, and the governing body shall ascertain and determine, and in such resolution or ordinance shall find and declare, that each item of indebtedness therein listed is a valid outstanding and enforceable obligation of the municipality incurred prior to January 1, 1933, and in all respects proper to be funded pursuant to this Act. The determination of the governing body as to such matters shall be final and conclusively binding on such municipality, and shall never be called in question after such bonds have been delivered.

§ 3. The bonds authorized under the provisions of this Act shall be issued in the manner prescribed by said Chapter 196, Laws of 1927 and Acts amendatory thereof, except as otherwise specified herein. Such bonds shall mature serially, the first installment of principal thereof to fall due not more than three years and the last installment thereof to fall due not more than fifteen years from the date of such bonds. Insofar as such bonds may be issued for the purpose of funding indebtedness of the municipality represented by certificates of indebtedness issued pursuant to Chapter 326, Laws of 1923 and Acts amendatory thereof, such bonds may be exchanged at par for such outstanding certificates of indebtedness at or after the maturity thereof, or prior to the maturity thereof if the holders of such certificates of indebtedness consent thereto. Except as authorized in the preceding sentence, all such bonds shall be sold in the manner and upon the terms specified in said Chapter 196, Laws of 1927 and Acts amendatory thereof. In no event shall bonds issued pursuant thereto for the purpose of funding such certificates of indebtedness bear interest at a rate higher than the certificates of indebtedness funded thereby.

§ 4. REPEAL.] All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

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

Approved March 6, 1933.

CHAPTER 179

H. B. No. 69—(Committee on Cities and Municipal Corporations.)

DISPOSAL OF GARBAGE, SEWAGE, ETC.

An Act authorizing cities and villages, either individually or jointly by agreement, to provide a sanitary means of disposing of the garbage, sewage and night soil thereof; to charge owners or occupants of premises therefor; to borrow money and issue bonds to acquire, own, construct, equip, operate and maintain intercepting sewers and sewage disposal plants; to issue under certain conditions mortgage bonds therefor, and to provide means for the retirement of such obligations; to enter into contracts with other municipalities within or without the State to dispose of the sewage, garbage and night soil of such other municipality or municipalities; providing for the administration and operation of such improvements and the payment and retirement of the obligations incurred for the construction and operation thereof and repealing laws inconsistent herewith.

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

§ 1. Any city or village in this state, either individually or jointly by agreement, is hereby authorized to own, acquire, construct, equip, operate and maintain either within or without the statutory or corporate limits of such governmental agencies or municipalities, intercepting sewers, including pumping stations, a plant or plants for the treatment, purification and disposal in a sanitary manner of the liquid and solid wastes, sewage and night soil of or a plant or system for the disposal of garbage of such governmental agencies and municipalities. They shall each have authority to acquire by gift, grant, purchase or condemnation necessary lands therefor, either within or without the statutory or corporate limits of such governmental agencies or municipalities and within or without the State of North Dakota. For the purpose of acquiring, for the uses herein mentioned, such governmental agencies or municipalities may invoke and shall have all the rights and privileges granted to public corporations under existing laws with reference to eminent domain.

§ 2. The total cost of such improvement may be defrayed by the following alternative methods:

(1) Out of general current tax revenues on hand and appropriated for the purpose, or out of the proceeds of the sale of general liability bonds in accordance with the procedure and subject to the conditions and limitations, so far as applicable, of Chapter 196 of the 1927 North Dakota Session Laws and other Acts amendatory or supplementary thereof; or partly out of general current tax revenues on hand and appropriated for that purpose and the residue out of the proceeds of the sale of general liability bonds, aforesaid, as the legislative body of such municipality shall determine by majority vote.

