
WATERS

CHAPTER 344

Senate Bill No. 138
(Shure, Rue, Bridston)

**STATE WATER CONSERVATION COMMISSION;
MEMBERS; QUORUM**

AN ACT

To amend and reenact sections 61-0204 and 61-0207 of the North Dakota Revised Code of 1943, relating to the state water commission.

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

SECTION 1. AMENDMENT.) Section 61-0204 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0204. STATE WATER CONSERVATION COMMISSION: MEMBERS; TERMS; QUALIFICATIONS; REMOVAL; FILLING VACANCY; OATH.) There shall be a state water conservation commission in this state consisting of the governor, commissioner of agriculture and labor, and five other members to be appointed by the governor. The five appointive members of the commission shall be appointed for a term of six years each with their terms of office so arranged that one term and not more than two terms shall expire on the first day of July of each odd numbered year. Each appointive member shall be a qualified elector of the state and shall be subject to removal by judicial procedure. In the case of a vacancy, the vacancy shall be filled by appointment by the governor. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.

SECTION 2. AMENDMENT.) Section 61-0207 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0207. QUORUM; WHAT CONSTITUTES.) A majority of the members of the commission shall constitute a quorum, and the affirmative or negative vote of four members shall be necessary to bind the commission, except for adjournment.

Approved February 26, 1949.

CHAPTER 345

Senate Bill No. 3
(Legislative Research Committee)

VOTES OF ELECTORS; ELECTION NOTICE; IRRIGATION
DISTRICTS

AN ACT

To amend and reenact sections 61-0503 of the 1947 Supplement to the North Dakota Revised Code of 1943 and 61-0514 of the North Dakota Revised Code of 1943, relating to elections in irrigation districts.

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

SECTION 1. AMENDMENT.) Section 61-0503 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0503. VOTES OF ELECTORS; NUMBER PERMISSIBLE.) Any elector owning twenty acres or less but not less than five acres, subject to assessments for construction or other costs within a proposed or existing district, shall have one vote, and any elector owning more than twenty acres subject to such assessments within such district shall have one additional vote for each additional twenty acres or major fraction thereof, but no elector shall be entitled to cast more than eight votes in any district election regardless of the number of acres of land owned by him in the district.

SECTION 2. AMENDMENT.) Section 61-0514 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0514. NOTICE OF ELECTION BY STATE ENGINEER; CONTENTS; PUBLICATION OF.) Upon making his order establishing an irrigation district, the state engineer shall give notice of an election to be held in such district for the purpose of determining whether or not the electors of the district approve the establishment and organization thereof as an irrigation district. Such notice shall state that an elector desiring to be a candidate for the office of district director shall file his or her name with the state engineer not less than ten days before such election. Such notice shall carry a reference to the map or maps previously filed with the county auditor describing the boundaries of the lands included in the district as established by the state engineer, and shall designate a name for such district. Such notice shall be filed with the county auditor of each county in which the proposed district is situated and shall be published once each week for two weeks prior to such election in the official newspaper in the county in

which the proposed district is situated. If no official newspaper is published in such county, then it shall be published in the official newspaper in an adjoining county. If the proposed irrigation district is situated in more than one county, such notice shall be published in the official newspaper, if one is published, within each of such counties.

Approved March 7, 1949.

CHAPTER 346

House Bill No. 187
(Starck and Walster)

IRRIGATION DISTRICT TRANSACTIONS MADE PUBLIC
RECORDS

AN ACT

Making records and business transactions of irrigation districts public records; defining the duties of officers of irrigation districts; and making the violation thereof grounds for removal.

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

SECTION 1. TRANSACTIONS OF IRRIGATION DISTRICTS MADE PUBLIC RECORDS; AND GROUNDS FOR REMOVAL.) The minutes of all meetings, and all contracts, agreements, leases and other business transactions of the board of directors of an irrigation district shall be public records and open to inspection by any person interested, or their attorney or agent, at all reasonable times. The terms of any proposed agreement or contract with federal or state agencies shall be deemed a business transaction open to public examination. Refusal on the part of any director or officer of an irrigation district to permit examination of the records of the irrigation district or to give any information available concerning business transactions of the district shall be grounds for removal of such director or officer in an action brought in the District Court.

Approved March 9, 1949.

CHAPTER 347

Senate Bill No. 238
(Delayed Bills Committee)
(at the request of State Water Conservation Commission)

MISSOURI-SOURIS CONSERVANCY AND RECLAMATION
DISTRICT

AN ACT

Creating the Missouri-Souris Conservancy and Reclamation District in order to facilitate the establishment and construction of the Missouri-Souris unit of the Missouri Basin Project as approved by Act of Congress of December 22, 1944, (58 Stat. 887), and acts amendatory thereof and supplementary thereto, and defining its purposes, functions, powers, and duties.

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

SECTION 1. DECLARATION OF INTENTION, INTERPRETATION.) It is hereby declared that the establishment and construction of the Missouri-Souris Unit of the Missouri Basin Project as approved by act of congress under date of December 22, 1944, (58 Stat. 887), and acts amendatory thereof and supplementary thereto, is necessary:

1. To provide for the future economic welfare and prosperity of the people of this state, and particularly of the people residing in the area embraced within the boundaries of such conservancy and reclamation district.
2. To provide for the irrigation of lands within the sections of such district periodically afflicted with drought, and to stabilize the production of crops on such lands.
3. To replenish and restore the depleted waters of lakes, rivers and streams in said district, and to stabilize the flow of said streams.
4. To replenish the waters of, and to restore, the level of Devils Lake.
5. To make available within the district, waters diverted from the Missouri River for irrigation, domestic, municipal and industrial needs, and for hydroelectric power and other beneficial and public uses.

The provisions of this act shall not be construed to, in any manner, abrogate or limit the rights, powers, duties and functions of the state water conservation commission, but shall be held to be sup-

plementary thereto and an aid thereof. Nor shall this act be construed as limiting or in any way affecting the laws of this state relating to the organization and maintenance of irrigation districts, flood irrigation districts, or water conservation and flood control districts.

SECTION 2. MISSOURI-SOURIS CONSERVANCY AND RECLAMATION DISTRICT CREATED.) There is hereby created within the state of North Dakota, a conservancy and reclamation district, to be known as the "Missouri-Souris Conservancy and Reclamation District," hereafter called the "District," and consisting of that part of the state of North Dakota which is included within the boundaries of the following counties, to-wit: Divide, Burke, Williams, Renville, Ward, Bottineau, McHenry, Pierce, Benson, Ramsey, Eddy, Foster, Stutsman, LaMoure and Dickey. Such district shall be, and is hereby declared to be a governmental agency, body politic and corporate with the authority to exercise the powers specified in this act, or reasonably implied.

