

## VETOES

S. B. No. 181—(Young, Streibel and Kehoe)

### ELIMINATE DISPARITY IN AMOUNT OLD AGE ASSISTANCE BETWEEN COUNTIES

**An Act to Make it the Duty of the Public Welfare Board of North Dakota to Eliminate Disparity in the Amount of Old Age Assistance between the Counties of the State of North Dakota, Requiring liberal construction of the Public Welfare Law, Authorizing a full or part time Executive Director.**

March 20, 1943.

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I am filing Senate Bill No. 181 entitled: "An Act to make it the duty of the Public Welfare Board of North Dakota to eliminate disparity in the amount of Old Age Assistance between the counties of the State of North Dakota, requiring liberal construction of the Public Welfare Law, authorizing a full or part time Executive Director", without my approval.

Careful examination of the official Journals of the Twenty-eighth Legislative Assembly discloses that this bill was indefinitely postponed by the House of Representatives, and that the Senate was notified of such action. The following record appears on Page 1172 of the House Journal:

"The report of the Conference Committee on Senate Bill No. 181 was now before the House, the report having been previously printed in the Journal and action deferred until this time.

"The question was on the substitute motion of Rep. Sellens that Senate Bill No. 181 be indefinitely postponed, which motion prevailed, and Senate Bill No. 181 was indefinitely postponed.

"Rep. Aker moved that the vote by which Senate Bill No. 181 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

"MESSAGE TO THE SENATE.

HOUSE OF REPRESENTATIVES  
BISMARCK, MARCH 5, 1943.

"Mr. President: I have the honor to inform you that the House has indefinitely postponed Senate Bill No. 181.

W. M. Smart, Chief Clerk."

Under the law of this state, a presumption is that an enrolled bill is valid, but this presumption is not conclusive and the Journals of both Houses of the Legislative Assembly can be examined in determining whether the bill has been passed as required by the Constitution.

The Legislative Journals are silent with reference to any further action on the bill. The record thus established by the Journals is without question sufficiently strong and clear to overcome the presumption of validity which attaches to the enrolled bill.

It appears clear, therefore, that the bill was not constitutionally passed, and consequently is a nullity.

Respectfully,  
JOHN MOSES  
Governor

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

§ 1. The Public Welfare Board of North Dakota shall immediately eliminate disparity in the amount of Old Age Assistance between the counties of the State of North Dakota.

§ 2. The Public Welfare Board shall liberally construe the provisions of the Public Welfare law of North Dakota to the end of providing reasonable subsistence for the needy aged compatible with decency and health.

§ 3. The Public Welfare Board of the State of North Dakota may select and appoint a competent full or part time Executive Director whenever the efficient administration of the Public Welfare Board of North Dakota requirs [requires] it.

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

LEGISLATURE, APPROPRIATION FOR LIVING  
EXPENSES OF MEMBERS

**An Act Providing for Reimbursement for Living Expenses of the Members of the State Legislature While in Attendance at the Session, Making an Appropriation therefor;**

**WHEREAS, Section 45 of the Constitution of North Dakota makes provision only for Compensation for the services of the members of the Legislative Assembly and fails to make any provision for their living expenses while absent from their homes attending the sessions of the Assembly in the performance of their official duties; and**

**WHEREAS, the Legislative Assembly of North Dakota has failed to make provisions for such expenses;**

March 20, 1943.

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I am filing herewith Senate Bill No. 78 for an Act providing for reimbursement for living expenses of the members of the State Legislature while in attendance at the session, and making an appropriation therefor, without my approval.

Of course, the members of the Legislative Assembly should receive greater compensation. Five dollars per day as fixed by the Constitution may have been reasonable in 1889, but today it is barely sufficient to pay the living expenses of the members while attending the session, and neither affords them any compensation for their services nor does it provide for the expenses which many members are forced to incur through hiring of others to do their work at home during their absence.

However, I am convinced that this Act is unconstitutional. Section 45 of the North Dakota Constitution reads as follows:

"Each member of the Legislative Assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative assembly, on the most usual route."

The overwhelming weight of authority, under similar Constitutional provisions, is against its validity. The reasons for this view are set forth fully in *Dixon vs. Shaw*, 50 A. L. R. 1233, and the cases supporting that view are collected in the note to that decision and in the note following *Peay vs. Nolan*, 60 A. L. R. 408.

It is evident that the members of the Legislative Assembly entertained doubts as to the constitutionality of this measure, as they

adopted House Concurrent Resolution X which proposes a constitutional amendment to achieve the same purpose. I believe that this is the proper procedure, and I sincerely hope the amendment may be approved by the people.

In view of the fact that the constitution restrains the legislative assembly from increasing the salaries of other state officers during the terms for which they have been elected, I doubt the public policy of the legislative assembly in increasing the remuneration of its own members during their present terms, regardless of technical exactness as to whether the additional remuneration be termed compensation or personal expenses.

Respectfully submitted,  
JOHN MOSES  
Governor

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

§ 1. ALLOWANCE FOR LIVING EXPENSES OF MEMBERS OF LEGISLATIVE ASSEMBLY.] Each member of the Legislative Assembly of the State of North Dakota shall be entitled to, and paid at the close of each Legislative Session, including the present session, the sum of Two Hundred and Forty and No/100 Dollars (\$240.00) as reimbursement for his living expenses during such session and expenses incurred during the biennium.

§ 2. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of \$40,000.00, or so much thereof as may be necessary to carry out the provisions of this Act.

## S. B. No. 56—(Morgan of Richland, and Guenther)

## APPROPRIATION FOR PREDATORY ANIMALS

An Act to appropriate fifteen thousand, (\$15,000.00) dollars for the biennium beginning July 1, 1943 and ending June 30, 1945, to provide for the control of predatory animals such as wolves, coyotes, bobcats and other predatory animals which are injurious to livestock, poultry and game animals and birds; to authorize cooperation with the United States in the control of such predatory animals; and in addition thereto appropriating for the same purpose the net proceeds of furs, skins or specimens sold, making such proceeds available in a sum not to exceed twenty thousand (\$20,000.00) dollars, and to provide for funds to enable the Department of Agriculture and Labor of the State of North Dakota to carry out the provisions of this act; repealing all acts or parts of acts in conflict herewith.