(2) Governmental agencies or municipalities may issue mortgage bonds therefor beyond the general limits of the bonded indebt-

edness prescribed by law for the purpose of defraying the cost of such sewage disposal plant and system, or such garbage disposal plant. The mortgage bonds as provided in this subsection shall not impose any general liability upon the governmental agencies or municipalities but shall be secured only on the property and revenues, including the service rentals as hereinafter provided, of such system or systems. Such mortgage bonds shall be sold for not less than par, shall bear interest at a rate not to exceed 7 per cent per annum, and the total amount thereof shall not exceed 60 per cent of the costs of such improvement except as hereinafter provided. The remaining 40 per cent of the total cost of such improvement shall be defrayed as provided in subsection (1) preceding. No mortgage bonds shall be issued except upon a three-fifths affirmative vote of the legislative body of such governmental agency or municipality. The form, recitals, maturity, rate of interest and whether payable annually or semi-annually, of such mortgage bonds shall be fixed and determined by a three-fifths affirmative vote of the legislative body of such governmental agency or municipality.

(3) Governmental agencies or municipalities may defray the total cost of such improvement or system out of the proceeds of the sale of first mortgage bonds upon the assets and property of such improvement or system in like manner as provided in the preceding subsection except that such first mortgage bonds may be issued for the total cost of such improvement and be also secured by a pledge of the net revenues of such improvement or system to be set apart as an interest and sinking fund to pay the principal and interest of such first mortgage bonds as the same mature. Any municipality which follows the method provided in this subsection to defray the cost of such sewage disposal system shall by resolution of its legislative body or governing board create the district, provide for and approve plans and specifications and estimates of cost and adopt and publish the resolution declaring the work necessary to be done in accordance with the requirements, so far as applicable, of Sections 3698, 3699, 3703 and 3704 of the Compiled Laws of 1913 and Acts amendatory or supplementary thereof.

If the owners of a majority of the property liable to be imposed with the sewage disposal service charges as provided in this Act for the payment of such proposed improvement, shall within thirty days after the first publication of such resolution file with the auditor or clerk of such legislative body or governing board a written protest protesting against such improvement, then such legislative body or governing board at its next meeting after the expiration of the time for filing protests against such improvement shall hear and determine the sufficiency of such protests, and if after such hearing, has been had the legislative body or governing board shall find such protests to contain the signatures of the owners of a majority of the property liable to be so charged it shall be a bar against proceeding further with such improvement. In case the protests shall be found

insufficient or invalid the legislative body or governing board of such municipality shall have the power to cause such improvement to be made and to contract therefor, and to defray the cost thereof in the manner provided herein.

§ 3. The legislative body of any such governmental agency or municipality or the respective legislative bodies of such governmental agencies or municipalities, who may have agreed to jointly own and operate intercepting sewers or sewage disposal plants or garbage disposal plants may designate certain officials of the governmental agencies or municipalities to have the supervision and control of such sewage disposal plant or plants and such garbage disposal plant or plants. The legislative body or respective legislative bodies of such governmental agencies or municipalities may make all necessary rules and regulations governing the use, operation and control thereof and may establish just and equitable rates and charges to be paid for the use of such disposal plant or system and such garbage disposal plant or system, or either thereof, by such person, firm or corporation whose premises are served thereby. If the service charge so established is not paid when due, such sum may be recovered by the governmental agency or municipalities in an action at law, and it may also be assessed against the premises served and collected and returned in the same manner as other county and municipal taxes are assessed, certified, collected and returned.

§ 4. Bonds which are issued and secured by a mortgage on the utility as hereinbefore provided shall not be a general obligation of the governmental agency or municipality but shall be paid only out of revenues received from the service charges as provided in this Act or from the sale of the property under foreclosure of the mortgage. If a service rate is charged, to be paid as herein provided, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on said bonds, and the principal thereof at maturity, and shall constitute a special fund and be used for no other purpose. In the event a default shall occur in the payment of the principal or interest of any of such bonds and such default shall continue for a period of not less than six months, an action may be commenced by the holder or holders of not less than one-half of such outstanding past due bonds in the District Court of the county in which such improvement or some part thereof is located for the purpose of foreclosing the mortgage securing such bonds. In such action the court may enter a decree providing for the management and operation of such improvement by a Court Receiver and for the sale of the property secured by such mortgage and for the application of the net revenues arising from the operation of such plant upon the mortgage debt during the period of redemption, which period of redemption shall be one year from and after the date of the sale thereof. If there be no redemption from such sale within the time herein provided, sheriff's deed shall