Any county adjoining the district as herein created, or as hereafter composed, may join such district upon application of its board of county commissioners and the approval of such application by the board of directors. The board of directors, as a condition of approval of such application, may require the levy of such taxes within said county as may be equitable to equalize the burden of such county with the obligations paid or assumed by the other counties in such district.

SECTION 3. THE APPOINTMENT OF DIRECTORS, ORGANIZATION OF BOARD.) Within thirty days after the state water conservation commission shall so request, the board of county commissioners in each county of the district shall appoint a director who shall be a resident and voter of such county. The directors thus appointed shall constitute the board of directors of the district. They shall meet at a time and place to be designated by the state water conservation commission, and shall organize by electing from their number, a chairman and a vice-chairman. They shall also elect a secretary and treasurer. The office of secretary and the office of treasurer may be held by the same person, and a director of the district may be appointed secretary-treasurer. In case the office of any director of the district becomes vacant by removal, death, resignation or otherwise, the vacancy shall be filled by the board of county commissioners of the county in which the vacancy occurs.

SECTION 4. COMPENSATION OF DIRECTORS, DISTRICT EXPENSES.) Members of the board of directors of the district shall receive five dollars per day and their actual and necessary expenses while attending meetings of the board. A director traveling in his own

automobile shall receive seven and one-half cents per mile while engaged in the official business of the district, provided that the per diem and expenses of a member of the board shall not exceed the sum of three hundred fifty dollars in any one year. The per diem and expenses of a director, incurred in attending meetings of the board shall be paid by the county which he represents in substantially the same manner as the per diem, mileage and expenses of county commissioners are paid. The board of directors of the district shall at the time of the organization of the board, and annually thereafter, estimate the expenses of the district other than the per diem and expenses of directors as hereinbefore mentioned. Such estimate or budget shall be itemized, and shall not exceed the sum of three thousand dollars for any one year. A copy of such budget shall be forwarded to the county auditor of each county in the district, and a copy thereof shall also be filed with the state water conservation commission. The total amount of such budget shall be pro-rated among the counties in the district in the proportion that the taxable valuation of taxable property in each county bears to the aggregate taxable valuation of property in all the counties in the district. The several counties are hereby authorized and it shall be the duty of the board of county commissioners of each county in the district to include its share of the district budget in the county budget as finally approved and adopted, and shall include said amount in the county levy, provided that the amount levied for district expenses and for the per diem and expenses of the director representing such county shall be in addition to the amount which may otherwise be legally levied for county purposes. The county treasurer of each county in the district shall remit the district's share of tax collections to the treasurer of the district. The funds of the district shall be deposited in the Bank of North Dakota, and shall be paid out only upon the approval of the board of directors, and by warrant or other instrument signed by the chairman of the board and the treasurer of the district. In case of death, absence or other disqualification of the chairman, the vice chairman shall sign warrants and other instruments. The fiscal year of the district shall coincide with the calendar year. The board of directors, at the close of each calendar year, shall cause an audit of the books and financial affairs of the district to be made, and a report of such audit shall be mailed to the county auditor of each county in the district, and to the state water conservation commission, and a copy thereof shall be kept on file in the office of the secretary of the district.

SECTION 5. TERM OF OFFICE; OATH OF OFFICE; BOND.) Each member of the board of directors of the district shall hold office for a term of three years, and until his successor in office has been appointed and qualified, provided, that one-third of the

board first appointed, shall hold office for a term of three years, one-third for a term of two years and the other directors shall hold office for a term of one year. The term of office of the directors, first appointed, shall be determined by lot when they meet to organize, as provided in section 3 of this act.

SECTION 6. MEETINGS OF THE BOARD; QUORUM; BOARD TO ADOPT RULES, REGULATIONS AND BY-LAWS.) The board of directors of the district shall adopt such rules and regulations, or by-laws for the conduct of the business affairs of the district as they may deem necessary, including the time and place of regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or upon the written request of the majority of the members of the board. Notice of a special meeting shall be mailed to each member of the board at least six days before such meeting, provided that a special meeting may be held at any time when all members of the board are present or consent thereto in writing. A majority of the members of said board shall constitute a quorum for the transaction of business.

SECTION 7.) The attorney general shall, as far as his duties permit, act as the legal advisor of the board, provided, however, that when the district has funds available, the board of directors may employ other counsel to advise and represent it in its proceedings. The chief engineer of the state water conservation commission shall furnish such engineering services and assistance as the duties of his office permit.

SECTION 8. POWERS AND DUTIES OF THE DISTRICT BOARD OF DIRECTORS.) The board of directors of the Missouri-Souris Conservancy and Reclamation District shall have the power:

1. To cooperate with the state water conservation commission in promoting the establishment and construction of the Missouri-Souris unit of the Missouri Basin project.
2. To furnish assurances of cooperation and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America and with public corporations of North Dakota for the performance of obligations entered into with the United States for the construction and maintenance of works of the Missouri-Souris unit of the Missouri Basin project as defined by Act of Congress under date of December 22, 1944, (58 Stat. 887), and acts amendatory thereof or supplementary thereto.
3. To equip and maintain an office and principal place of business for the district, if in the judgment of the board, it shall be found necessary to do so.

4. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the district.
5. To levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district, and to accumulate a fund through such levy for the performance of obligations entered into with the United States for the construction and maintenance of works of the Missouri-Souris unit of the Missouri Basin project. All monies collected pursuant to such levy shall be deposited in the Bank of North Dakota in a special fund to be known as the United States contract fund and shall be used for no other purpose.