March 20, 1943.

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota.

Dear Mr. Hall:

I return you herewith Senate Bill 56 without my approval for the reason that the Legislative Journals disclose that it was not passed by the required constitutional majority.

The Journal of the House, on P. 1010, shows affirmatively that it was passed by the House by a vote of 57 "Ayes" to 53 "Nays", three absent. Representative Fitch was among those listed as voting "Aye."

The House Journal, on P. 1094, shows affirmatively that Representative Fitch informed the House that in the final action on Senate Bill 56, he should be recorded as voting "Nay" instead of "Aye" and moved that the Journal be corrected to so show. On a viva voce vote, the chair was in doubt and an arising vote disclosed that 49 voted for and 28 against, so the motion prevailed.

The Legislative Assembly has the right to correct its records or Journals so that they speak the truth and this power exists independent of constitutional or statutory authority.

67 S. E. 969 (N. C.)	99 So. 92 (Ala.)
165 S. W. 426 (Tenn.)	157 N. E. 200 (Ill.)
156 So. 247 (Fla.)	

Section 65 of our Constitution provides that, "No bill shall become a law except by vote of a majority of all members elect in each house, unless, on its final passage, the vote be taken by "Ayes" and "Nays" and the names of those voting be entered in the Journal."

The great weight of judicial authority is to the effect that where the legislative journals affirmatively show that an act is not passed by the required constitutional majority it is a annulity (59 C. J. 563, 567, 25 R. C. L., 885, 170 S. W. 465).

Deducting the vote of Representative Fitch in accordance with the corrected journal entry leaves only 56 affirmative votes. This, of course, is not a constitutional majority.

Respectfully,  
JOHN MOSES  
Governor

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

§ 1. The Department of Agriculture and Labor of the State of North Dakota is hereby authorized and directed to cooperate with the United States Department of the Interior, Fish and Wildlife Service, in the control and destruction of coyotes, wolves, bobcats and other predatory animals in this state that are injurious to livestock, poultry and game animals and birds in accordance with organized and systematic plans of the Department of the Interior for the destruction of such predatory animals; and for this purpose to enter into written agreements with the Fish and Wildlife Service covering the methods and procedure to be followed in the control and destruction of such predatory animals, the extent of supervision to be exercised by either or both the Department of Agriculture and Labor and the Fish and Wildlife Service, and the use and expenditure of the funds hereinafter appropriated: Provided, that the Department of Agriculture and Labor, in cooperation with the Fish and Wild Life Service may enter into agreements with other governmental agencies, and counties, associations, corporations, or individuals when such cooperation is deemed to be necessary to promote the control and destruction of predatory animals.

§ 2. (a) The Department of Agriculture and Labor is hereby authorized to make such expenditures for equipment, supplies and other expenses, including expenditures for personal services of hunters and trappers, as may be necessary to execute the functions imposed upon it by this act and as may be provided for by the State Legislature from time to time; provided, that hunters and trappers employed under the provisions of this act shall be residents of the State of North Dakota, but shall not entitled to bounty provided by the laws of this State for the killing or extermination of predatory animals; and further provided, that all vouchers for such expenditures made by the Department of Agriculture and Labor shall be approved as to correctness by the duly authorized agent of the Fish and Wildlife Service.

(b) For such expenditures there is hereby appropriated out of money in the State Treasury not otherwise appropriated the sum of fifteen thousand, (\$15,000.00) dollars, which appropriation shall be available until expended.

§ 3. All furs, skins and specimens taken by hunters whose

salaries are paid out of funds hereinbefore appropriated shall be disposed of in such manner as the Department of Agriculture and Labor shall determine to be in the best interest of the State; provided that if such furs, skins or specimens are sold, the net proceeds of such sales but not in excess of twenty thousand (\$20,000.00) dollars, shall be available and are hereby appropriated for payment of expenditures of equipment, supplies and other expenses including expenditures for personal services of hunters and trappers as may be necessary to execute the functions imposed upon it by this act as set forth in Section 2 hereof.

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H. B. No. 145—(Haugen, Jennings and Braun)

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PARK DISTRICTS, DISSOLUTION

An Act to Provide for the Dissolution of Village Park Districts, and Outlining the Procedure to be Followed.

March 10, 1943.

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I transmit herewith House Bill No. 145 being "An act to provide for the dissolution of village park districts and outlining the procedure to be followed," without my approval.

The reason for withholding my approval to this measure is that the provisions with reference to the disposition of the property of the park district and the payment of outstanding obligations are so indefinite that confusion and litigation would probably result. The act provides:

"The property belonging to such park district shall, after the payment of its debts and liabilities, be disposed of in such manner as a majority of the voters of such park district at any special meeting thereof may direct; provided however that such dissolution shall not affect the rights of any person in any contract or agreement to which such park district is a party."

No provision is made for the village officers or any other body to handle the property of the park district pending the payment of outstanding obligations, nor is any provision made whereby the board of village trustees or any other body might levy taxes to pay outstanding obligations.

The law appears to be that "The Legislature must provide for the protection of the creditors of (dissolved) corporations. This may

be done by providing for the continuation of the assessment and collection of taxes and the disbursement of funds by proper officials named for that purpose . . . ” 37 Am. Jur. 660. In the absence of such provision, the decisions seem to be in much confusion as to whether the creditors may have the municipal property administered by a court of equity or what remedy is available. See 43 C. J. 175. It would, of course, be intolerable to have the park property without any effective supervision or to have it handled in receivership proceedings.