issue to the holder of the certificate of sale thereof. The procedure subsequent to the entry of foreclosure decree shall so far as applicable be that provided under existing laws for the sale of real property under special execution. If after the issuance of such sheriff's deed it shall be made to appear to the State Board of Railroad and Warehouse Commissioners that it is in the public interest that such utility and improvement be continued in operation, such board may grant a franchise to the owners of such utility and improvement to engage in such business and to operate such improvement and utility. Such franchise may authorize the owner or owners thereof to charge each person, firm or corporation owning property from which such sewage or garbage is received such fee therefor as may be determined to be reasonable by the State Board of Railroad and Warehouse Commissioners upon proper application and after notice to the governmental agency or municipality affected and a hearing thereon. Such franchise may also grant to the owner or owners of such utility or improvement the right and privilege to lay all such necessary intercepting and other sewers and connecting pipes in the public streets and alleys of the governmental agencies or of the municipalities as may be necessary to receive and conduct the sewage to the disposal plant and under such reasonable rules, regulations and supervision as may be established by such State Board of Railroad and Warehouse Commissioners. Such franchise may also provide for an accounting from time to time of the gross revenues thereof and the application of the net revenues as determined by such Board of Railroad and Warehouse Commissioners upon the original mortgage indebtedness to the end that the holder of such franchise will use the net revenues as determined by such Board of Railroad and Warehouse Commissioners to discharge the original mortgage debt together with all interest, costs and other charges which such Board of Railroad and Warehouse Commissioners shall determine shall be paid. When the State Board of Railroad and Warehouse Commissioners shall, after notice to the interested parties and due hearing thereon, determine that the owner or owners of such utility and improvement have been saved whole out of the net revenues of such utility and improvement, such Board of Railroad and Warehouse Commissioners shall issue a certificate of ownership revesting in the governmental agencies or municipalities or either thereof, the title and ownership of such utility and improvement.

Any party in interest feeling aggrieved thereby may within sixty days of the date of the issuance of such certificate of ownership or other decision by such board appeal to the District Court of the county in which such utility or improvement, or some part thereof, is located for a review and trial de novo of the determination of such State Board of Railroad and Warehouse Commissioners therein. The court may in such case permit the party in possession to continue the operation of such utility and improvement on the giving of a

suitable bond with such surety and upon such conditions as the court may fix.

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

§ 6. When the last maturing bonds secured by a first mortgage on such improvement as herein provided for come due and are not paid and a deficiency remains, the legislative body or the respective legislative bodies of the governmental agencies or municipalities herein mentioned shall levy a tax upon all of the taxable property within the limits of such governmental agencies or municipalities for the payment of such deficiency. After the bonds secured by first mortgage on such improvement have been fully paid, both principal and interest, the revenues of such utility and improvement set apart for the payment of such bonds may be used for the repair, improve-

ment or extension of such utility or improvement or may be credited to the interest and sinking fund established for the retirement and payment of the general liability bonds, or transferred to the general fund as the legislative body or the respective legislative bodies of the governmental agencies or municipalities herein mentioned may by resolution direct.

§ 7. The authority hereby given shall be in addition to and not in derogation of any power existing in any of the cities or villages under any statutory provisions now existing or which may be hereafter adopted.