SECTION 9. DISTRICT MAY ENTER INTO CONTRACT WITH THE UNITED STATES.) Whenever the board of directors of the Missouri-Souris Conservancy and Reclamation District is notified by the United States government that it is necessary for the district to enter into a contract or contracts as principal and guarantor or either with the United States and other public corporations of North Dakota as herein provided for the repayment required of any part of the cost incurred or to be incurred in the construction of works of the Missouri-Souris unit of the Missouri Basin project, the board shall meet and consider the proposed contract. The board may hold hearings in various sections of the district. After considering the terms and conditions of such proposed contract and objections thereto, the board may adopt a resolution approving or disapproving such contract and may enter into further negotiations with the United States concerning terms for a new or amended contract. Before any such contract shall be entered into the board of directors, a copy thereof shall be filed with the county auditor of each county in the district and no such contract shall be entered into by the board of directors unless the boards of county commissioners of three-fourths of the counties in the district shall approve the same. The county auditor of each county shall promptly forward to the secretary of the district a certified copy of the motion or resolution of his board of county commissioners approving or disapproving as the case may be any proposed contract.

SECTION 10. WHEN CONTRACT IS APPROVED.) After any such contract shall have been duly executed, as herein provided, the said board of directors shall, in accordance with the provisions of such contract, adopt a resolution that a tax be assessed and levied upon all of the taxable property in the district. Such tax shall not exceed one mill levied annually on each dollar of taxable valuation in the district until such costs have been paid, or a sufficient fund has been accumulated to pay the same. The resolution shall

state the purpose of such levy and the amount thereof. A certified copy thereof shall be mailed, by registered mail, to the county auditor of each county in the district. Upon the receipt of such resolution, or as soon thereafter as county levies are made, such county auditor shall spread the levy specified in such resolution for the current year and annually thereafter as required by such resolution. Taxes collected pursuant to such levy shall be used only for the purpose, or purposes, for which such levy is made, and not otherwise. Such tax collection shall be deposited in the Bank of North Dakota to the credit of the district in the United States contract fund and shall be disbursed on warrants drawn as other warrants are herein authorized.

SECTION 11. PROCEEDINGS TO CONFIRM CONTRACT.) The board of directors of the Missouri-Souris Conservancy and Reclamation district, after entering into a contract with the United States government or with any public corporation of the state of North Dakota, may commence a special proceeding in and by which the proceedings of the board and the making of such contract, or contracts, shall be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Such proceeding shall substantially comply with the procedure required in the case of irrigation districts under sections 61-0723 to 61-0727, inclusive, of the North Dakota Revised Code of 1943.

Approved March 19, 1949.

CHAPTER 348

Senate Bill No. 114

(Pyle and Shure)

(at the request of the State Water Conservation Commission)

WATER CONSERVATION AND FLOOD CONTROL DISTRICTS

AN ACT

Providing for the creation of water conservation and flood control districts; providing for the appointment of boards of water conservation and flood control commissioners and fixing their powers and duties; providing for the acquisition of property rights and the assessment of benefits against the property benefited, providing for the levy of special assessments, prescribing the duties of county commissioners relating to water conservation and flood control districts; providing for the exemption of federal projects and agencies; providing that water conservation and flood control districts may contract with federal and state departments or agencies, persons and corporations and may acquire property in adjoining states, repealing chapter 61-16 of the North Dakota Revised Code of 1943, and chapter 373, of the Session Laws of 1947; and declaring an emergency.

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

SECTION 1. DEFINITIONS.) In this chapter, unless the context subject matter otherwise provides;

1. "District" shall mean a water conservation and flood control district provided for in this chapter;
2. "Commission" shall mean the state water conservation commission; and
3. "Board of commissioners" shall mean the board of water conservation and flood control commissioners provided for in this chapter.

SECTION 2. WATER CONSERVATION AND FLOOD CONTROL DISTRICTS: REQUIREMENTS; RESULTS AFTER INVESTIGATION AND EXAMINATION.) Whenever there is presented to the state water conservation commission a petition signed by any county, city, village, or township, or by any cooperative grazing association, or by fifty per cent or more of the freeholders within the limits of a proposed water conservation and flood control district, the commission forthwith shall make such investigation and examination of the proposal as in its judgment may be necessary and proper. If the commission finds that there is not a sufficient water supply or that the problems of flood control are not sufficiently serious to make the proposed water conservation and flood control district feasible, or that for any other reason it is impracticable or undesirable to establish the proposed water con-

servation and flood control district, it shall make an order disallowing the petition and giving its reasons for such disallowance. If, after such investigation and examination, it finds that the proposed water conservation and flood control district is desirable and proper and that the drainage area and the probable available water supply and flood control problems are such as to render the proposed district necessary and desirable, it shall make its order establishing such district and fixing the boundaries thereof.

SECTION 3. BOND TO ACCOMPANY PETITION FOR DISTRICT WHEN; EXCEPTION.) When a petition for the establishment of a water conservation and flood control district is presented by fifty per cent or more of the freeholders of the proposed district, the commission shall require a bond from such petitioners in a sum sufficient to pay all expenses of the investigation and examination required to determine whether the petition should be granted. When a petition is signed by a county, city, village, or township, no bond shall be required but the county, city, village, or township, as the case may be, shall pay the expenses necessarily incurred by the commission in investigating and examining the proposal for the establishment of such district in the event that the petition is disallowed.

SECTION 4. RESOLUTION OF GOVERNING BODY OF MUNICIPAL CORPORATION FILED WITH COMMISSION.) When a petition is filed by any municipal corporation as provided in section 61-1602, a certified copy of the resolution of the governing board thereof authorizing the signing of such petition shall be filed with the commission at the time of filing the petition.

SECTION 5. AREA TO BE INCLUDED WITHIN DISTRICT; HOW DETERMINED.) In determining the area to be included within the water conservation and flood control district, the commission shall disregard township and county boundaries and shall consider only the drainage area to be affected by the water development proposed and the probable future development thereof. Whenever practicable, such boundaries shall follow section lines.

SECTION 6. COMMISSION TO SPECIFY NAME OR NUMBER OF DISTRICT.) The order of the commission shall specify the name or number by which each conservation and flood control district shall be known.

SECTION 7. ORDER ESTABLISHING CONSERVATION AND FLOOD CONTROL DISTRICT; EFFECT.) A certified copy of the order establishing a water conservation and flood control district shall be filed with the county auditor of each county within which any portion of the district shall lie. Upon the filing of such order, a district shall be created.