Respectfully submitted,  
JOHN MOSES  
Governor

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

§ I. DISSOLUTION OF VILLAGE PARK DISTRICT. PETITION FOR ELECTION. NOTICE OF ELECTION. EFFECT OF DISSOLUTION.] When an application, signed by one-third of the legal voters of any village park district, shall be presented to the Board of Trustees of the village, asking for the dissolution of such park district, setting forth the reasons therefor, the village Board of Trustees shall call a meeting of the voters of such park district to determine whether such park district shall be dissolved, and such Board of Trustees shall give ten days' notice of such meeting by publishing in a newspaper, if one is published in such village, and by posting such notice in five public places in the park district, which said notices shall specifically state that the meeting is called to determine whether such park district shall be dissolved. The Board of Commissioners of the Park District shall preside at such meeting, and the polls shall be open from nine o'clock in the forenoon, and shall not be finally closed until four o'clock in the afternoon of said day [day]. Voting shall be by ballot, "yes" or "no". If a majority of all the votes cast at such meeting shall have the "yes" thereon, and such affirmative votes shall constitute not less than thirty-five percent of all of the legal voters in such park district, a statement of the votes signed by the chairman of the Board of Commissioners of the Park district, and attested by the clerk, shall be filed in the office of the Register of Deeds of the county in which such park district is located, and such park district shall at the expiration of three months from the time of holding such meeting, cease to be a corporation. The property belonging to such park district shall, after the payment of its debts and liabilities, be disposed of in such manner as a majority of the voters of such park district at any special meeting thereof may direct; Provided, however, that such dissolution shall not affect the rights of any person in any contract or agreement, to which such park district is a party.

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**H. B. No. 119—(Anderson, Starck, Mortenson and Forseth)**

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**HAIL INSURANCE ACT, AMENDMENT**

An Act to amend and re-enact Sections 189b3, 189b5, 189b9, 189b15, of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 137, Session Laws of North Dakota for 1933, relating to the operation of the State Hail Insurance Department, defining the duties of the Commissioner of Insurance, defining the crops to be insured, relating to the duty of assessors, and the indemnity to be paid for hail insurance losses, repealing acts in conflict herewith, and declaring an emergency.

March 20, 1943.

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I return herewith House Bill No. 119, entitled: "An Act to amend and re-enact Section 189b3, 189b5, 189b9, 189b15, of the 1925 Supplement to the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 137, Session Laws of North Dakota for 1933, relating to the operation of the State Hail Insurance Department, defining the duties of the Commissioner of Insurance, defining the crops to be insured, relating to the duty of assessors, and the indemnity to be paid for hail insurance losses, repealing acts in conflict herewith, and declaring an emergency.", without my approval. While there are certain provisions in the bill which I would be glad to approve if those provisions could be separated from the objectionable features, this cannot be done. Two provisions of the bill necessitate my disapproval.

1. Section 2 of the bill provides: "The insurance provided for in this act shall become effective twenty-four hours after the application is signed and given to the assessor, inspector, adjuster, or a duly authorized representative of the State Hail Insurance Department except as provided in section 9". Section 9 provides: "All such applications shall be subject to the approval of the Commissioner of Insurance".

The result of these two sections would appear to be this: If a loss occurred more than twenty-four hours after several applications were taken and before they were acted upon by the department, the Commissioner of Insurance would have the power to approve one and allow that claim while he could disapprove another and disallow the claim. No such arbitrary power should be conferred. The provision opens the way for undesirable practices.

2. Section 1 of the bill provides: "The salaries of all employees together with all other expenditures for the operation and maintenance of the department shall remain within the appropriation and

surplus available in each year for such purposes and shall not exceed the sum of \$150,000.00 per annum."

The reviser's note to section 26-2203 of the new code says: "We have changed 'shall remain within the appropriation and surplus available in each year for such purposes' to read 'shall remain within the appropriations made by the Legislative Assembly for such purposes.' The "jack pot" amendment to N. D. Const., s. 186 was construed to specifically apply to the Hail Insurance Department in *Langer vs. State*, 69 N. D. 129."

The Legislative Assembly has been making appropriations to provide for the operating expenses of this department. One effect of the bill apparently would be to give the department authority to spend money from the surplus fund for operating expenses without regard to legislative appropriations.

Respectfully,  
JOHN MOSES  
Governor

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

§ 1. AMENDMENT.] Section 189b3 of the 1925 Supplement to the Compiled Laws of the State of North Dakota for 1913, as amended by Chapter 137, Session Laws of North Dakota for 1933, is hereby amended and re-enacted to read as follows:

§ 189b3. EMPLOYEES, SALARY, AND OPERATING EXPENSE.] The Commissioner of Insurance with the approval of the Governor shall appoint a manager who shall be in direct charge of the department, and whose salary shall be set by the Commissioner of Insurance. With the approval of the Commissioner of Insurance, the manager shall employ all the assistants necessary to operate the department, and may employ such legal counsel as he shall deem necessary.

The salaries of all employees, together with all other expenditures for the operation and maintenance of the department, shall remain within the appropriation and surplus available in each year for such purposes, and shall not exceed the sum of one hundred fifty thousand dollars (\$150,000.00) per annum, except as provided by Sections 16 and 17 of this Act. The Commissioner of Insurance and/or manager shall pay all salaries and expenses of the department by vouchers issued under his authority and approved by the State Auditing Board, except payment for writing applications, as provided for in Section 9 of this Act.

§ 2. AMENDMENT.] Section 189b5 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Section 1 of Chapter 170, Session Laws of the State of North Dakota for 1931, and Chapter 137, Session Laws of North Dakota for

1933, be and the same is hereby amended and re-enacted to read as follows:

§ 189b5. CROPS INSURED.] The crops insured under this Act shall consist of crops grown on cultivated lands, listed as actually cropped and subject to the payment of taxes specified in this Act. The following crops may be insured; rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa, cane, soy beans, Bromascrested wheat, Sudan grass, tame mustard, and Kafu corn. In addition thereto the Commissioner of Insurance and manager may by regulation include such other crops as they may deem advisable and necessary. The insurance herein provided for shall, in no event, become effective on winter rye, flax and winter wheat before 12 o'clock noon, C.S.T., on May the 20th, and shall not become effective on any other crops before 12 o'clock noon, C. S. T., of June the 1st of any year, subject to the provisions of Sections 9, 11, and 25 of the Hail Law. Provided, that no indemnity shall be allowed for loss to winter rye and winter wheat which occurs later than 12 o'clock noon, C. S. T., of August 15th of each year, and flax, soy beans, and corn should be considered insured up to 12 o'clock noon, C. S. T., September 15th of each year, on all other crops the protection shall cease at 12 o'clock, C. S. T., of September 10th of each year. The insurance provided for in this Act shall become effective twenty-four hours after the application is signed and given to the assessor, inspector, adjuster, the county auditor, or a duly authorized representative of the State Hail Insurance Department, except as provided in Section 9.