§ 8. Whenever it is deemed expedient for the safety and health of the people, governmental agencies or municipalities are hereby authorized to enter into agreements with each other or jointly or severally with governmental agencies or municipalities without the state to erect and maintain intercepting sewers and sewage treatment plants, or may enter into contracts with governmental agencies or municipalities without the state to furnish such extra-territorial agencies or municipalities sewage disposal for such compensation and upon such terms and conditions as the parties under such agreement may stipulate. Whenever it shall be convenient or necessary as determined by a majority vote of the legislative body or the respective legislative bodies of said governmental agencies or municipalities herein mentioned, it shall be lawful for such governmental agencies or municipalities to acquire, purchase, own or maintain lands and personal property within or without the State of North Dakota and to improve the same and to erect structures thereon, including dams and dam sites. Whenever the legislative body or the respective legislative bodies of any of the governmental agencies or municipalities herein mentioned shall determine by resolution adopted by a majority vote thereof, such agencies or municipalities, or either thereof, may erect dams upon streams, water courses or other bodies of water either located wholly within or without the state or constituting in whole or in part the boundary waters of the state of North Dakota, and may alter or improve the bed, banks or courses of such streams, water courses or bodies of water, and to that end and in the enjoyment of such power may purchase and hold property within and without the state and may exercise the right of eminent domain as provided by the laws of this state and may enter into contracts and engagements with persons, firms, or corporations or extraterritorial governmental agencies or municipalities for like purposes.

§ 9. Whenever governmental agencies or municipalities shall desire to act under the provisions of this law the relationship established between such governmental agencies and municipalities shall be fixed by contract, and such contracts may be made by governmental agencies or municipalities under the provisions of this Act in the manner and to the extent that natural persons might make con-

tracts for like purposes, subject only to the limitations provided by this Act. Such contracts before becoming operative shall be approved by a vote of the majority of the members elected of each of the respective legislative bodies of the governmental agencies or municipalities operating under the provisions of this Act. Whenever any governmental agency or municipality shall desire to act under the provisions of this law without establishing relationship with other governmental agencies or municipalities it may proceed hereunder as a separate independent enterprise.

§ 10. If any clause, sentence, paragraph, section or part of this Act shall for any reason be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair, or invalidate the remainder of this Act but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which said judgment or decree shall have been rendered.

§ 11. An emergency is hereby declared to exist affecting the health, safety and general welfare of the people of the state in this that many governmental agencies and municipalities will be unable to secure a satisfactory solution of sewage disposal and other health problems without enjoying the powers herein provided, and this Act shall take effect and be in force immediately after its final passage and approval.

§ 12. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 3, 1933.

CHAPTER 180

S. B. No. 258—(Martin.)

MUNICIPAL HOLDING ASSOCIATION

An Act authorizing the organization of non-profit sharing municipal holding associations to erect, operate, equip, and maintain auditoriums upon or in the vicinity of municipal owned property; defining their powers, limitations, and restrictions; defining and limiting the powers and duties of the city council or commission relating thereto; exempting the property, bonds and other evidence of indebtedness of such associations from taxation and repealing all Acts or parts of Acts in conflict herewith, and making the provisions of this Act applicable to incorporated villages and townships and declaring an emergency.

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

§ 1. Non-profit sharing corporations to be known as municipal holding associations may be formed, to construct auditorium in cities or villages only where the building formerly used as an auditorium has been destroyed by fire, prior to July 1, 1933, in the

manner, for the purposes and with the powers, obligations and limitations prescribed by Chapter 12 of the Civil Code of the Compiled Laws of 1913; except as herein otherwise provided.

§ 2. Such association shall have power (1) to erect, equip, operate, manage, lease, or sell, as herein provided, auditoriums and their necessary equipment and appurtenances, to be located upon or in the vicinity of municipal property or upon sites purchased or otherwise acquired by such association, or as an addition to an existing auditorium in any city, and to be at all times used and operated for public purposes and entertainment; (2) to borrow money or contract debts for any or all of the aforesaid purposes and to issue bonds or other evidences of indebtedness therefor; (3) to secure the payment thereof by mortgaging or pledging any or all of its property, real or personal, including income.

Such association shall be subject to the following limitations and restrictions:

(1) Such auditoriums or improvements to existing auditoriums, their equipment and appurtenances, shall only be erected and installed according to plans and specifications therefor first approved by the city council or commission and at a cost for site, building and equipment to be fixed by it within the maximum limit hereinafter provided.

(2) Such auditoriums, their equipment and appurtenances shall at all times be owned, managed, operated, and conducted by such association, its successors or assigns, solely for public purposes herein provided and entertainment and under the control and supervision of said city council or commission and under and according to such rules and regulations, including rental charges, as shall be prescribed by it.