SECTION 8. BOARD OF WATER CONSERVATION AND FLOOD CONTROL COMMISSIONERS; APPOINTMENT; NUMBER OF.) At the first regular or special meeting of the board of county commissioners after the filing of an order of the commission with the county auditor of any county as provided in this chapter, the board of county commissioners shall appoint a board of water conservation and flood control commissioners for such district. When any such district is confined to the limits of one county, the board shall consist of three members and shall be selected, so far as practicable, from persons residing in or near the area affected by the project. When any such district shall include land in two counties, the board of commissioners shall consist of five members of which three shall be appointed by the board of county commissioners of the county containing the greater acreage within the conservation and flood control district, and two shall be selected by the board of county commissioners of the county containing the lesser acreage within the district. When any such district shall include land in more than two counties, the board of commissioners shall consist of two members appointed by the board of county commissioners of each county within which such district may lie, except that only one member shall be appointed from the county containing the least acreage within the district.

SECTION 9. ELIGIBILITY FOR APPOINTMENT TO BOARD; TERM; FILLING VACANCIES.) Any resident freeholder and citizen of the county, including county, city, village and township officers, shall be eligible for appointment to the board of commissioners. Such commissioners shall hold the respective offices for a term of five years from the date of appointment and until their successors are appointed and qualified. Vacancies in such board shall be filled by appointment by the board of county commissioners of the county which made the original appointment. Members of the board of county commissioners shall serve without compensation of any kind, except that they shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties.

SECTION 10. COUNTY AUDITOR SHALL SERVE AS SECRETARY OF BOARD, AND COUNTY TREASURER AS CUSTODIAN OF WATER CONSERVATION AND FLOOD CONTROL DISTRICT FUNDS.) When a district is confined to the limits of one county, the county auditor shall serve as secretary of the board and the county treasurer shall serve as treasurer of the district and custodian of all funds from whatever sources received. In such case the county auditor and county treasurer shall serve without additional compensation. When such district includes land in two or more counties, the county auditor of the county having the greatest acreage within the district shall serve as secretary of the board of commissioners

and the treasurer of such county shall act as custodian of funds furnished the district by the state, federal government or by any department or agency thereof, or secured from private sources. Such funds shall be disbursed upon warrants signed by the chairman of the board of commissioners of the district and countersigned by the secretary. All claims against a district shall be certified the same as claims against the county. The secretary and treasurer of a water conservation and flood control district situated in two or more counties shall receive such compensation for their services as may be determined by the commissioners of the district subject to the approval of the board of county commissioners of each county in which the district is situated.

SECTION 11. (CHANGING OR MODIFYING BOUNDARIES; PROVISIONS GOVERNING.) The determination by the commission as to the boundaries of a district may be changed or modified from time to time as circumstances may warrant upon like petition, or, when the circumstances clearly require it, upon the motion of the commission. No two such districts shall overlap. When a district once has been established and another district is proposed in the vicinity thereof, or when two or more districts have been established in the vicinity of each other, the commission, by order filed as provided, may combine the areas affected by two or more districts whether already existing or proposed, into one district. No district lying wholly within one county shall be combined with any district lying in whole or in part in another county unless the development of the water resources or the control of floods of both districts is, in effect, one inseparable problem.

SECTION 12. (CHANGE OF BOUNDARIES OF DISTRICT; NEW COMMISSIONER: WHEN APPOINTED.) In case of the modification of the boundaries of any district, the same board of commissioners shall continue to serve without any change in its duties or terms of office of its members, except that in case two or more existing districts are combined, the filing of the order of the commission for such combination shall operate automatically to terminate the terms of office of all commissioners of all districts affected by the combination. The board of county commissioners shall appoint a board of commissioners for the combined district in the same manner as upon the organization of a new district.

SECTION 13. (ORGANIZATION OF BOARD OF COMMISSIONERS: QUORUM; MEETINGS.) Within ten days after the appointment of the board of commissioners, and within ten days after any change in the personnel of any board of commissioners, such board shall meet in the court house of the county in which the district is situated, and if situated in more than one county, such board shall meet at the court house of the county in which the district has the largest acreage, and shall organize by selecting one of the com-

missioners chairman of the board. Two-thirds of the members of the board shall constitute a quorum at any meeting thereof. The board shall hold such meetings as may be required for the transaction of the district's business. Meetings shall be called by the secretary upon the order of the chairman of the board, or upon the request in writing of the majority of the board of commissioners. Such order or request for a meeting of the board shall be entered on the minutes of the meeting. Notice of such meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such meeting; provided, however, that a meeting of the board may be called at any time by the chairman without notice, and such meeting shall be legal and valid if all members of the board are present.

SECTION 14. POWERS AND DUTIES OF BOARD OF COMMISSIONERS.) The board of commissioners shall have the power to:

1. Sue and be sued in the name of the district;
2. Exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation devices of any nature and to flood lands, and to secure the right of access to such dams and other devices and the right of the public access to the waters impounded thereby;
3. Accept funds and property or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purposes of aiding the construction or maintenance of water conservation and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation and use of water;
4. Procure the services of engineers and other technical experts, and employ an attorney or attorneys to assist, advise, and act for it in its proceedings;
5. Plan, locate, relocate, construct, reconstruct, modify, maintain, repair, and control all dams and water conservation devices of every nature and water channels and to control and regulate the same and all reservoirs, artificial lakes, and other water storage devices within the district;

6. Maintain and control the water levels and the flow of water in the bodies of water and streams involved in water conservation and flood control projects within its district, and regulate streams, channels or water courses and the flow of water therein by changing, widening, deepening, straightening the same or otherwise improving the use and capacity thereof;
7. Regulate and control flood waters for the prevention of floods, by deeping, widening, straightening or dyking the channels of any stream or water course within its district, and construct reservoirs or other means to hold and control such waters;
8. Make rules and regulations concerning the use to which such waters may be put and prevent the pollution, contamination, or other misuse of the water resources, streams, or bodies of water included within the district;
9. Certify to the county auditor of the county in which the district is located the amount of money necessary to meet the estimated expenses of properly conducting its activities during the ensuing year, such certificate to be filed with the county auditor on or before the first day of July in each year. In case of a district in more than one county, the board shall make an order determining the proportionate share of the costs chargeable to each county and shall certify the same to the county auditor of each county. Such certificate in all cases shall be accompanied by an itemized budget statement showing the full and exact expenditure program of the district for the ensuing year. If any county feels aggrieved by the determination made by the board, an appeal may be taken by such county to the district court in the manner provided in this chapter; and
10. Do all things reasonably necessary and proper to preserve the benefits to be derived from the conservation, control and regulation of the water resources of this state.

SECTION 15. TAX LEVY BY BOARD OF COUNTY COMMISSIONERS; AMOUNT; ALLOCATION OF LEVY IN DISTRICT; FINANCING BY SPECIAL ASSESSMENTS.) At the time of levying taxes for other county purposes, the board of county commissioners shall consider the certificate of the board of commissioners of each district within the county, and it shall levy each year upon all taxable property in such district within the county a tax sufficient in amount to pay the actual necessary expenses of such water conservation and flood control districts, not exceeding a total of one-half mill

on each dollar of taxable valuation of the county for all districts included therein. In case the total estimated expense of all districts would exceed the levy of one-half mill, the board of county commissioners shall allocate the levy which it makes among the several districts of the county in proportion to the actual needs of districts as determined by the board of county commissioners from the budget statements presented, and such other evidence as may be available. Such tax levy for water conservation and flood control purposes, not exceeding one-half mill, may be levied in excess of the mill limit fixed by law for taxes for general purposes. The county auditor shall credit the proceeds of such tax to each district in accordance with the division thereof fixed by the board of county commissioners. If, in the judgment of the board of commissioners, it appears that the expense of acquisition of rights-of-way, easements or other interests in property, or the construction or maintenance of any project, should not be spread over the entire district, but should be borne by the property specifically benefited thereby, the board of commissioners may require that such work be financed by special assessments as provided in this chapter, or the board may finance such work and the operation and maintenance thereof through the use of a combination of both a levy and special assessment warrants.

SECTION 16. AUDITING AND PAYMENT OF BILLS; PRORATING OF BILLS.) All bills incurred by a district shall be audited and recommended for payment by the board of commissioners and shall be certified to the county auditor who shall present them for audit and allowance by the board of county commissioners as other bills of the county are audited and allowed. Upon the allowance of such bills, the same shall be paid out of the funds standing to the credit of the district in the manner in which other county obligations are paid. In the case of a district in two or more counties, the board of commissioners shall prorate such bills and certify the same for payment to the counties involved.

SECTION 17. CONSTRUCTION AND REPAIR OF DAM: PROPOSALS FOR; PRESENTED TO WHOM; HEARING PROPOSALS.) No dams or other devices for the conservation, control, regulation, or storage of water shall be constructed within any water conservation and flood control district except in accordance with the provisions of this chapter. Any proposal for the construction of any dam or other such devices shall be presented first to the board of commissioners of the district within which the contemplated project is located. Such board shall consider the same, and if the proposal meets with its approval, it shall forward the proposal to the commission as soon as possible. After the receipt thereof, the commission shall consider the same in such detail as to it may seem necessary and proper, and shall make its recommendations and

suggestions as to the propriety, efficiency, and feasibility of the proposal, and forward the same to the board of commissioners. The board thereupon shall require, or if the project is to be constructed at the expense of the district, shall furnish, complete plans and specifications therefor, which shall be forwarded to the commission. The commission shall examine the same in detail and may refuse to allow the construction of any unsafe, improper, or dangerous dam or other device which would interfere with the orderly control of the water resources of the district, and may order such changes or modifications thereof as in its judgment may be necessary for safety. Any person aggrieved by any such ruling of the commission shall have the right to a full hearing before the commission and a full consideration of all evidence available before a final order of the commission shall be entered, subject to appeal to the district court as provided in this chapter.

SECTION 18. PAYMENT FOR PROJECT BY SPECIAL ASSESSMENT WARRANTS; OR PARTLY BY LEVY AND PARTLY BY SPECIAL ASSESSMENT WARRANTS.) In lieu of the purchase of rights-of-way, easements and other interests in property and the payment of the expenses thereof and the expense of the construction, operation and maintenance of any water conservation or flood control project through a general tax levy, the board of commissioners may proceed to acquire the necessary interests in property and to construct, repair, alter, operate, and maintain water conservation and flood control projects through the use of special assessment warrants, or through the use of a combination of both a tax levy and special assessment warrants.

SECTION 19. NOTICE OF HEARING TO CONSIDER FINANCING BY SPECIAL ASSESSMENT WARRANTS; CONTENTS.) If it is proposed to finance any water conservation or flood control project, in whole or in part, by special assessment warrants, the board of commissioners shall give at least ten days' notice of a hearing to be held at some place convenient to the owners of the property to be affected by the project. Notice of such hearing shall be given by publication of such notice once each week for two successive weeks, in a newspaper of general circulation in each county in which the district or any part thereof is situated, if any is published therein, and if none is published in the county, then in a newspaper published in an adjoining county in the state. Notice by publication shall be complete ten days after the last publication thereof. The notice of hearing shall set forth briefly the nature of the project proposed and shall state that the board of commissioners, at the time and place stated in the notice, will consider the advisability and feasibility of the project, and if approved, will proceed to assess and determine the damages, if any, to be suffered by the property owners affected.

SECTION 20. APPEARANCE OF PERSONS TO EXPRESS OPINION; DISCONTINUANCE OF PROCEEDINGS REGARDING.) All person whose land may be affected by a water conservation or flood control project may appear and express their opinion and offer evidence upon matters pertaining thereto. Should two-thirds of the land-owners whose land is subject to assessment for such project, and who own at least one-half of such land, petition the board within thirty days after such hearing to have further proceedings discontinued, the board, by resolution, shall order all further proceedings in connection therewith discontinued. If no such petition is filed and the board determines to proceed, it shall conduct all proceedings with reference to determining the damages and assessing the benefits to result from such project in accordance with the laws governing the assessment of damages, the payment of damages, the assessment of accruing benefits, the review and return thereof, the computation, apportionment, and taxation of costs, and all other proceedings in connection with the issuance of special assessment warrants and the retirement thereof by payment and the issuance of bonds, in the manner and under all restrictions provided by chapter 12 of this title with reference to the construction of flood irrigation projects by the board of flood irrigation.

SECTION 21. COMMISSION AND BOARD OF COMMISSIONERS SHALL ENCOURAGE CONSTRUCTION OF DAMS AND OTHER WATER CONTROL DEVICES.) The commission and the board of commissioners shall encourage the construction of dams and other water control devices within the district by federal and state agencies, private individuals, and public and private corporations, and shall lend their aid, counsel, and assistance to any such project. All dams and other devices, whether constructed by public authorities or private persons, unless specifically exempted therefrom, shall be subject to all of the provisions of this chapter.

SECTION 22. DAMS CONSTRUCTED WITHIN A DISTRICT SHALL COME UNDER CONTROL OF BOARD OF COMMISSIONERS.) All dams, water conservation and flood control devices constructed within any district, unless specifically exempted therefrom, automatically shall come under the jurisdiction of the board of commissioners. No changes or modifications of any existing dams or other devices shall be made without complying fully with the provisions of this chapter.

SECTION 23. APPEAL FROM DECISIONS OF COMMISSION AND BOARD OF COMMISSIONERS; UNDERTAKING; JURISDICTION.) From any order or decision of the commission or of the board of commissioners, an appeal may be taken to the district court, by any person aggrieved, upon filing an undertaking in the sum of two hundred dollars with such sureties as may be approved by the

clerk of the district court to which the appeal is taken. Such undertaking shall be conditioned that the appellant will prosecute such appeal without delay and will pay all costs adjudged against him in the district court. Such undertaking shall be executed to the commission or the board of commissioners, as the case may be, and may be sued on in the name of the obligee. Where the water conservation and flood control district is confined to the limits of one county, the appeal shall be taken to the district court of that county. When such district includes lands in two or more counties, the appeal shall be taken to the district court of the county in which the land which is claimed to be affected adversely by the order or decision appealed from lies.

SECTION 24. TIME FOR TAKING APPEAL FROM COMMISSION OR BOARD OF COMMISSIONERS.) An appeal as provided herein when taken from a decision of the commission must be taken within thirty days after the order of the commission has been filed with the secretary of the water conservation and flood control district, and when taken from a decision of the board of commissioners, it must be taken within thirty days after such decision has been entered by the secretary of the board of commissioners.

SECTION 25. APPEAL FROM DECISION OF COMMISSION OR BOARD OF COMMISSIONERS; HOW TO BE TAKEN.) The appeal provided for in this chapter when taken from the decision of the commission is taken by serving a written notice of appeal upon the state engineer, and when taken from a decision of the board of commissioners, the notice of appeal must be served upon one of the members, and upon the secretary, of such board.

SECTION 26. FILING APPEAL; DOCKETING AND HEARING APPEALS; FINAL JUDGMENT AND SENDING BACK.) The appeal provided for in chapter shall be filed on or before the next term of the district court after such appeal is taken and the case shall stand for trial at such term. All appeals thus taken shall be docketed as other causes pending in the district court and the same shall be heard and determined de novo. The district court may enter a final judgment, or in a proper case may send the same back with directions how to proceed.

SECTION 27. DAMS CONSTRUCTED BY FEDERAL AGENCY UNDER CONTROL OF BOARD OF COUNTY COMMISSIONERS WHEN.) Any dam or water control device constructed by or with the assistance of any federal agency, and having no one responsible for its maintenance and operation, and outside of a water conservation and flood control district, shall come under the jurisdiction of the board of county commissioners of the county in which such dam or water control device is located. The board of county commissioners is authorized to exercise control and supervision over the same and

may make such provisions as it deems necessary or desirable for the proper maintenance thereof. In such case, the board of county commissioners may petition for the establishment of a water conservation and flood control district as provided in this chapter.

SECTION 28. STATE'S ATTORNEY AND ATTORNEY GENERAL TO ASSIST BOARDS; EMPLOYMENT OF COUNSEL.) The state's attorney of any county within which a district is located in whole or in part shall act as legal adviser of, and upon request shall render opinions in writing to, the board of commissioners, and shall prosecute any action in his county in eminent domain found necessary by either the board of commissioners of the water conservation and flood control district, or the board of county commissioners, and also shall appear as attorney for such board of county commissioners or for the commission in any appeal that may be taken in his county from a decision of either, as well as in any other litigation brought in his county against such board or commission. The attorney general shall render such legal opinions or such other assistance as he is required to render to county and state officers. The board of water conservation and flood control district commissioners may, however, employ other counsel to advise and represent it in such actions and appeals and in its proceedings.

SECTION 29. PENALTY FOR VIOLATION OF CHAPTER.) A violation of the provisions of this chapter shall be a misdemeanor, punishable by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

SECTION 30. EXEMPTION OF FEDERAL AGENCIES FROM PROVISIONS OF CHAPTER; PURPOSE OF CHAPTER.) The provisions of this chapter shall not apply to the government of the United States or any department, bureau, or agency thereof, except to such extent as the government of the United States or any department, bureau, or agency thereof may desire to take advantage of its provisions, it being the express purpose and intent of this chapter to aid but not to interfere with the government of the United States and its departments, bureaus, or agencies. The provisions of this chapter shall not apply to any project of the government of the United States or of any department, bureau, or agency thereof over which such federal authority desires to exercise full supervision and control, nor to the impounding, utilization, or distribution of any water for any purpose on or in connection with such project. The provisions of this chapter shall not be construed to impair, limit, or repeal any water right or other right whatever which the government of the United States or any department, bureau, or agency thereof may have under statutes existing prior to March 12, 1935. The creation of districts under the provisions of this chapter shall not limit nor impair the right of the govern-

ment of the United States or any department, bureau, or agency thereof to full and complete jurisdiction, management, or control over any waters or projects over which such federal authority desires to exercise such rights, it being the purpose of this chapter expressly to subordinate any power or jurisdiction granted in this chapter to the extent where the exercise of such power or jurisdiction shall never interfere directly or indirectly with such federal authority.

SECTION 31. MAY CONTRACT WITH FEDERAL AND STATE GOVERNMENTS, LOCAL DISTRICTS, PERSONS AND CORPORATIONS; ACQUIRE PROPERTY IN ADJOINING STATES.) The board of commissioners shall also have the right, power and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads or other corporations, with public corporations, and state government of this or other states, with drainage, flood control, conservation, conservancy, or improvement districts, in this or other states, for cooperation or assistance in constructing, maintaining, using and operating investigations or reports thereon; and may purchase, lease or acquire land or other property in adjoining states in order to secure outlets to construct and maintain dykes or dams, or for other purposes of this chapter, and may let contracts or spend money for securing such outlets or works in adjoining states. Provided, that no board of commissioners of any water conservation and flood control district shall have the right, power or authority to connect by artificial means boundary waters having different natural outlets so that the waters of one may be discharged into the other.

SECTION 32. REPEAL.) Chapter 61-16 of the North Dakota Revised Code of 1943 (Section 61-1601 to 61-1630, inclusive) and chapter 373 of the Session Laws of 1947 (Sections 61-1610, 61-1614, 61-1615, 61-1628 and 61-1629 of the 1947 Supplement to the Revised Code of North Dakota of 1943) be and the same are hereby repealed.

SECTION 33. EMERGENCY.) An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1949.

CHAPTER 349

Senate Bill No. 225
(Wahlund, Braun, Day, Spiekermeier, and Reinke)

DRAINAGE PROJECTS; POWERS AND DUTIES OF
DRAIN BOARDS, ETC.

AN ACT

Relating to drainage projects, the powers and duties of drain boards and procedure to establish, maintain and dissolve drains and drainage districts, and declaring an emergency.

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

SECTION 1. IMPARTIALITY OF DRAIN BOARDS.) No member of any drain board, appointed, qualified and acting under the provisions of chapter 61-21 of the North Dakota Revised Code of 1943, shall act on any matter wherein he is personally interested, nor shall any drain board act to either promote or hinder the establishment of drains. It shall act impartially as between those favoring and those opposing any proposed project.

SECTION 2. MAINTAINING OFFICE AND FILING RECORDS.) If for any reason a separate office is not maintained at the county seat as provided by section 61-2104 of the North Dakota Revised Code of 1943, the drain board shall keep on file with the county auditor a complete record of its acts and proceedings so that the public may determine by inspection thereof what projects are pending and what action has been taken with respect thereto.

SECTION 3. EMPLOYMENT OF CLERICAL AND OTHER HELP.) Drain boards shall have power to employ such legal, clerical and technical help as may be necessary for the performance of its duties under the law. Notices or other communications signed by the attorney or the clerk of the board shall be deemed to come from the board.

SECTION 4. FURNISHING OF COST ESTIMATES.) The survey provided for in section 61-2113 of the North Dakota Revised Code of 1943 shall be sufficiently complete and detailed before the notice for hearing on petition and surveyor's report is given, so that on such hearing the board can give to each affected landowner an approximate estimate of total costs and the probable share thereof which will be assessed against the lands of said affected landowner, so that such landowner may be in a position to compare the costs and benefits before being called upon to determine whether he will favor or oppose the establishment of the proposed drain. If

the estimated assessments so given any landowner by the board shall be raised more than twenty per cent in the final assessment of benefits and costs as given by the board to affected landowner for the hearing on assessments provided for by section 61-2120 of the North Dakota Revised Code of 1943, then such landowner whose assessed costs are twenty per cent or more over the estimate given him at the hearing on petition to establish drain shall have the privilege of objecting to the establishment of said drain with the same force and effect as if his objection had been made at the time of such first hearing.

SECTION 5. NOTICE OF ORDER ESTABLISHING DRAIN AND OF PERIOD FOR APPEAL.) Whenever the order shall be made establishing a drain, the board shall immediately thereupon give notice to all affected landowners of such action, such notice to be given in the same manner as the notice of the hearing on the petition to establish the drain, and such notice shall advise each landowner that his right to appeal to the district court from such order will expire in thirty days and the date of expiration of such right of appeal shall be given. Any affected landowner not given such notice shall have his right of appeal preserved for thirty days after such notice is later given him, by registered mail, at his last known address or until the time of hearing on assessments, whichever shall come last.

SECTION 6. VOTING RIGHT OR POWER OF LANDOWNERS.) In order that there may be a reasonably fair relation between the amount of liability for assessments and the power of objecting to the establishment of a proposed drain, the voice or vote of affected landowners on the question of establishing the drain shall be arrived at in the following manner:

1. Every landowner shall have at least one vote or voice.
2. In addition thereto each landowner shall have one additional voice or vote for each \$100.00 or major fraction thereof of assessment that his land is subject to as established by the board under the provisions of Section 4 of this Act.

SECTION 7. CONDUCT OF HEARING ON PETITION TO ESTABLISH DRAIN.) When the hearing provided for in section 61-2114 of the North Dakota Revised Code of 1943 is held, the board shall first prepare a roster or roll of affected landowners and shall limit voting rights to such affected landowners. A record shall be made by the board of affected landowners present in person or by agent and such records shall be preserved in the minutes of the meeting. Affected landowners shall then be informed of the probable total cost of the project and their individual share of

such costs. A reasonable time shall be afforded landowners to discuss and hear the evidence and opinion for and against the project and the board shall fix a time within which objection to the establishment of the drain as provided by section 61-2115 of the North Dakota Revised Code of 1943 shall be filed with the board. Such objections shall be in writing, but a telegram shall be deemed writing, and any form of written objection that sufficiently indicates the intention of the writer shall be sufficient. Once the deadline for signing objections has been reached, no further objections can be filed and no person objecting shall withdraw his or her name from the list of those objecting after the deadline for filing objections has been reached. Any withdrawals of objections before that time shall be in writing only, under the same rules as govern the making of objections. When the objections of affected landowners have all been filed and the deadline for filing objections has been reached, the board shall immediately proceed to determine whether or not a majority voice or vote as determined by section 6 herein is opposed to the construction of the drain. Until such determination is made, the board is without jurisdiction to take any further steps in the matter except to determine whether a majority voice or vote is objecting or not and to adopt the required resolution for discontinuance, if a majority objects.

SECTION 8. ABANDONMENT OF DRAINS AND DISSOLUTION OF DRAINAGE DISTRICTS.) In addition to the reasons or grounds stated in section 61-2164 of the North Dakota Revised Code of 1943 as amended by chapter 14, Laws of 1944, drains may be abandoned and drainage districts dissolved whenever it may be desired to make the existing drain a part of a more comprehensive system of drainage or flood control or when a drain shall have ceased to be useful by reason of the development of other means of drainage, or for any other reason, and the same proceedings shall be taken as are set out in the above mentioned statutes. The abandonment or dissolution shall not relieve the affected property owners from paying their proportionate share of any obligations or expenses that have been incurred in the establishment of said drain and which may not have been paid at the time when the same is abandoned and the drainage district dissolved.

SECTION 9. DRAIN REPAIR WHEN NEW CONSTRUCTION OR IMPROVEMENT IS INVOLVED.) When application is made to the county commissioners as provided by law, to repair and to keep open any established drain, and if the county commissioners shall find that the only practical solution of the problem presented involves the improvement, extension or additional new construction of the drain sought to be repaired, and when the county commissioners shall be in doubt as to whether such construction is within their

jurisdiction, they may by resolution so declare and request the drain board of the county to take charge of said project. The drain board shall thereupon have full control and jurisdiction of said project, even though the major portion thereof may be in the nature of repair instead of construction.

SECTION 10. 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 19, 1949.

CHAPTER 350

Senate Bill No. 116
(Braun and Spiekermeier)

COSTS AND EXPENSES DRAIN LOCATION AND CONSTRUCTION AN ACT

To amend and reenact section 61-2130 of the North Dakota Revised Code of 1943, relating to payment of costs and expenses of locating and constructing drains.

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

SECTION 1. AMENDMENT.) Section 61-2130 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-2130. PAYMENT OF COSTS AND EXPENSES OF LOCATING AND CONSTRUCTING DRAIN; WARRANTS ISSUED.) Payment of all expenses and costs of locating and constructing any drain shall be made upon order of the board. Warrants therefor shall be signed by the chairman and secretary of the board. All warrants drawn by the board in payment for the right-of-way or construction of any drain shall be payable from the proper drain fund and shall be receivable by the treasurer for the taxes levied for the right-of-way or construction of such drain. All such warrants, after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by him and thereafter shall bear interest at the rate of not to exceed five percent per annum.

Approved February 11, 1949.

CHAPTER 351

House Bill No. 190

(Halcrow, Vernon Anderson, Allen, H. M. McInnes, Arthur Laske,
A. J. Anderson, Saumur, Collette)

CLEANING AND REPAIRING OF DRAINS; SPECIAL
ASSESSMENT LEVY, ETC.

AN ACT

Providing for the cleaning and repairing of drains by boards of county commissioners; providing for the levy of special assessments; repealing section 61-2142 of the North Dakota Revised Code of 1943 as amended, and declaring an emergency.

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

SECTION 1.) All drains that may have been constructed in any county under the laws of this state, except township drains, or that may be constructed under the jurisdiction of a county board of drain commissioners, and situated in this state, shall, except as otherwise provided, be under the charge of the board of county commissioners and, subject to the conditions and limitations herein provided, it shall be the mandatory duty of the board to keep such drains open and in good repair. When any drain is, or may be, situated in more than one county, the maintenance of the portion thereof situated in any county is hereby assigned to the board of county commissioners of such county.

SECTION 2.) The cost of cleaning out and repairing a drain shall, in all cases, be assessed against the lands benefited in the same manner as provided by law for the assessment of the original cost of establishing such drain. Each tract of land shall be assessed the same proportion of the cost of cleaning out and repairing a drain as the proportion of the original cost of such drain was assessed against such tract of land. In cases, where no assessments were made for construction costs the board of county commissioners shall make assessments for the cost of cleaning and repairing such drain after a hearing thereon as prescribed by law in the case of drains originally established by a board of drain commissioners.

SECTION 3.) If the cost of any work of cleaning out or repairing any drain does not exceed one hundred and fifty dollars in any one year, such work may be done by day work or a contract for such work may be let without being advertised. If, however, the cost of maintaining, cleaning out and repairing a drain shall exceed one hundred and fifty dollars, the contract for such work shall be let to the lowest responsible bidder, as provided by law.

The board of county commissioners may, in its discretion, reject any and all bids for cleaning and repairing drains, and may perform such work with county equipment at the expense of the drainage district, or may enter into an agreement with any state or federal agency for such work. Such discretionary power by a board of county commissioners shall expire on June first, 1955. On, and after, June first, 1955, contracts for cleaning out and repairing drains shall be let to the lowest responsible bidder, as provided by law. The term "cleaning out and repairing drains," as herein used, shall be construed to include such deepening, widening and lengthening at outlets as may be necessary to make the drain have a capacity equal to Stewarts run off formula for the Red River Valley as shown in United States Department of Agriculture Bulletin 189, and acquiring, by purchase or by eminent domain, such additional right of way as may be necessary.

SECTION 4.) When a county drain runs through, or adjacent to, an incorporated city or village, the governing body of such city or village is authorized to contribute to the expense of cleaning out, repairing and maintaining the drain, such amount as may be agreed to between such governing board and the board of county commissioners.

SECTION 5.) The levy, in any year, for cleaning out and repairing a drain, shall not exceed fifty cents per acre on any lands in the drainage district. Lands which carried the highest assessment when the drain was originally established may be assessed the maximum amount of fifty cents per acre. Other lands in the drainage district shall be assessed in the same proportion to such maximum amount as the assessment of such lands bore to the maximum assessment levied on lands in the district when such drain was originally established and constructed. In case the maximum levy of fifty cents per acre for any year, will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for one year.

SECTION 6.) If the cost of maintaining, cleaning out and repairing any drain shall exceed the amount produced by the maximum levy of fifty cents per acre in any year, together with the amount accumulated in the drainage fund, owners of lands subject to assessment for ten percent or more of such cost may petition the board to clean out and repair such drain. When such petition has been filed with the county auditor, the board shall forthwith give ten days' notice by registered mail to all owners of land liable for assessments, of a hearing upon such petition at a convenient time and place. At such hearing, the purpose of the proposed improvement or repair of the drain shall be explained

and the probable cost thereof and other pertinent information shall be furnished. At such hearing, signers of such petition may withdraw their names therefrom, and others may add their names thereto. If, when such hearing has been completed and closed, owners of lands which will be subject to assessments aggregating fifty-one percent or more of the cost of cleaning out or repairing such drain, have signed the original petition, it shall be the duty of the board to cause such drain to be cleaned out and repaired.

SECTION 7. REPEAL.) Section 61-2142 of the North Dakota Revised Code of 1943 as amended be and the same is hereby repealed.

SECTION 8. 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 11, 1949.

WEEDS

CHAPTER 352

House Bill No. 100

(Moerke, Gumeringer, Benson, Bentz, Thompson of McLean,
Haugen of McLean and Mollett)

CUTTING WEEDS AND GRASSES ALONG TOWNSHIP HIGHWAYS

AN ACT

To amend and reenact Section 2 of Chapter 334, Session Laws of 1945, number 63-0306 of the 1947 Supplement to the North Dakota Revised Code of 1943, relative to the cutting of weeds and grasses along township highways; charging the expense to adjoining owners; defining a running mile.

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

SECTION 1. AMENDMENT.) That section 2 of Chapter 334, Session Laws of 1945 numbered 63-0306 of the 1947 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

2. If any land owner or tenant shall fail to cut the weeds and grasses along township highways, between September fifteenth and October first, unless by special permission from the township Board of Supervisors, it shall be the duty of the township board