§ 3. AMENDMENT.] Section 189b9 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 189b9. DUTY OF ASSESSORS; WRITING THE PROTECTION.] It shall be and is hereby made the duty of each and every assessor in the State, each within his respective district, or county, each and every year at the time of the listing of property for assessment, to inquire of the person whose property is assessed, or the legal occupant, whether or not he has any crops growing or to be grown during such year, and if he has any such crops, whether or not he desires to have such crops or any part thereof insured against loss by hail under the provisions of this Act for the year in which said assessment is made. Such assessor shall at that time explain fully to said person the provisions of this Act relative to amount of insurance per acre, the time within which notice of loss must be given, and the time and manner of paying hail taxes and indemnities. If such person desires to insure any or all of his crop the assessor shall then and there take his application, in triplicate, on forms of application furnished by the Commissioner of Insurance. Such application may be taken by the assessor at any time, providing the crop or crops to

be insured have not been damaged by hail to the extent of 5 per cent or greater, and not later than the thirty-first day of July of the year for which said insurance is desired. In the event hail has fallen upon the crop prior to the time of taking the application, the assessor, county auditor, or authorized representative of the Hail Department shall note the same upon the application and the crop shall be examined by a representative of the Hail Insurance Department, and if it is found that such damage is less than 5 per cent, the representative shall note the percentage of damage on the application and the same shall be taken into consideration and deducted from future losses. Such insurance on damaged crops shall not be effective until such examination has been completed and all costs and expenses in connection therewith paid for by the applicant and the policy approved by the Commissioner of Insurance or his agent. Immediately after the thirty-first day of July the Assessor shall forward to the county auditor of his county the balance of his hail insurance listing supplies. All applications shall be made in triplicate and shall carefully describe each piece of land to be insured, describing particularly the quarter section or sub-division thereof, the number of the section, the township and range with acreage, description of and location of the different kinds of crops to be insured. Each application shall also show the interest of applicant in such crop. Provided, however, that the occupant, if same be a tenant, may make application as owner's agent if he has written authority and files such written authority with his application. The information contained in such application shall be furnished by the applicant and shall be binding on him. Provided, however, that such applicant may amend such application as to kind of crop and location thereof at any time before July 6, and before loss, by notifying the Hail Insurance Department thereof by registered mail.

At the time of taking the application herein provided for, the assessor shall endorse on each copy thereof the date and hour of same and shall forward by mail within twenty-four hours the triplicate copy to the county auditor of his county and the original and duplicate copies to the Hail Insurance Department at Bismarck; all such applications shall be subject to the approval of the Commissioner of Insurance. Immediately upon receipt and checking of such original and duplicate copies in the office of the Hail Insurance Department the Commissioner of Insurance shall, if he approves the same, cause to be stamped and endorsed thereon the day and hour when insurance is effective, his approval of same, and shall return the duplicate copy to the applicant which duplicate copy thus endorsed shall constitute the policy of insurance under the provisions of this Act and shall entitle the applicant to the protection thereof. The application shall be the basis of computing the hail indemnity tax which shall be charged against the land on which such crops are grown, except as further provided in this Act.

If, for any reason, any person having crops growing or to be grown, fails to make application with the assessor for hail insurance, as herein provided, he may at any time after the first day in June and before five o'clock P. M. on the thirty-first day of July make application for such insurance with the assessor, the county auditor, or directly with the Hail Insurance Department. In case the thirty-first day in July falls on Sunday, the applicant may file his application at any time before five o'clock P. M. the following day. Upon taking such application the county auditor shall retain the triplicate copy [copy] in his office and shall mail immediately the original and duplicate thereof to the Hail Insurance Department.

Such application shall be endorsed by the State Hail Insurance Department with the date of the day and hour received, and such application shall be rejected unless received within three days of the date of such application. In no event shall such insurance be effective if the application is not received prior to 5 o'clock P. M. on the third day of August, except in such case as the 31st of July falling on Sunday, when the date shall be the fourth.

In the event the application is rejected or insurance is reinstated, the Commissioner of Insurance shall notify the applicant by registered mail of such rejection or reinstatement.

The assessors and county auditors in addition to other compensation allowed them according to law, shall be entitled to compensation for their services at the rate of two cents per acre on approved applications listed and reported by them in accordance with the provisions of this Act. Such Compensation shall be paid out of the Hail Insurance Fund Operating Account and the Commissioner of Insurance shall certify to the State Auditor a list of the assessors and county auditors and the amounts due them and thereupon the State Auditor shall draw warrants on the State Treasurer for payment of same out of the State Hail Insurance Fund Operating Account.

§ 4. AMENDMENT.] Section 189b15 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Chapter 170 of the Session Laws of 1931, and as amended by Chapter 137 of the Session Laws of 1933, is hereby amended and re-enacted to read as follows:

§ 189b15. AMOUNT OF INDEMNITY.] The maximum amount of indemnity for total loss shall be either Five Dollars (\$5.00) per acre or Eight Dollars (\$8.00) per acre, as the application for insurance may specify. Provided, however, that if the original application calls for Five Dollars (\$5.00) per acre insurance, the insured may before loss and before July thirty-first make application to the Hail Insurance Department for an additional Three Dollars (\$3.00) per acre protection. Such application shall be made out in duplicate upon forms prepared and furnished by the Commissioner of Insur-

ance and mailed directly to the Department at Bismarck, and if approved by the Commissioner of Insurance, the duplicate of such application shall be returned to the maker and considered his policy of insurance. Such application shall contain the legal description of the land, the kind of crops and the acreage of same on which additional insurance is desired. The location of such crops shall also be given upon a diagram on the application blank, and such application shall contain a statement to the effect that such crops have not been damaged or destroyed by hail. Provided, further, that such application shall be signed by the applicant and shall be acknowledged by the assessor or sworn to before someone authorized to administer oaths. 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 the owner makes such application, the written consent of the tenant must appear thereon. If either owner or tenant, in filing such application, acts as agent one for the other, a written authorization shall be attached to the application. Such applications are subject to the approval of the Commissioner of Insurance.

In no event shall such additional insurance become effective before application is on file in the office of the Hail Insurance Department.

No indemnity shall be allowed to any claimant for a loss of less than five per cent, and a loss of 90 per cent or over shall be deemed a total loss. There shall be no claim allowed for any loss or damage to crops except such as is directly traceable to hail. Neither shall any indemnity be allowed or paid for damage to any crop after it is cut, nor on any abandoned crop.

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

§ 6. EMERGENCY.] This Act is declared to be an emergency measure and shall be in full force and effect upon its passage and approval.

H. B. No. 82—(Committee on Drainage and Irrigation)

TRI-STATE WATER COMPACT

An Act to Ratify and Approve the Compact between the States of Montana, North Dakota and Wyoming, Providing for an Equitable Apportionment of the Waters in the Yellowstone River Basin among said States.

March 2, 1943

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I am transmitting to you herewith House Bill No. 82, an act to ratify and approve the compact between the States of Montana, North Dakota and Wyoming, providing for an equitable apportionment of the waters in the Yellowstone River basin among said States, without my approval thereon for the reasons set forth herein.

Since the passage of this bill by the Legislative Assembly, I have been authoritatively informed that such compact was approved by the Legislative Assembly of the State of Wyoming but was disapproved by the Legislative Assembly of the State of Montana.

This bill provides, in part, that said compact shall not bind any of the signatory states thereto unless and until the same has been approved by the legislature of each of the signatory states. Since the State of Montana has failed to ratify and approve the compact, this bill has become a nullity. No useful purpose can be served by its inclusion in the new code at a substantial expense to the State and I, therefore, withhold my approval thereof.

Sincerely yours,  
JOHN MOSES  
Governor

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

§ I. RATIFICATION OF COMPACT BETWEEN THE STATES OF MONTANA, NORTH DAKOTA AND WYOMING. That the compact entered into between the states of Montana, North Dakota and Wyoming pursuant to an act of Congress of the United States of America, approved June 15, 1940 (Public No. 632, 76th Congress, 3rd Session), which was concluded and signed on the 31st day of December, 1942, at Billings, Montana, by the commissioners for the states of Montana, North Dakota and Wyoming, respectively, acting under appointment by the Governors of said states, providing for an equitable apportionment of the waters in the Yellowstone River basin among said states and each and every part and article thereof is

hereby ratified and approved by the Legislative Assembly of the State of North Dakota, which said compact is in words and figures, as follows:

**YELLOWSTONE RIVER COMPACT.** The State of Montana, the State of North Dakota, and the State of Wyoming, being moved by consideration of interstate comity, and desiring to remove all causes of present and future controversy between said States and between persons in one and persons in another with respect to the waters of the Yellowstone River and its tributaries, other than waters within or waters which contribute to the flow of streams within the Yellowstone National Park, and desiring to provide for an equitable division and apportionment of such waters, and to encourage the beneficial development and use thereof, have resolved to conclude a Compact as authorized under the Act of the Congress of the United States of America, approved June 15, 1940 (Public No. 632, 76th Congress, Third Session), for the attainment of these purposes, and to that end, through their respective governments, have named as their respective Commissioners:

For the State of Montana: Fred E. Buck, H. W. Bunston, W. E. Ogden, Wesley A. D'Ewart, P. F. Leonard;

For the State of North Dakota: John T. Tucker, M. M. Millhouse, Kenneth W. Simons, Frank P. Whitney, Einar Dahl;

For the State of Wyoming: L. C. Bishop, Ernest Goppert, L. F. Thornton, David Anderson, John Gonin, R. E. McNally, Earl Bower, Will G. Metz, Ray Bower, Ed J. Johnson who, after negotiations participated in by Clyde L. Seavey, appointed as the representative of the United States of America, have agreed upon the following articles, to wit:

**ARTICLE I. A.** Where the name of a State is used in this Compact, as party thereto, it shall be construed to include the individuals, corporations, partnerships, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, appropriators, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone River System under the authority of said State.

**B.** Any individual, corporation, partnership, association, district, administrative department, bureau, political subdivision, agency, person, permittee, or appropriator authorized by or under the laws of a signatory State, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone River System under the authority of said State, shall be subject to the terms of this Compact. Where the singular is used in this article, it shall be construed to include the plural.

This Compact shall not authorize any division or apportionment between signatory states of the waters of the Tongue, Powder or Little Powder Rivers.

ARTICLE II. A. The State of Montana, the State of North Dakota, and the State of Wyoming are hereinafter designated as "Montana," "North Dakota," and "Wyoming," respectively.

B. The terms "Commission" and "Yellowstone River Compact Commission" mean the agency created as provided herein for the administration of this Compact.

C. The term "Yellowstone River Basin" means areas in Wyoming, Montana, and North Dakota drained by the Yellowstone River and its tributaries, and includes the area in Montana known as Lake Basin.

D. The term "Yellowstone River System" means the Yellowstone River and all of its tributaries, including springs and swamps, from their sources to the mouth of the Yellowstone River near Buford, North Dakota, except those portions thereof which are within or contribute to the flow of streams within the Yellowstone National Park.

E. The term "Tributary" means any stream which in a natural state contributes to the flow of the Yellowstone River, including interstate tributaries and tributaries thereof, but excluding those which are within or contribute to the flow of streams within the Yellowstone National Park.

F. The term "Interstate Tributaries" means the Clarks Fork, Yellowstone River and the Big Horn River; whose confluences with the Yellowstone River are respectively at or near the city (or town) of Laurel and Big Horn, all in the State of Montana.

G. The term "Point of Diversion" means the point or place at which water is taken or removed from the channel of the Yellowstone River or from any tributary thereof.

H. The terms "Divert" and "Diversion" mean the taking or removing of water from the Yellowstone River or any tributary thereof when the water so taken or removed is not returned directly into the channel of the Yellowstone River or of the tributary from which it is taken.

I. The term "Divertible Flow" means the quantity of water that could be diverted from the stream flow above a designated point of measurement during a specified period of time. It is comprised of three elements: (a) the total net inflow to storage; (b) the total diversions; and (c) the remaining flow in the stream at the designated point of measurement for which the divertible flow is being determined. It is computed as follows:

The algebraic sum of: (a) The quantity of water (in acre-feet) that flowed into reservoirs situated above the point of measurement during the specified period of time; less the outflow and diversions made directly from reservoirs (in acre-feet) during the same period; plus

(b) The quantity of water (in acre-feet) that was diverted from the stream above the point of measurement (including diversions made directly from reservoirs) during the specified period of time; plus

(c) The quantity of water in the stream (in acre-feet) that flowed past the point of measurement for which divertible flows are being determined during the specified period of time.

J. The term "Mean Divertible Daily Flow" means the average divertible flow occurring during a twenty-four hour period, beginning at 12:00 midnight.

K. The term "Mean Daily Flow" at any point means the average stream flow occurring at that point during a twenty-four hour period, beginning at 12:00 midnight.

L. The term "Beneficial Use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, percolation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

ARTICLE III. A. This Compact is entered into by each signatory State in the exercise of its sovereign powers for a governmental purpose, and its provisions shall be administered by a Commission, composed of one representative from each signatory State, to be known as the Yellowstone River Compact Commission. The State Representatives on this Commission shall be selected in such manner as each signatory State shall elect. The President of the United States shall be requested by the Commission to designate a representative of the United States to sit with such Commission, and such representative of the United States, if designated by the President shall, when present, act as Chairman of the Commission without vote.

B. The salaries and necessary expenses of each State representative shall be paid by the respective State; all other expenses incident to the administration of this Compact not borne by the United States shall be allocated to and borne by each state as follows: One-fifth by the State of North Dakota; and two-fifths each by the States of Montana and Wyoming.

C. In addition to other powers and duties herein conferred upon the Commission and the members thereof, the jurisdiction of the Commission shall include the collection, correlation, and presentation of factual data, the maintenance of records having a bearing upon the administration of this Compact, and, by unanimous action, the making of recommendations to the respective States upon matters connected with the administration of this Compact. In connection with the performance of its duties hereunder, the Commission may employ such services and make such expenditures as may be reasonably necessary, within the limit of funds provided for that

purpose by the respective States. The Commission shall compile a report for each year ending September 30th, and shall transmit it to the Governors of the signatory States on or before December 31st following the year covered by the report.

D. The Commissioner, United States Bureau of Reclamation; The Commissioner of Indian Affairs; The Chairman, Federal Power Commission; The Chief, Federal Weather Bureau; The Chief of Engineers, U. S. Army; The Director, United States Geological Survey, or comparable officers of whatever Federal agencies may succeed to the functions and duties of these agencies, and such other Federal officers and officers of appropriate agencies of the signatory States having services or data useful or necessary to the Compact Commission, shall cooperate, ex officio, with the Commission in the execution of its duty in the collection, correlation, and publication of records and data necessary for the proper administration of the Compact, and these officers may perform such other services related to the Compact as may be mutually agreed on with the Commission.

E. The Commission shall have power to formulate rules of procedure, rules, and regulations, and to perform any and all acts it may find necessary to carry out the provisions of this Compact, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations. All rules of procedure, rules and regulations of the Commission shall be filed in the Office of the State Engineer of each signatory State and shall be kept in a convenient form for public inspection and examination during reasonable business hours.

F. The Commission herein authorized shall have power to sue and be sued in its official capacity in any Federal Court of the signatory States, and may adopt and use an official seal which shall be judicially noticed.

ARTICLE IV. The Commission shall itself, or in conjunction with other responsible agencies, cause to be established, maintained, and operated such suitable water gaging and evaporation stations as it finds necessary in connection with its duties.

ARTICLE V. The States of Montana, North Dakota, and Wyoming hereby agree that the waters of the Yellowstone River and its interstate tributaries shall be apportioned among said States as follows:

I. CLARKS FORK, YELLOWSTONE RIVER. Each day during the period May 1st to September 30th, inclusive, of each year, the first 1,600 acre-feet of mean divertible daily flow of the Clarks Fork, Yellowstone River, determined immediately above the confluence of Rock Creek with Clarks Fork in Montana, shall be divided twenty-seven (27) per cent to Wyoming and seventy-three (73) per cent to Montana; however, either State may temporarily divert, consume, or store for its beneficial use any unused part of the above

flow allotted to the other, but no continuing right to such unused flow shall be established thereby. Unappropriated divertible daily flows in excess of 1,600 acre-feet occurring during the period May 1st to September 30th, inclusive, of each year, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, shall be subject to future appropriation by Montana, North Dakota, and Wyoming for beneficial use within the Yellowstone River Basin.

2. **BIG HORN RIVER (EXCLUSIVE OF LITTLE HORN RIVER.)** Each day during the period May 1st to September 30th, inclusive, of each year, after supplying the reasonable water requirements of the lands having Indian Treaty water rights in Wyoming, and the lands having Indian Treaty water rights in Montana served directly from the main stem of the Big Horn River, the remainder of the first 15,000 acre-feet of mean divertible daily flow of the Big Horn River, determined at the lowest point of diversion on this stream, shall be divided ninety (90) per cent to Wyoming and ten (10) per cent to Montana; and the next 15,000 acre-feet of mean divertible daily flow shall be divided ninety-three (93) per cent to Wyoming and seven (7) per cent to Montana; provided, however, that either State may temporarily divert, consume, or store for its beneficial use any unused part of the above flows allotted to the other, but no continuing right to such unused flows shall be established thereby. Unappropriated divertible daily flows in excess of 30,000 acre-feet occurring during the period May 1st to September 30th, inclusive, of each year, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, shall be subject to future appropriation by Montana, North Dakota, and Wyoming for beneficial use within the Yellowstone River Basin.

3. **YELLOWSTONE RIVER — MAIN STEM (NEAR MONTANA-NORTH DAKOTA STATE LINE.)** During the period May 1st to September 30th, inclusive, of each year, lands within the Yellowstone River Basin in Montana and in North Dakota below Intake, Montana, shall be entitled to the beneficial use of the available residual flow of the waters of the Yellowstone River below Intake, Montana, on a pro rata basis of acreage irrigated.

All residual flows of the Yellowstone River below Sidney, Montana, after the States of Montana and Wyoming have made full beneficial use of the waters of said stream, is hereby allotted to the State of North Dakota, subject to existing water rights of lower States.

B. Before the expiration of the first ten (10) year period following the consummation of this Compact and at the end of each ten (10) year period thereafter, the Commission shall re-examine the allocations made under part "A" of this article and shall, after reaching unanimous agreement, make such modifications

in these allotments as are fair, just and equitable, giving consideration among other factors to:

- (a) priorities of water rights;
- (b) acreage irrigated;
- (c) acreage irrigable under existing works; and
- (d) potentially irrigable lands.

PROVIDED, that if the Commission by the end of the first ten (10) year period should fail to reach a unanimous agreement as to the continuation or the modification of any of the allotments specified in part "A" of this article, then, the allotment as to the stream affected shall be suspended, and during such suspension and until unanimous agreement be reached, the rights of appropriators thereon shall revert temporarily to the same status as would exist had the Compact not been entered into; and

PROVIDED, that if the Commission should fail to reach unanimous agreement as to the modification of any allotment provided for in this article in any ten (10) year period subsequent to the first ten (10) year period, then, as to the stream affected, the allotment then existing shall continue in full force and effect until unanimous agreement thereon be reached; and

PROVIDED FURTHER, that changes and amendments that are substantive and are not modifications of allotments as herein provided shall be subject to Article XI.

C. It is recognized that variable climatic conditions, stream flow regulation, the administration of the interstate tributaries in Wyoming and Montana, and other causes will produce diurnal and other unavoidable variations and fluctuations in the stream flows at the interstate measuring stations, and it is agreed that in the performance of provisions of part "A", of this article and subsequent modifications thereof, minor compensating irregularities and fluctuations in the flow shall be permitted; but where any deficiency of the mean daily flow at an interstate measuring station may be occasioned by neglect, error, or failure in the performance of the duty of the upstream-state water officials having charge of the administration of the diversions from the stream, each such deficiency shall be made up within the next succeeding period of 72 hours by delivery of additional flow at the interstate measuring station over and above the amount allotted, sufficient to compensate for such deficiency.

ARTICLE VI. Present vested rights within each State and between States relating to the beneficial use of the waters of the Yellowstone River System are recognized by this Compact. All rights to the beneficial use of the waters of the Yellowstone River System, heretofore and hereafter established under the laws of any signatory State, shall be satisfied solely from the proportion of the water allotted to that State as provided in Article V. All Indian

Treaty rights pertaining to the waters of the Yellowstone River Basin are unaffected by this Compact and are excluded therefrom.

ARTICLE VII. A lower signatory State shall have the right by compliance with the laws of an upper signatory State, to file application for and receive permits to appropriate and use any waters in the Yellowstone River System not specifically apportioned to or appropriated by such upper State as provided in Article V; and to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such upper State for the purpose of conserving and regulating water that may be apportioned to or appropriated by the lower State, provided that such right is subject to the rights of the upper State to control, regulate, and use the water apportioned to and appropriated by it; and, provided further, that should an upper State elect, it may share in the use of any such facilities constructed by a lower State to the extent of its reasonable needs upon assuming and guaranteeing payment of its proportionate share of the cost of construction, operation, and maintenance.

B. . Each claim hereafter initiated for an appropriation of water in one signatory State for use in another signatory State shall be filed in the Office of the State Engineer of the signatory State in which the water is to be diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the Office of the State Engineer of the Signatory State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed, to the end that the records in both States may be complete and identical.

C. Appropriations may hereafter be adjudicated in the State in which the water is diverted, and where a portion or all of the lands irrigated are in another signatory State, such adjudications shall be confirmed in that State by the proper authority. Each adjudication is to conform with the laws of the State where the water is diverted and shall be recorded in the County and State where the water is used.

ARTICLE VIII. A lower signatory State shall have the right, upon compliance with the laws of an upper signatory State, to acquire in such upper State by purchase, or through exercise of

the power of eminent domain, such easements and rights of way for the construction, operation, and maintenance of pumping plants, storage reservoirs, canals, conduits, and appurtenant works as may be required for the enjoyment of the privileges granted herein to such lower State.

ARTICLE IX. Should any facilities be constructed by a lower signatory State in an upper signatory State under the provisions of Article VII, the construction, operation, repairs, and replacements of such facilities shall be subject to the laws of the upper State.

ARTICLE X. In the event water from another drainage basin shall be imported into the Yellowstone River Basin or transferred from one tributary basin to another by the United States, Montana, North Dakota, or Wyoming, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in determining its share of the divertible flows apportioned in accordance with Article V herein.

ARTICLE XI. The provisions of this Compact shall remain in full force and effect until amended by unanimous action of the Legislatures of the Signatory States and consented to and approved by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XII. No action taken by the Compact Commission shall be valid except by the unanimous consent of the Commissioners representing the signatory States.

ARTICLE XIII. This Compact may be terminated at any time by unanimous consent of the Signatory States, and upon such termination all rights then established hereunder shall continue unimpaired.

ARTICLE XIV. Nothing in this Compact shall be construed to limit or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal Court or the United States Supreme Court, for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE XV. Nothing in this Compact shall be construed as affecting any rights which may legally exist to the use of the waters of the Big Horn or Wind River and the Little Horn River and their tributaries attaching to lands now being irrigated and susceptible of irrigation on the Crow Indian Reservation and the ceded portions thereof in Montana, and the Wind River Reservation and the ceded portions thereof in Wyoming, as established by the Crow Treaty of May 7, 1868 (15 Stat. 649) and the Fort Bridger Treaty of February 26, 1869 (15 Stat. 673).

ARTICLE XVI. The physical and other conditions character-

istic of the Yellowstone River and peculiar to the territory drained and served thereby and to the development thereof, have actuated the signatory States in the consummation of this Compact, and none of them, nor the United States by its consent and approval, concedes thereby the establishment of any general principle or precedent with respect to other interstate streams.

ARTICLE XVII. This Compact shall become operative when approved by the Legislature of each of the signatory States and consented to and approved by the Congress of the United States.

ARTICLE XVIII. Nothing in this Compact shall be deemed:

(a) To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Yellowstone River Basin nor its capacity to acquire rights in and to the use of said waters;

(b) To subject any property of the United States, its agencies, or instrumentalities to taxation by any State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

(c) To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the Compact.

ARTICLE XIX. Should a Court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States, all other severable provisions of this Compact shall continue in full force and effect.

IN WITNESS WHEREOF the Commissioners have signed this Compact in quadruplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

Done at the City of Billings in the State of Montana, this 31st day of December, in the year of Our Lord, One Thousand Nine Hundred and Forty-two.

Commissioners for the State of Montana: Fred E. Buck, W. E. Ogden, P. F. Leonard, H. W. Bunston, Wesley A. D'Ewart.

Commissioners for the State of North Dakota: John T. Tucker, Kenneth W. Simons, Einar Dahl, M. M. Millhouse, Frank P. Whitney.

Commissioners for the State of Wyoming: L. C. Bishop, Ernest Goppert, L. F. Thornton, David Anderson, John Gonin, R. E. McNally, Earl Bower, Will G. Metz, Ray Bower, Ed. J. Johnson.

Approved: Clyde L. Seavey, Representing the United States of America.

§ 2. COMPACT NOT BINDING ON STATES UNTIL APPROVED BY THE OTHER STATES. That said compact shall not bind any of the signatory states thereto unless and until the same shall have been approved by the legislature of each of the signatory states, and the Congress of the United States shall have given its consent thereto and approval thereof.

§ 3. GOVERNOR TO GIVE NOTICE OF RATIFICATION. That the Governor of the State of North Dakota shall notify the Governor of the State of Montana and the Governor of the State of Wyoming and the President of the United States of America of the passage of this act, and the President is requested to notify the Governors of each of said states of the consent to and the approval of said compact by the Congress of the United States.

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H. B. No. 43—(Olson, Morland and Hogoboom)

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TRANSFER OF CERTAIN SCHOOL LANDS TO GAME AND FISH COMMISSION

An Act providing for a transfer of certain school land situated in Bowman County, North Dakota, to the Game and Fish Commission of the State of North Dakota, to be used and maintained under the direction of the Game and Fish Commission as a public park for recreation purposes, and providing for an appropriation to reimburse the Permanent School Fund of the State of North Dakota; and declaring an emergency.

March 13, 1943

Honorable Thomas Hall  
Secretary of State  
Bismarck, North Dakota

Dear Mr. Hall:

I am filing House Bill No. 43 without my approval. This Bill provides for the purchase of a half section of land in Bowman County from the State Land Department by the Game and Fish Commission, to be used as a public park for recreation purposes, payment therefor to be made out of the Game and Fish Fund.

I am convinced that this Act is in conflict with Section 175 of the North Dakota Constitution which provides that

“Every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.”

Section 10322a20, Supplement to Compiled Laws, provides that all monies collected by the Game and Fish Commission upon licenses issued, game sold and from all other sources, shall be used for the purpose of enforcing the game and fish laws and for the propagation of game and fish. Clearly the diversion of the license fees from the enforcement of the game and fish laws and the propagation of game and fish to the purchase of land for public parks would be a violation of the Constitutional provision.

Furthermore, the Bill is in conflict with Section 1 of Chapter 146 of the Session Laws of 1939, which provides:

The State of North Dakota hereby assents to the provisions of the specified Act of Congress and agrees that any monies accruing to the State of North Dakota from the license fees paid by hunters shall be diverted to no other purpose than the administration of the Game and Fish Department.

The 1939 Act is in effect a compact with the United States, and a violation of the provisions thereof would jeopardize the right of the State to receive funds from the Federal Government for wild life restoration projects.

Under the arrangement between the Game and Fish Department and the Federal Government lands for wild life restoration purposes may be purchased on a basis whereby the Federal Government contributes 75% of the cost and the State only 25%. I am referring this project to the Game and Fish Commissioner in the hope that the objects of the Act may be constitutionally accomplished through the cooperation of the Game and Fish Department and the Federal Government.

Respectfully submitted,  
JOHN MOSES  
Governor

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

§ 1. The governor of the State of North Dakota and the Board of University and School Lands are hereby authorized and directed to transfer and convey all of the North Half of Section 16, Township 130, Range 103, situated in Bowman County, State of North Dakota, containing 320 acres more or less according to the United States Government survey thereof, to the Game and Fish

Commission of the State of North Dakota, to be used as a public park for recreation purposes.

§ 2. That there be and is hereby appropriated to reimburse the Permanent School Fund of the State of North Dakota the sum of Three Thousand Two Hundred (\$3,200.00) Dollars, payable out of any moneys in the State Treasury in the Game and Fish Fund not otherwise appropriated in the manner and in installments as follows: the sum of Two Hundred (\$200.00) Dollars for the year 1943; Five Hundred (\$500.00) Dollars for the year 1944; Five Hundred (\$500.00) Dollars for the year 1945; Five Hundred (\$500.00) Dollars for the year 1946; Five Hundred (\$500.00) Dollars for the year 1947; Five Hundred (\$500.00) Dollars for the year 1948; and Five Hundred (\$500.00) Dollars for the year 1949.

§ 3. EMERGENCY.] It is hereby declared that an emergency exists; and this act shall be in full force and effect from and after its passage and approval.