(3) Such association shall be non-profit sharing; no corporate stock shall be issued and no member shall have or acquire any divisional or other share or interest in any of its property.

(4) All of the income of such association shall be applied only to the payment of its debts and operating expenses, including necessary repairs and upkeep.

(5) When all of the debts against any site, auditorium thereon and equipment, are paid all of the right, title and interest of such association, its successors or assigns therein shall immediately terminate and the same shall forthwith become the property of and be conveyed to the city.

(6) Any transfer or encumbrance of the property of such association, except as herein provided, is prohibited and shall be null and void.

(7) Until further authorization is granted by the Legislative Assembly of this State, auditoriums or improvements to existing

auditoriums shall only be erected in cities of the State, provided however that the cost of such auditorium shall not exceed \$15,000.00.

(8) No auditorium shall be erected until a written permit therefor shall be granted and issued by the city council or commission to such association. Such permit shall describe the ground to be used, and shall provide that the auditorium to be erected thereon shall be erected, owned, and operated by such association, its successors and assigns only as provided for and subject to all the restrictions and limitations imposed by this Act. Such association or its successors and assigns, shall acquire no right, title or interest in and to such site, the auditorium erected thereon, or the equipment thereof, save and except the right to operate such auditorium for public purpose and entertainment, in the manner and upon the terms and conditions herein provided.

(9) The amount of money borrowed or debts contracted by such association shall not exceed the aggregate cost of the site, auditorium, and equipment as fixed by the city council or commission as herein provided and the terms and conditions of such loans or debts shall be fixed and approved by said city council or commission but the payment thereof shall not extend over a period of more than fifty years.

§ 3. The articles of incorporation of such association shall contain the following:

(1) The name of the Association. (2) The place, within this state, where its business will be transacted. (3) The term for which it is to exist. (4) That it is formed pursuant to this Act to carry out the objects and purposes hereof as provided, limited and restricted herein. (5) The number of its members and the condition of membership and succession therein. (6) The number of its trustees, who may or may not be members, and the names and residences of those who shall serve until their successors are elected and qualified.

§ 4. The city council or commission is hereby authorized, directed and empowered (1) to take all necessary and proper action and proceedings to carry out the terms and provisions of this Act and to do and perform all of the acts and duties imposed upon said city council or commission hereby subject, however, to all the limitations and restrictions imposed herein. (2) To lease from such association, its successors or assigns, the site, auditorium and equipment, or any of them, for a term of not to exceed fifty years to be used and operated by said city council or commission for public purposes and entertainment. Such lease shall provide for the payment to such association, its successors or assigns, of a net cash annual rental of not to exceed fifteen per cent of the cost of such site, auditorium and equipment. Said net cash annual rental shall be payable and paid solely and exclusively out of the income derived from the operation of such auditorium as herein provided, and it is hereby expressly provided that the municipality shall incur no liability what-

ever by reason of the exercise of the authority hereby granted to the said city council or commission. (3) To purchase from such association, its successors or assigns, the site, auditorium and equipment, or any of them, at a price not to exceed the cost of such site, auditorium or equipment, to be used and operated by said city council or commission or its successors for public purposes and entertainment. Such purchase price shall be payable in not to exceed fifty years, in annual installments of not to exceed fifteen per cent of such purchase price, at a rate of interest of not to exceed seven per cent per annum, payable semi-annually, and shall be payable and paid solely and exclusively out of the income derived from the operation of such auditorium as herein provided, and it is hereby expressly provided that the municipality shall incur no liability whatever by reason of the exercise of the authority granted to the said city council or commission.

§ 5. Any site, auditorium, its equipment or appurtenances acquired, purchased, erected, installed, owned, operated, or maintained by such association, its successors or assigns, as provided herein, and all bonds or other evidence of indebtedness issued by such association, under this Act, shall be exempt from taxation.

§ 6. If any part of this Act shall be declared invalid, such invalidity shall not be held or deemed to affect or impair the operation of the remainder of said Act.

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

§ 8. Whenever the words "city or cities" occur herein they shall be deemed to include incorporated villages and townships, and the governing board thereof shall possess the same powers and authority granted herein to any city council or commission.

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

Approved March 7, 1933.

CHAPTER 181

S. B. No. 145—(Miklethun.)

MUNICIPAL UTILITIES FUND

An Act providing for the depositing and keeping of all earnings from municipally owned electric light, power and steam heating plants in a separate fund of the municipality, transferring earnings on hand to said fund, regulating expenditures, transfers and investments from such fund, and repealing conflicting laws.

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

§ I. SEPARATE FUND.] All money received by a municipality

for the service of any light, power and steam heating plant or plants owned and operated by the municipality, and all money, receipts and returns received from any investments of the earnings of such plants which may have been made prior to the taking effect of this Act, shall be paid to the treasury of the municipality, and shall there be kept in a fund known as the Municipal Utilities Fund, and all money and receipts from the earnings of such plants which a municipality may have on hand when this Act becomes effective, shall immediately upon the taking effect of this Act, be transferred by the governing body of such municipality to said Municipal Utilities Fund. All of said moneys, earnings and receipts so transferred and deposited in said Municipal Utilities Fund shall there be kept, until used, separate and distinct from all other funds of the municipality, and shall be used for the purposes herein specified and for no other purposes, and shall be disbursed in the manner and as herein provided, and in no other way or manner.

§ 2. EXPENDITURES FOR PLANTS.] There shall be paid out of said Municipal Utilities Fund upon proper orders or warrants upon authority of the governing body of such municipality all sums necessary for the operation, maintenance, enlargement, repairs, alteration, improvement and extension of said plant or plants whose earnings go into said fund, but no municipality shall pay out of said fund or divert therefrom any sum for any other purpose except as provided hereinafter in Section 3 of this Act.

§ 3. TRANSFER OR INVESTMENT.] When the governing body of the municipality shall determine and find a cash surplus in said fund over and above an amount necessary to adequately provide for the operation, maintenance, repair, enlargement, alteration, improvement and extension of said plant or plants, then and in that event said governing body may, in its discretion, invest said surplus or transfer a portion thereof as follows:

1. All or any part of said surplus may be invested by the governing body of said municipality in interest bearing bonds of the United States, the State of North Dakota, or any bonds or special improvement district warrants of the municipality in which said municipal plant is located, provided that all principal and interest on said warrants and bonds, when repaid shall be placed back into the Municipal Utilities Fund.

2. The governing body of said municipality may at any time during the fiscal year, or at various times during said year, divert and transfer from said surplus in said fund to the general fund of said municipality or to any other fund of said municipality a total sum of not to exceed ten per cent of the gross receipts of such municipal utilities for the fiscal year of said municipality during which said transfer or transfers are made.

§ 4. REPEAL.] All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved March 4, 1933.

NEGOTIABLE INSTRUMENTS

CHAPTER 182

S. B. No. 261—(McDonald by request.)

PAYMENT NEGOTIABLE INSTRUMENTS WHEN DEEMED COMPLETE

An Act to fix the time at which payment shall be deemed to be complete when made by check, draft or other negotiable instrument.

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

§ 1. Payment of any bill, claim, demand or contract shall not be complete upon the delivery to and acceptance by the creditor of a check, draft or other negotiable instrument unless the parties expressly agree that such instrument shall constitute payment. In case the creditor or his collecting agent fails to present the instrument for payment within a reasonable time after its issue or to present the same in a manner provided for by law, the debtor shall be discharged from liability to the extent of the loss caused by such delay or negligence. In the absence of such delay or negligence on the part of the creditor or his agents, payment shall not be complete until the debtor or his agent shall have paid over to the creditor or his agent the money called for by such instrument, or if such instrument be paid by check, draft or other negotiable instrument, until such checks, drafts or other negotiable instruments shall have been paid to the creditor or his agent.

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

Approved March 6, 1933.

CHAPTER 183

S. B. No. 130—(Atkins.)

UNLAWFUL OBLIGATIONS IN WRITING

An Act to amend and re-enact Section 10251, Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] That Section 10251, Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows: