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# APPROPRIATIONS.

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## CHAPTER 12.

[S. B. No. 52—Sharpe.]

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### ADJUTANT GENERAL.

AN ACT to Amend Section 1375 of the Revised Codes, Relating to Additional Duties of the Adjutant General.

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

§ 1. AMENDMENT.] That section 1375 of the revised codes of the state of North Dakota be, and is hereby amended to read as follows:

§ 1375. ADDITIONAL DUTIES OF ADJUTANT GENERAL.] That the adjutant general shall, in addition to his other duties, organize and conduct a bureau of pensions, for the purpose of assisting ex-soldiers and sailors, residents of the state, who may apply for pensions on account of wounds or disability incurred in the service of the United States in establishing their claims without fees or commissions. The salary of the adjutant general shall be eighteen hundred dollars per annum, which, with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, fuel, light, postage, not to exceed one thousand dollars, eight hundred dollars of which salary and expenses shall be paid from the militia fund and the balance shall be paid from the general fund by warrants drawn by the state auditor on the state treasurer, on the order of the governor.

§ 2. EMERGENCY.] Whereas, the duties of the adjutant general have largely increased, and there is no adequate compensation provided for him, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1905.

## CHAPTER 13.

[S. B. No. 4—Hanna.]

## AGRICULTURAL COLLEGE LABORATORY.

AN ACT Appropriating Money for the Building and Equipping of a Chemical Laboratory and a Greenhouse for the North Dakota Agricultural College and Experiment Station at Fargo.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the moneys in the state treasury, not otherwise appropriated, the sum of fifty thousand dollars, for the building and equipping of a chemical laboratory and of a greenhouse for the North Dakota agricultural college and experiment station at Fargo.

§ 2. EMERGENCY.] An emergency exists in this, that the chemical department of the college and station is without room in which to conduct classes or in which to carry on investigations in agricultural and farm chemistry, or the conducting of work as required under the pure food law; and the department of botany has no greenhouse in which to conduct experiments in plant diseases, such as wheat rust, smut, and flax wilt—experiments which should be conducted under glass throughout the year to make progress or to prove most effective; and since these improvements were contemplated by the last legislative assembly and there is immediate need for these lines of work the present year, therefore this act shall take effect from and after its passage and approval.

Approved March 15, 1905.

## CHAPTER 14.

[H. B. No. 10—Buttz.]

## ARMORY RENT.

AN-ACT to Amend Section 1419 of Chapter 19 of the Political Code, Entitled "Militia."

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

§ 1. AMENDMENT.] That section 1419 of chapter 19 of the political code of 1899 be, and the same is hereby amended to read as follows:

§ 1419. DUTY OF COMMANDING OFFICER. APPROPRIATION.] The commanding officer of each company, troop or battery, and the treasurer of each regimental band, shall provide suitable rooms, at

a convenient place in the city where each organization is located or stationed, with the necessary furniture, fuel, lights, drawers, lockers, closets and gun racks for an armory, assembly and drill room, for such organization, and such rooms shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of five hundred dollars from the militia fund for the rent and furnishing of such armory or band headquarters for each organization of the national guard; six hundred dollars additional to be paid to the chief musician of each regimental band as compensation for the services in training said band at his home station, and the sum of one hundred dollars to be paid to the commanding officer of each troop or battery to provide horses for mounted drills by said troop or battery during each year; provided, that no less than five mounted drills shall have been held by said troop or battery during each year.

§ 2. REPEAL.] That the acts approved February 28 and March 6, 1903, of the session laws, amending section 1419 of the revised codes relating to armory rent, etc., are hereby repealed.

§ 3. EMERGENCY.] An emergency exists in that there are not sufficient funds appropriated by law to meet the expenses of maintaining the regimental band attached to the militia, therefore this act shall take effect from and after its passage and approval.

Approved February 25, 1905.

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## CHAPTER 15.

[S. B. No. 78—LaMoure.]

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### BLIND ASYLUM.

AN ACT Making an Appropriation for the Erection of a Building for the Blind Asylum, Located at Bathgate, Pembina County, and for the Proper Furnishing and Equipment of the Same and to Provide for Its Maintenance and Operation.

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

§ 1. APPROPRIATION.] For the purpose of erecting a suitable building for the blind asylum, located at Bathgate, Pembina county, and for furnishing and equipping the same, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars; provided, that before this sum shall be available for the uses contemplated herein, there shall have been conveyed to the state of North Dakota, by good and sufficient deed of warranty, at least ten acres of land at or near Bathgate, suitable for the site of said blind asylum, said land to be conveyed to the state of North Dakota without charge or

cost to said state or said institution and which said site shall be approved by the board of trustees of said blind asylum, or a majority thereof.

§ 2. POWERS OF BOARD OF TRUSTEES.] Upon the receipt and approval of the land mentioned in section 1 of this act, the board of trustees of said blind asylum are authorized and empowered to proceed to the erection of a suitable building or buildings for said blind asylum, to furnish and equip the same for use and provide for its maintenance and operation.

§ 3. BOARD TO NOTIFY GOVERNOR OF COMPLETION.] Upon the completion and equipment of said blind asylum, as provided for herein, the board of trustees of said institution shall inform the governor of this state of that fact and that the said asylum is ready to receive inmates, whereupon the governor shall cause the transfer to said asylum of any persons now being cared for at other institutions, at the expense of the state, and the provisions of the laws of this state, relative to the expenses of the care and custody of the blind, shall apply to the state blind asylum and any appropriations now in force for this purpose shall inure to the benefit and credit of the blind asylum at Bathgate.

§ 4. EMERGENCY.] Whereas, there is no blind asylum in North Dakota and it is needed that said institution be at once made ready for the reception of inmates, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

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## CHAPTER 16.

[S. B. No. 154—Simpson.]

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J. G. CAMPBELL.

AN ACT Appropriating to James G. Campbell, State's Attorney of Stark County, \$300 Attorney's Fees for Services Rendered in the Unorganized Territory Attached to Stark County for Judicial Purposes During the Years 1903 and 1904.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of three hundred dollars to James G. Campbell, state's attorney of Stark county, North Dakota, as fees for services performed in the prosecution of criminal cases arising in the unorganized territory attached to Stark county for judicial purposes during the years 1903 and 1904.

Approved March 15, 1905.

## CHAPTER 17.

[S. B. No. 112—Senate Committee on Appropriations.]

## CAPITOL MAINTENANCE.

AN ACT to Amend Section 338 of the Revised Codes of 1899, as Amended by Chapter 28 of the Session Laws of 1903, Providing for an Appropriation for Supplies for the Capitol Building, Executive Mansion and the Public Grounds and Parks Connected Therewith and for Necessary Repairs Upon the Capitol Building and Executive Mansion.

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

§ 1. AMENDMENT.] Section 338 of the revised codes of 1899, as amended by chapter 28 of the session laws of 1903, is hereby amended to read as follows:

§ 338. POWERS OF BOARD OF TRUSTEES. APPROPRIATION.] The board of trustees of public property is authorized and empowered to provide all necessary furniture, fuel, lights, stationery, postage, express, freight, drayage, and all other necessary supplies for the state offices and executive mansion and the public grounds and parks connected therewith, and to make all necessary repairs upon the capitol building and executive mansion, and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of twenty-four thousand dollars, or so much thereof as may be necessary to carry out the provisions of this section, and the state auditor is empowered to draw his warrant for such sums as shall be found due on account of claims or accounts against such appropriation, upon approval thereof by the state auditing board, and upon approval the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, in the opinion of the legislative assembly, an emergency exists, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

## CHAPTER 18.

[S. B. No. 176—Senate Joint Special Committee.]

## CLERK HIRE, CAPITOL.

AN ACT Providing for the Amount of Clerk Hire to be Allowed Various State Offices, and Making an Appropriation Therefor.

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

§ 1. CLERK HIRE.] The following amounts are hereby fixed and allowed for clerk hire of the several state offices hereinafter mentioned, which sums, commencing January 1, 1905, shall be paid in monthly payments on the warrant of the state auditor:

Governor's office—for private secretary, stenographer, messenger, and such other employes as may be necessary, per annum .....	\$3,000
Secretary of state's office, per annum.....	3,900
State auditor's office, per annum.....	5,700
Treasurer's office, per annum.....	5,000
Superintendent public instruction's office, per annum.....	4,000
Commissioner agriculture and labor's office, per annum....	2,700
Attorney general's office, per annum.....	4,000
Commissioner of insurance's office, per annum.....	3,600
State bank examiner's office, for stenographer and office clerk, per annum.....	1,000
Clerk of supreme court's office, per annum.....	1,200
Secretary of state's office, for care and custody of state libraries, per annum.....	1,000
State weather bureau's office, per annum.....	600
Deputy commissioner of university and school lands, per annum .....	1,800

Provided, that the chief deputy in the several offices enumerated shall receive out of the sums herein provided for an annual salary of one thousand eight hundred dollars per annum; and provided, further, that all clerical appointments shall first be referred to the governor for his approval.

§ 2. APPROPRIATION.] There is hereby annually appropriated out of any money in the state treasury not otherwise appropriated, a sum of money sufficient to carry out the provisions of this act.

§ 3. EMERGENCY.] Whereas, the sum now fixed for clerk hire for the different state offices is not sufficient to secure the necessary assistance for the proper conduct of the work in state offices, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

## CHAPTER 19.

[S. B. No. 79—LaMoure.]

## COCHRANE LIBRARY.

AN ACT Making an Appropriation for the Purchase of the Law Library of the Late John M. Cochrane, of Grand Forks, North Dakota, for the Use of the College of Law of the University of North Dakota.

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

§ 1. APPROPRIATION.] For the purchase of the law library of the late John M. Cochrane, of Grand Forks, North Dakota, for the use and benefit of the college of law of the university of North Dakota, there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of ten thousand dollars.

§ 2. DUTY OF DEAN OF COLLEGE OF LAW.] The dean of the college of law of the university of North Dakota is hereby authorized to inventory and receive the said law library, properly classify the same, have the same suitably labeled and branded as being the property of the state of North Dakota, provide suitable shelving for the said books, insure the same in the name of the state of North Dakota, and in any proper manner direct the management of the said law library. The said law library shall be a reference library only and be for the use of students attending the college of law of the university of North Dakota and others who may desire to consult the same, during proper hours to be prescribed by the dean of said college of law. The dean of said college is authorized and required to make suitable rules for the use of said law library, one of which rules shall be to the effect that no books shall be removed for use from the library room in which said books are contained. If at any time the college of law of the said university of North Dakota shall be discontinued the said books, and all of them, shall be immediately transferred to the capitol at the seat of government and be merged with and become a part of the state law library. The dean of said college of law, immediately on the receipt of said law library, shall make out duplicate invoices and inventories of said law library and transmit one to the secretary of state, to be by him preserved. On the first day of July thereafter in each year the said dean shall transmit a new invoice and new inventory showing all books on hand, including the additions to said law library, if any, which additions shall, from time to time, as fast as received, be branded and marked as provided for the original purchase herein. Any law books now the property of the said university, or which shall be hereafter received, shall be likewise branded and a full inventory returned to the secretary of state, it being the intention of this act that on the receipt of the said Cochrane library all books on the subject of the

law, owned by the university of North Dakota and used in its college of law, shall be merged with the said Cochrane library so as to form one full and complete law library. The dean of said college of law is authorized to exchange before branding any duplicate books he may have, for other works of a legal nature suitable for use in said college of law.

§ 3. EMERGENCY.] Whereas, it is necessary to purchase the law books provided for herein before July 1st, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

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## CHAPTER 20.

[H. B. No. 6—Buttz.]

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### CLARENCE M. COLE.

AN ACT for the Relief of Clarence M. Cole, a Member of Battery "A,"  
North Dakota National Guard.

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

§ 1. ADMITTED TO AGRICULTURAL COLLEGE.] That the trustees of the agricultural college at Fargo are authorized to admit Clarence M. Cole to said college as a student for one year, and for such further period as said trustees shall deem just and proper, to give the said beneficiary a suitable education that will enable him to earn a livelihood.

§ 2. BOARD SHALL PROVIDE FOR MAINTENANCE.] That said Clarence M. Cole, while a member of Battery "A" of the national guard of the state of North Dakota, without any fault on his part and while in the performance of his duty as a soldier of the state, on June 27, 1903, at Camp Lawton, Ramsey county, North Dakota, lost his right arm four inches below the elbow, by reason of the premature discharge of a gun belonging to said battery. Said board of trustees shall provide for the maintenance (including suitable clothing) of said beneficiary during the time he remains a student in said college, and they are authorized to designate a class of studies suitable for him to pursue.

§ 3. POWERS OF BOARD.] That if said board of trustees shall at any time deem it advisable to discharge said beneficiary from said college, they are authorized so to do.

§ 4. SOLDIERS' HOME AUTHORIZED TO ADMIT.] That if at any time after said Clarence M. Cole shall have left the said agricultural college, his physical condition becomes such that he is not able to provide for the necessaries of life, said condition not having been brought about by his own vicious habits, then the board of trustees

of the soldiers' home at Lisbon, in said state, shall upon the application of said Clarence M. Cole, examine him, with a view to his admission in the said soldiers' home, and if, upon examination, the said board of trustees deem it advisable, they are authorized to admit said Clarence M. Cole as an inmate to the said soldiers' home on an equality with the ex-soldiers of the United States; provided, however, that the additional expense of maintaining said Clarence M. Cole shall be borne by the state of North Dakota.

§ 5. REPEAL.] That all acts and parts of acts in conflict with this act are hereby repealed.

§ 6. EMERGENCY.] Whereas, an emergency exists in this, that there is no law providing for the admission and maintenance of beneficiaries to the agricultural college or other educational institutions of the state, and such institutions close their school year prior to July 1, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

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## CHAPTER 21.

[S. B. No. 62—Simpson.]

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### DICKINSON EXPERIMENT STATION.

AN ACT Creating and Establishing an Agricultural Experiment Station at or Near Dickinson in Stark County; Providing for its Management and Making an Appropriation Therefor.

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

§ 1. EXPERIMENT STATION CREATED AND ESTABLISHED AT DICKINSON. MEMBERS OF BOARD.] There is hereby created and established an agricultural and grass experiment station, to be located at or near Dickinson in Stark county, in connection with the North Dakota agricultural college at Fargo and under the direction of the board of directors of said college, and one additional member to be appointed by the governor by and with the advice and consent of the senate, whose term of office shall be for four years from and after the date of his appointment and until his successor shall be appointed and qualified, and who shall receive for his services the sum of three dollars per day for each day employed under the direction of said board, or in attending its meetings, and five cents for each mile actually and necessarily traveled in connection therewith; provided, however, that said member's authority on said board shall be limited to the consideration of matters affecting the sub-station provided for in this act.

§ 2. DUTY OF BOARD TO MAKE EXPERIMENTS WITH GRASSES, FORAGE AND AGRICULTURAL PRODUCTS. STATION MUST NOT BE ESTABLISHED OR EXPERIMENTS UNDERTAKEN UNLESS SUITABLE LAND IS DONATED TO THE STATE.] It shall be the duty of said board, as constituted herein, at said station, to make experiments with native and other grasses and forage products as well as other agricultural products of the soil, with a view of improving and enlarging the supply of forage of said district and extending and increasing the agricultural products thereof; provided, that such experiments shall not be undertaken nor said station established unless a suitable area of land not less than one hundred sixty acres within two miles of the city of Dickinson shall be donated free of charge, by warranty deed to the state of North Dakota.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury not otherwise appropriated the sum of ten thousand dollars for the purpose of establishing said station and conducting said experiments, as provided in this act and for no other purpose.

§ 4. EMERGENCY.] An emergency exists in this, that there is no provision of law for said experimental station, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1905.

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## CHAPTER 22.

[S. B. No. 167—LaMoure.]

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### DIPPING TANK DEFICIT.

AN ACT to appropriate the Sum of \$6,997.59 to Pay Expenses Incurred by the Chief State Veterinarian and the State Board of Auditors in Connection with the Erection, Equipment and Maintaining of State Dipping Tanks for Dipping Live Stock in the Prevention of the Spread of Scabies.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the state funds in the treasury, not otherwise appropriated, the sum of \$6,997.59 for the payment of bills approved by the chief state veterinarian of the state of North Dakota and the state board of auditors, incurred in connection with the erection, equipment and maintenance of state dipping tanks for the purpose of dipping live stock, during the year A. D. 1904, for the cure and prevention of scabies among cattle.

§ 2. EMERGENCY.] An emergency exists in this, that said expenses have been incurred by the state and approved by the state

board of auditors and there is no designated fund out of which said expenses may be paid, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

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CHAPTER 23.

[H. B. No. 48—White.]

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FARMERS' INSTITUTES.

AN ACT to Amend Sections 2 and 4 of Chapter [172] of the Laws of 1901, Entitled, "An Act to Create a State Farmers' Institute Board of Directors and Prescribing its Powers and Duties, and Making an Appropriation for Conducting Farmers' Institutes," as the Same Was Amended by Chapter 11 of the Laws of 1903.

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

§ 1. AMENDMENT.] Sections 2 and 4 of [chapter 172 of] the laws of 1901, as amended by chapter 11 of the laws of 1903, are hereby amended so as to read as follows:

§ 2. ORGANIZATION OF BOARD.] The state farmers' institute board of directors shall have power to organize, by electing one of its members to act as president, and one to act as secretary, and shall have power, and it is hereby made its duty to employ a director of farmers' institutes and such other institute conductors and lecturers as may be deemed necessary, to authorize the holding of not less than fifty farmers' institutes each year, the same to be of such a nature as to instruct the farmers of the state in maintaining the fertility of the soil, the improvement of cereal crops grown in the state, principles of breeding as applied to domestic animals, the making and handling of dairy products, the destruction of noxious weeds and injurious insects, forestry and the growing of fruits, feeding and management of live stock, and in general such instruction as will tend to promote the prosperity, home life and comfort of the farming population.

§ 4. APPROPRIATION FOR INSTITUTE.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of six thousand dollars annually for carrying out the purpose of this act. All charges, accounts and expenses authorized by this act shall be paid by the treasurer of the state, upon the approval of the president and secretary of the board of directors.

§ 2. REPEAL.] All acts or parts of acts in conflict or inconsistent with this act are hereby repealed.

Approved March 15, 1905.

## CHAPTER 24.

[S. B. No. 123—Cashel.]

## AID TO HIGH SCHOOLS.

AN ACT to Amend Sections 870 and 871 of the Revised Codes of North Dakota for 1899, Relating to the Appropriation for Aid to State High Schools.

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

§ 1. AMENDMENT.] That section 870 of the revised codes of 1899, as amended by the laws of 1903, be amended to read as follows:

§ 870. AMENDED. SCHOOLS VISITED ONCE EACH YEAR. WHAT SCHOOLS TO RECEIVE STATE AID. APPROPRIATION.]

1. The high school board shall cause each school receiving aid under this act to be visited, at least once each year, by a committee of one or more members, who shall carefully inspect the instruction and discipline of the preparatory classes and make a written report on the same immediately; provided, that no money shall be paid in any case until after such report shall have been received and examined by the board and the work of the school approved by the board.

2. The said board shall receive applications from such schools for aid as hereinafter provided, which applications shall be received and acted upon in the order of their reception. The said board shall apportion to each of said schools, which shall have fully complied with the provisions of this act, and whose application shall have been approved by the board, the following sums, to-wit: Eight hundred dollars each year to each school maintaining a four years' high school course and doing four years' high school work; the sum of six hundred dollars each year to each school having a three years' high school course and doing three years' high school work; provided, that the moneys so apportioned to any high school shall be used to increase the efficiency of the high school work; provided, further, that the total amount of apportionment and expenses under this act shall not exceed twenty-five thousand dollars in one year. The sum of twenty-five thousand dollars is hereby appropriated annually for the purposes of this act, to be paid out of any moneys in the state treasury, not otherwise appropriated; which amount, or so much thereof as may be necessary, shall be paid upon the itemized vouchers of said board, duly certified and filed with the state auditor; provided, however, that in the case the amount appropriated and available under this act for the payment of aid to such schools shall in any year be insufficient to apportion each of such schools as are entitled thereto the full amount intended to be apportioned to the high schools of the various classes, then, in such case, such amount as is apportioned and available shall be apportioned pro rata among the schools entitled thereto.

§ 2. AMENDMENT.] That section 871 of the revised codes of 1899, as amended by the laws of 1903, be amended to read as follows:

§ 871. AMENDED. NO COMPENSATION. EXPENSES.] The members of the board shall serve without compensation, but the actual and necessary expenses of the board, any clerical officer of the board, or any examiner shall be paid in the same manner as those of state officers; provided, that the total expense, including the apportionments to the schools aforesaid, shall not exceed twenty-five thousand dollars in any one year.

Approved March 15, 1905.

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## CHAPTER 25.

[S. B. No. 137—Cashel.]

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### HISTORICAL SOCIETY.

AN ACT Defining the Status and Providing for the Duties of the State Historical Society of North Dakota, and Making an Appropriation Therefor.

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

§ 1. DUTIES OF STATE HISTORICAL SOCIETY. EX-OFFICIO MEMBERS OF BOARD.] The state historical society of North Dakota shall be the trustee of the state, and as such shall faithfully expend and apply all money received from the state to the uses and purposes directed by law, and shall hold all its present and future collections and property for the state, and shall not sell, mortgage, transfer or dispose of in any manner, or remove from the historical rooms in the capitol at Bismarck any article therein without authority of law; provided, this shall not prevent the sale or exchange of any duplicates that the society may have or obtain; and provided, that the secretary of the said society shall have power to withdraw for temporary use such of the collections as shall be needed for the compilation and editing of the publications of the society, and that such of the collections as may be needed for exhibition purposes may be withdrawn for that purpose by the authority of the board of directors. The governor, auditor, secretary of state, commissioner of agriculture and labor, and superintendent of public instruction shall be ex-officio members of the board of directors of said society, and shall take care that the interests of the state are protected.

§ 2. FURTHER DUTIES.] It shall be the duty of said society:

I. To collect books, maps, charts and other papers and materials illustrative of the history of this state in particular and of the west generally.

2. To obtain from the early pioneers narratives of their exploits, perils and adventures.

3. To procure facts and statements relative to the history, progress and decay of our Indian tribes so as to exhibit faithfully the antiquities and the past and present resources and conditions of this state.

4. To purchase books to supply deficiencies in the various departments of its collection, and especially reports on the legislation of other states, on railroads and geological surveys and of educational and humane institutions for legislative reference, and such other books, maps, charts and materials as will facilitate the investigation of historical, scientific and literary subjects. The secretary of state shall furnish to the state historical society of North Dakota, for reference and exchange purposes, fifty copies each of every state publication.

5. To thoroughly catalogue the entire collections of said society for the more convenient reference of all persons who have occasion to consult the same. The state shall bind the unbound books, documents, manuscripts and pamphlets, and especially newspaper files containing legal notices, in the possession of the state historical society of North Dakota.

6. To prepare biennially for publication a report of its collections and such other matters relating to the transactions of the society as may be useful to the public. There shall be printed by the state one thousand five hundred copies of the biennial volume of collections of the state historical society of North Dakota, five hundred copies of which shall be bound in cloth and the remainder authorized by law shall be bound in pamphlet form.

7. To keep its rooms open at all reasonable hours on business days for the reception of the citizens of this state who may wish to visit the same, without fee.

8. That whenever any grant, devise, bequest, donation or gift or assignment of money, bonds or choses in action, or of any property, real or personal, shall be made to the state historical society of this state, said society is hereby directed to receive and accept such and that the right and title to the same shall pass to the state.

§ 3. APPROPRIATION.] For the purpose of aiding in the performance of said duties there is hereby annually appropriated to the said society, from and after the time of the passage of this act, the sum of one thousand two hundred and fifty dollars. The board of directors of said society shall keep a correct account of the manner of expenditure of the money hereby appropriated and report annually to the governor a detailed statement of such expenditure.

§ 4. REPEAL.] Section 153 of the revised codes of 1899 is hereby repealed.

Approved March 16, 1905.

## CHAPTER 26.

[S. B. No. 164—Regan.]

## IMMIGRATION.

AN ACT Making an Appropriation for Carrying Into Effect Provisions of Law Relating to the Duties of the Commissioner of Agriculture and Labor.

Whereas, The state of North Dakota is pre-eminently an agricultural state, and the most should be made of the fact; that a published statement of its resources should be made and distributed of what an investor and homeseeker wants to know, giving the personal experiences of farmers, stock growers, mechanics, professional and business men; and,

Whereas, Such report should include in general terms a statement of the resources of the state, with up to date statistical information compiled from reliable sources such as county auditors, boards of trade and commercial clubs, which report should show the number of flouring mills, coal mines, and the output of each, with a resume of each county as to population, the number and names of its cities and towns, the number of inhabitants of each, the different industries, the number of business houses, etc.; also the acreage and yield of all cereals, number and different classes of live stock, total amount of wheat grown, number of creameries, amount of milk consumed in the manufacture of butter and cheese, kinds and qualities of grasses and forage plants grown, together with a topographical description of each county, the date of its organization, its financial condition, its railroad facilities and the state of its development and such other general information as would be of general and particular value to persons seeking locations for future settlement; and,

Whereas, There is now a bill pending before the legislature relating to the question of irrigation, statistics should be published giving all information obtainable upon this subject as well as that relating to the question of drainage and whether the same is being carried on or in contemplation by the government, state or private means; and,

Whereas, It would be of great benefit to the state to have published statistics regarding the shipment of live stock and all information connected with the same gathered from breeders and live stock men in the state, giving their experience and the results of such experience; and,

Whereas, No state in the union presents so great an opportunity of receiving benefits from this class of advertising, and no state in the union presents as great opportunities for the poor man to secure a home at so small a cost with assurances that he can not make only

a living, but money as well, as in the state of North Dakota; and,

Whereas, There is and has been for some years past carried on by the department of agriculture of other states and countries a system of advertising the benefits to settlers in seeking homes in these parts whose advantages are inferior to ours, but who, because of the dissemination of literature of the character herein referred to have been reaping benefits that naturally belong to the state of North Dakota, because of her superior natural advantages in these regards; and,

Whereas, The legislative assembly has just enacted into a law a provision providing for the sale of the lands belonging to the state held for the purpose of constructing a state capitol; and,

Whereas, It is the policy of the state that its lands belonging to public institutions should be sold as fast as possible with proper regard to the same being sold at their proper market value; and,

Whereas, There still remains unsold of the lands donated by congress to the agricultural college 87,326 acres; to the asylum for the blind, 20,392 acres; for the deaf and dumb, 26,616 acres; hospital for the insane, 12,780 acres; industrial school, 27,000 acres; normal schools, 52,083 acres; reform school, 27,511 acres; scientific school, 26,327 acres; school of mines, 26,674 acres; soldiers' home, 27,000 acres; university, 56,169 acres; common school and indemnity fund, 2,100,000 acres, and state capitol, 59,111 acres, making a grant total of lands held by the state for the benefit of these institutions of 2,548,989 acres, which may be acquired on conditions practically as favorable to the homeseekers as by filing on government homesteads; and,

Whereas, It would be of great commercial value to the state to have these lands occupied by actual settlers, and the great advantages they offer to homeseekers should be advertised so as to give the greatest publicity possible to their advantages, and the moneys to be raised from the sale of capitol lands should be accumulated as fast as can be done with proper regard for the value of the lands; and,

Whereas, The different railroad companies operating lines in this state have agreed to co-operate with this state in the dissemination of all literature that may be prepared by the state and have agreed to mail the same at no expense to this state and have agreed to work with the state, by means of their departments of immigration and publicity, in the work herein referred to, which said offer is hereby accepted and the services of the said immigration agencies of the different railroad companies is hereby requested; therefore,

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

§ I. APPROPRIATION.] There is hereby appropriated out of any money in the hands of the treasurer not otherwise appropriated the sum of twenty thousand dollars or so much thereof as may be necessary to carry into effect all laws relating to the publication of the advantages offered to settlers and investors for lands in the state of North Dakota.

§ 2. GOVERNOR TO APPROVE EXPENDITURES.] All expenditures by the commissioner of agriculture and labor for the carrying out the provisions of law for which this appropriation is made shall, before being contracted for or incurred, be approved by the governor.

§ 3. EMERGENCY.] Whereas, there are now no funds in the hands of the treasurer available for carrying out of the provisions provided for in this act, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1905.

CHAPTER 27.

[S. B. No. 100—Thatcher.]

INDUSTRIAL SCHOOL.

AN ACT to Provide for the Maintenance of the Industrial School and School for Manual Training, Located at Ellendale, and for Making Necessary Improvements, Providing for the Payment of Interest on Certificates of Indebtedness and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] For the maintenance of the industrial school and school for manual training and for making necessary improvements to the same, for the period commencing April 1, 1905, and ending March 31, 1907, there is hereby appropriated out of the state treasury, from any money not otherwise appropriated, the sum of fifty-three thousand nine hundred dollars, as follows:

For salaries of faculty.....	\$24,000
For janitor and engineer.....	2,300
For materials and furnishings.....	3,000
For water supply.....	100
For fuel.....	3,000
For repairs.....	2,500
For domestic science.....	1,500
For fine arts.....	700
For mechanic arts.....	3,000
For commercial department.....	1,000
For chemical department.....	1,000
For lights.....	500
For improvement of grounds.....	500
For library.....	1,000
For sewerage.....	1,000
For dormitory.....	1,000
For armory and gymnasium and equipment of same.....	5,000
For interest on certificates of indebtedness.....	2,800
Total.....	\$53,900

§ 2. EMERGENCY.] Whereas, in the opinion of the legislative

assembly an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

VETO.

This bill is approved except for the following items which are vetoed:

For fuel, \$3,000; for lights, \$500; for dormitory, \$1,000.

These items are disapproved because the excess of the appropriations of the ninth legislative assembly renders necessary the disapproval of all items that can be dispensed with without interference with the proper maintenance of this institution. I believe these items can be supplied from other sources of revenue.

E. Y. SARLES,  
Governor.

Filed March 17, 1905.

CHAPTER 28.

[S. B. No. 41—Sifton.]

INSANE HOSPITAL.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses of the State Hospital for the Insane at Jamestown.

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

§ 1. APPROPRIATION.] There is appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the state hospital for the insane at Jamestown for the fiscal years 1905-1906, the sum of one hundred forty-five thousand eight hundred ninety dollars, or so much thereof as may be necessary, as follows:

Maintenance .....	\$ 41,000
Fuel .....	26,000
Employes' wages and mechanical labor.....	40,000
Salaries of resident officers.....	14,000
Drugs and medicines.....	2,000
Return of patients and burial of dead.....	2,000
Incidental expenses and repairs.....	5,000
Beds, bedding and furniture.....	5,000
Library and amusements and chaplain services.....	1,500
Farm machinery .....	500
Additional land .....	2,000
Paints and painting.....	2,000
Steam plant.....	1,840
Plumbing and steam fitting supplies.....	500
Engine room and boiler house.....	600
Electric lamps and repairs.....	650
Laundry repairs and supplies.....	550
Blacksmith supplies.....	300
Fire department .....	450
Total .....	\$145,890

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made shall not begin before July 1, 1905, and the funds hereby appropriated will be needed before that time, therefore this act shall take effect from and after its passage and approval.

VETO.

This bill is approved, except as to the following items: \$5,000 for incidental expenses and repairs; \$2,000 for additional land, and \$2,000 for paints and painting. These items are vetoed for the reason that the appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state, and in my opinion, these items of expense can be dispensed with without interfering with the proper management and maintenance of this institution.

E. Y. SARLES,  
Governor.

Filed March 16, 1905.

CHAPTER 29.

[S. B. No. 104—Sifton.]

INSANE HOSPITAL BUILDINGS.

AN ACT to Provide for the Erection of Necessary Additional Buildings and Other Improvements at the State Hospital for the Insane at Jamestown, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of erecting necessary buildings at the state hospital for the insane, at Jamestown, N. D., and other needed and necessary improvements and for the proper equipment of such buildings, the sum of ninety thousand dollars, or so much thereof as can be actually used in the construction of such necessary additional buildings and improvements, as follows:

A new ward building.....	\$30,000
A hospital building.....	55,000
Cold storage building.....	5,000
Total .....	<u>\$90,000</u>

§ 2. EMERGENCY.] Whereas, an emergency exists in that it is necessary to begin the construction of said additional buildings before July 1, 1905, therefore this act shall take effect from and after its passage and approval.

## VETO.

This bill is approved except as to the following item: Five thousand dollars for cold storage building. This item is vetoed because the appropriations of the ninth legislative assembly largely exceed the probable revenues of the state and, considering other liberal appropriations for this institution, the failure of this item will work no serious inconvenience or disadvantage to its maintenance.

E. Y. SARLES,  
Governor.

Filed March 16, 1905.

## CHAPTER 30.

[S. B. No. 77—LaMoure.]

## INSTITUTION DEFICITS.

AN ACT Making an Appropriation to Pay Certain Indebtedness Incurred by the Trustees of the State University and School of Mines at Grand Forks, the Agricultural College at Fargo, the State Normal School at Valley City, and the School for the Deaf and Dumb of North Dakota at the City of Devils Lake.

Whereas, Acting under supposed legal authority conferred by the legislative assembly of the state of North Dakota, certain bonds of different institutions of this state were authorized, the proceeds of said bonds being appropriated to erect certain buildings and pay off certain indebtedness of said institutions, the said bonds so authorized being a charge, both principal and interest, on certain revenues to come to said institutions from the sale and rental of lands donated to said institutions by the congress of the United States and the state of North Dakota, and,

Whereas, Acting under said supposed authority the trustees of several of our state institutions did, in good faith, enter into contracts for the construction of buildings, and incur other indebtedness, and,

Whereas, By a decision of the supreme court of this state, the said bonds, and all of them, were declared null and void and that the same could not lawfully be issued, and,

Whereas, It is believed that good faith and sound business policy requires that the said institutions should be relieved of the indebtedness heretofore incurred in good faith; now therefore,

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the treasury of the state of North Dakota, out of any money therein not otherwise appropriated, for the purpose of paying and cancelling the indebtedness incurred by the trustees of the different institutions

enumerated hereafter, the following sum to each of said institutions, as follows:

State University and School of Mines.....	\$ 68,000
Agricultural College .....	30,400
State Normal School at Valley City.....	38,000
School for the Deaf and Dumb of North Dakota.....	18,000
Total .....	\$154,400

§ 2. AVAILABLE FOR PAST INDEBTEDNESS ONLY.] The sums of money hereby appropriated under the provisions of section 1 of this act are to be used solely for the purpose of paying and liquidating the indebtedness now due by each of the different institutions herein named and for no other purpose whatever, it being the purpose and intent of this act that the money hereby appropriated to the different named institutions shall be used solely for past indebtedness and not for current or future indebtedness of any kind whatsoever.

§ 3. EMERGENCY.] Whereas, the different institutions named herein are in need of the money hereby appropriated long before July 1, 1905, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

CHAPTER 31.

[S. B. No. 23—Cashel.]

INSTITUTION FOR FEEBLE MINDED.

AN ACT Making an Appropriation for a Deficiency in the Appropriation for the Institution for the Feeble Minded.

DEFICIENCY DECLARED.] Whereas, a deficiency exists in the amounts appropriated for the institution for the feeble minded at Grafton, such deficiency being caused by an insufficient appropriation for finishing the building, and,

Whereas, A portion of the sum appropriated for the maintenance of the said institution was used for the purpose of finishing the building, causing the appropriation for maintenance to be now exhausted and making a deficiency of nine thousand three hundred and forty-five dollars to March 1, 1905,

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the state treasury, not otherwise appropriated, the sum of nine thousand three hundred and forty-five dollars for the purpose of relieving such deficiency.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the amount hereby appropriated is needed for immediate use, therefore this act shall take effect and be in force from and after its passage [and approval].

Approved March 15, 1905.

## CHAPTER 32.

[S. B. No. 37—Cashel.]

## INSTITUTION FOR FEEBLE MINDED.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses of the Institution for the Feeble Minded at Grafton, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the institution for the feeble minded, at Grafton, for the period beginning March 1, 1905, and ending March 1, 1907, the sum of sixty-four thousand three hundred and twenty-five dollars, or as much thereof as may be necessary, as follows:

Employes' wages, including officers' salaries.....	\$17,000.00	
Maintenance .....	18,000.00	
Fuel and lights.....	6,500.00	
Training school supplies and amusements.....	650.00	
Incidental Expenses.....	500.00	
Drugs, medicines, etc.....	200.00	
Repairs .....	500.00	
Plumbing .....	250.00	
Beds and bedding.....	800.00	
Furniture .....	500.00	
Electric supplies and repairs.....	100.00	
Supplies for engine room.....	200.00	
Laundry machinery and repairs.....	400.00	
Paints and painting.....	500.00	
Farm implements and vehicles.....	550.00	
New buildings and alterations to present as follows:		
Barn .....	\$1,000.00	
Ice house .....	225.00	
Root cellar.....	300.00	
Porches .....	1,000.00	
Coal shed .....	100.00	
Cold storage .....	300.00	
		2,925.00
Stock .....		750.00
Improvements to grounds.....		1,000.00
Sewer and disposal plant.....		7,000.00
Additional land.....		6,000.00
Total .....		\$64,325.00

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal

year for which this appropriation is made will not begin before July 1, 1905, and the funds hereby appropriated will be needed before that time, therefore this act shall take effect from and after its passage and approval.

## VETO.

This bill is approved except as to the item of six thousand dollars for the purchase of additional land, as proposed in section 1, which item is vetoed for the following reason: The appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state, and this item can be dispensed with without interfering with the proper management and maintenance of the institution for the ensuing two years.

E. Y. SARLES,  
Governor.

Filed March 15, 1905.

## CHAPTER 33.

[H. B. No. 192—Chapman.]

## REIMBURSING FOR IRRIGATION EXPENSES.

AN ACT Appropriating \$2,000, or So Much Thereof as May Be Necessary, Out of Any Funds in the State Treasury Not Otherwise Appropriated, to Defray Expenses of Irrigation Investigations, and of the Per Diem and Expenses of State Engineer Chandler; and Providing for the Reimbursement of the Counties of Ransom, Ward, McLean, LaMoure and Williams for Money Advanced by Them to Defray Irrigation Investigation Expenses, and to Pay Expenses in Connection With the State Irrigation Congress.

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

§ 1. APPROPRIATION.] That there be and is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of two thousand dollars, or so much thereof as may be necessary, to pay the per diem and incidental expenses of E. F. Chandler, state irrigation engineer, in conducting irrigation investigations in the state, and to reimburse the counties of Ransom, Ward, McLean, LaMoure, and Williams for money advanced by them for conducting irrigation investigations, and to pay for the expenses incurred in connection with the irrigation congress, and that the state auditor be and he is hereby directed to audit all of the expense accounts of said state engineer and to draw his warrant on the state treasurer in favor of said state engineer for the amount found due him for his per diem and expenses above mentioned, and also to draw his warrant on the state treasurer for the sum of one hundred dollars each for the following named counties: Ransom, Ward, McLean, LaMoure and Williams.

§ 2. EMERGENCY.] An emergency exists in that there is now no law authorizing the payments provided for in this bill, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1905.

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## CHAPTER 34.

[S. B. No. 1—Little.]

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### IRRIGATION CODE.

AN ACT Prescribing Regulations for the Appropriation, Distribution and Use of Water in the Construction and Maintaining of Canals, Ditches and Storage Reservoirs for the Purpose of Irrigation, Evaporation and Water Power; for the Diversion and Confining, Retention, Storage and Distribution of Water; the Condemnation of Lands for the Right of Way of Works for Such Purposes; Providing for a State Engineer and One or More Assistant State Engineers, and the Appointment of Officers for the Surveying and Measurement, Fixing Their Compensation and Providing for the Payment of the Same and Making an Appropriation Therefor, Prescribing Their Duties, Powers and Qualifications, and the Appropriation of the Streams of the State and Controlling the Distribution of Water Throughout the State in the Several Water Divisions Thereof, Prescribing Water Divisions and the Management of Water Regulations and Adjudicating the Rights and the Priority of Rights of Those Diverting, Carrying or Storing Water for Irrigation or Other Beneficial Purposes in the Water Districts in the Several Water Divisions, Providing for the Expense of Such Adjudication and for the Apportionment and Payment Thereof, Prescribing Regulations and Ascertaining the Rights of Priorities of Those Entitled to Water for Use for the Irrigation of Lands and to Provide Penalties and for Punishing Persons for Interfering With It or Maliciously Trespassing Upon the Ditches, Reservoirs or Irrigation Works for the Storage and Conveyance of Water and to Regulate the Rights to the Use of Water for Agricultural and Manufacturing and Other Purposes, to Provide for a Board of Water Commissioners, Prescribing Their Duties, Pay, Compensation, Providing for Water Masters, Their Duties, Compensation, Providing for Change of Place of Use of Diversion, Measuring Devices, Bridges Over Ditches or Canals, Providing for Constructing Works, the Disposition of Seepage Water, and Providing for the Disposition of State Lands and Right of Way Over Same, and That the State Engineer Assist County Commissioners in Establishing and Constructing Drains.

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

§ 1. WATERS OF THE STATE, PUBLIC WATERS.] All waters within the limits of the state from all sources of water supply belong to the

public and, except as to navigable waters, are subject to appropriation for beneficial use.

§ 2. BENEFICIAL USE. APPURTENANCES. PRIORITY.] Beneficial use shall be the basis, the measure, and the limit of the right to use of water, and all waters appropriated for irrigation purposes shall be appurtenant to specified lands owned by the person claiming the right to use the water, so long as the water can be beneficially used thereon. Priority in time shall give the better right. In all cases of claims to the use of water initiated prior to the passage of this act, the right shall relate back to the initiation of the claim, upon the diligent prosecution to completion of the necessary surveys and construction for the application of the water to a beneficial use. All claims to the use of water initiated after the passage of this act shall relate back to the date of receipt of an application therefor in the office of the state engineer, subject to compliance with the provisions of this act, and the rules and regulations established thereunder.

§ 3. EMINENT DOMAIN.] The United States, the state, or any person, corporation or association may exercise the right of eminent domain to acquire for a public use any property or rights now or hereafter existing when found necessary for the application of water to beneficial uses, including the right to enlarge existing structures and use the same in common with the former owner. Any canal right of way so acquired shall be so located as to do the least damage to private or public property, consistent with proper and economical engineering construction. Such property or rights may be acquired in the manner provided by law for the taking of private property for public uses.

§ 4. RECLAIMING WATERS.] Water turned into any natural or artificial water course by any party entitled to the use of such water may be reclaimed below and diverted therefrom by such party, subject to existing rights, due allowance for losses being made, as determined by the state engineer.

§ 5. STATE ENGINEER. APPOINTMENT, DUTIES, POWERS, QUALIFICATIONS AND SALARY.] There shall be a state engineer, who shall be a technically qualified and experienced hydraulic engineer, to be appointed by the governor and such appointment confirmed by the senate. He shall hold office for the term of four years from and after his appointment, or until his successor shall have been appointed and shall have qualified. He shall have general supervision of the waters of the state and of the measurement and appropriation thereof, and shall receive a salary of \$2,500 per annum and actual and necessary traveling expenses while away from his office in the discharge of official duties. He shall not engage in private practice.

§ 6. ASSISTANT STATE ENGINEER AND EXPENSES OF STATE ENGINEER'S OFFICE.] The state engineer shall have power to appoint from time to time, during the season of the year when field work is practicable, one or more assistant state engineers at a salary not to exceed \$1,800 per annum and actual and necessary traveling expenses

while away from the office in the discharge of official duties. The state engineer may employ other and additional assistants and purchase materials and supplies for the proper conduct and maintenance of his office and department, in pursuance of appropriations as made from time to time for such purposes. The salaries and expenses of the office of the state engineer shall be paid at the same time and in the same manner as those of other officers of the state. The office of the state engineer shall be located at the seat of government.

§ 7. OATH AND BOND OF STATE ENGINEER AND ASSISTANT STATE ENGINEER.] Before entering upon the duties of his office, the state engineer shall take and subscribe an oath of office and give bond with good and sufficient sureties to be approved by the governor, in the sum of five thousand dollars for the faithful performance of his duties, which oath of office and bond shall, upon approval, be filed in the office of the secretary of state. The assistant state engineer shall also take and subscribe an oath for the faithful discharge of his duties, which oath shall be filed with the secretary of state together with his appointment by the state engineer.

§ 8. AUDITING OF CLAIMS.] All claims for services rendered, expenses incurred, or materials or supplies furnished under direction of the state engineer and which are payable from the funds appropriated for the prosecution of the work under his direction and supervision, shall be approved by the state engineer and properly vouchered and filed in the office of the state auditor, who shall, if he finds the same to have been incurred in accordance with law, audit and allow such claims and issue his warrant on the state treasurer in payment thereof.

§ 9. STATE ENGINEER'S REPORT.] The state engineer shall prepare and deliver to the governor, on or before September 30 of the year preceding the regular session of the legislature, and at other times when required by the governor, a full report of his office, including a detailed statement of the expenditures thereof, with such recommendations for legislation as he may deem advisable.

§ 10. FEES OF STATE ENGINEER.] The state engineer shall receive the following fees, to be collected in advance and to be paid by him into the general fund of the state treasury on the last day of March, June, September and December of each year:

(a) For filing and examining an application for permit to appropriate water, map and field notes of the same, five dollars.

(b) For recording any permit, certificate of construction or license issued or any other water right instrument, one dollar for the first hundred words and fifteen cents for each additional hundred words or fraction thereof.

(c) For filing any other paper, one dollar.

(d) For issuing certificates of construction, or license to appropriate water, one dollar each.

(e) For making copy of any document recorded or filed in his office, fifteen cents for each hundred words or fraction thereof.

(f) For blue print copy of any map or drawing, ten cents per square foot or fraction thereof. For other copies of drawings, actual cost of the work.

(g) For certifying to such copies, one dollar for each certificate.

(h) For examining and approving in connection with water right applications, plans and specifications for any dam, not exceeding ten feet in extreme height from the foundation, ten dollars; for a dam higher than ten feet and not exceeding thirty feet, twenty dollars; for a dam higher than thirty feet and not exceeding fifty feet, thirty dollars; for a dam higher than fifty feet, fifty dollars; or for a canal or other water conduit of an estimated capacity exceeding fifty and not more than one hundred cubic feet per second, twenty dollars; for an estimated capacity exceeding one hundred cubic feet per second, thirty dollars.

(i) For inspecting dam sites and construction work when required by law, or when necessary in the judgment of the state engineer, ten dollars per day and actual and necessary traveling expenses. The fees for any inspection deemed necessary by the state engineer and not paid on demand shall be a lien on any land or other property of the owner of the works, and may be recovered by the state engineer in any court of competent jurisdiction.

(j) Rating ditches or inspecting plans and specifications of works for the diversion, storage and carriage of water, at the request of private parties, not in connection with an application for right to appropriate water, actual cost and expenses; and the state engineer shall attach his approval to such plans and specifications if found satisfactory.

(k) For such other work as may be required of his office, the fees provided by law.

(l) In ascertaining actual cost of any work, as the term is used in this section, the salary of any salaried officer for the time employed shall be included.

§ 11. RECORDS OF STATE ENGINEER.] The records of the office of the state engineer are public records, shall remain on file in his office, and shall be open to the inspection of the public at all times during business hours. Such records shall show in full all permits, certificates of completion of construction, and licenses issued, together with all action thereon, and all action or decisions of the state engineer affecting any rights or claims to appropriate water. Certified copies of any records or papers on file in the office of the state engineer shall be evidence equally with the originals thereof; and when introduced as evidence shall be held as of the same validity as the originals.

§ 12. RULES AND REGULATIONS.] The state engineer shall make all necessary general rules and regulations to carry into effect the duties devolving upon his office, and may change the same from time to time in his discretion. All such rules and regulations relating to applications for permits to appropriate water, for the inspection of works, for the issuance of license, and for the determination of rights

to the use of water shall be modified by the state engineer, if required by a vote of the board of water commissioners hereinafter established, at least three of the four water commissioners voting in favor of such modifications.

§ 13. APPEAL TO BOARD OF WATER COMMISSIONERS.] Such modification of the rules and regulations of the state engineer shall be voted upon by the board of water commissioners only on appeal from a decision of the state engineer.

#### DETERMINATION OF WATER RIGHTS.

§ 14. HYDROGRAPHIC SURVEYS AND CO-OPERATION.] The state engineer shall make hydrographic surveys and investigations of each stream system and source of water supply in the state, beginning with those most used for irrigation, obtaining and recording all available data for the determination, development and adjudication of the water supply of the state. He shall be authorized to co-operate with the agencies of the federal government engaged in similar surveys and investigations, and in the construction of works for the development and use of the water supply of the state, expending for such purposes any money available for the work of his office, and may accept and use, in connection with the operation of his department, the results of the work of the agencies of the government.

§ 15. SUIT FOR ADJUDICATION OF WATER RIGHTS.] Upon the completion of such hydrographic survey of any stream system, the state engineer shall deliver a copy thereof, together with copies of all data necessary for the determination of all rights to the use of the waters of such system, to the attorney general of the state, who shall within sixty days thereafter enter suit on behalf of the state for the determination of all rights to the use of such water, and shall diligently prosecute the same to a final adjudication; provided, that if suit for the adjudication of such rights shall have been begun by private parties, the attorney general shall not be required to bring suit; provided, however, that the attorney general shall intervene in any suit for the adjudication of rights to the use of water on behalf of the state if notified by the state engineer that in his opinion the public interest requires such action.

§ 16. PARTIES AND COSTS OF SUITS.] In any suit for the determination of a right to the use of the waters of any stream system, all who claim the right to use such waters shall be made parties. When any suit has been filed, the court shall, by its order duly entered, direct the state engineer to make or furnish a complete hydrographic survey of such stream system as hereinbefore provided, in order to obtain all data necessary to the determination of the rights involved. The cost of such suit, including the costs on behalf of the state, and of such surveys, shall be charged against each of the private parties thereto in proportion to the amount of the water right allotted.

§ 17. FUND FOR HYDROGRAPHIC SURVEYS.] For the purpose of

advancing the money required for any surveys so ordered by the court, there is hereby appropriated and set apart from any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of two thousand dollars, to be known as the hydrographic survey fund, which shall be a permanent fund and which shall be used only for the payment of the expenses of such surveys; and all claims for services rendered, expenses incurred or materials or supplies furnished under the direction of the state engineer in the prosecution of said work shall be approved by the state engineer and properly vouchered and filed in the office of the state auditor, who shall, if he finds the same to have been incurred in accordance with law, audit and allow such claims and issue his warrants against the hydrographic survey fund on the state treasurer, in payment thereof. The amounts paid by the parties to said suits, on account of such surveys, shall be paid to the state treasurer, who shall credit the same to such fund, which shall continue to be available for advancing the expenses of such surveys, as ordered by the court from time to time.

§ 18. FILING OF DECREE ADJUDICATING WATER RIGHTS.] Upon the adjudication of the rights to the use of the waters of a stream system, two certified copies of the decree shall be prepared by the clerk of the court, at the cost of the parties, one copy shall be filed in the office of the state engineer, and the other in the office of the water commissioner of the water division in which the stream system is situated. Such decree shall in every case declare, as to the water right adjudged to each party the priority, amount, purpose, place of use, and, as to water used for irrigation, the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority.

#### APPROPRIATION OF WATER.

§ 19. APPLICATION FOR WATER RIGHT.] Any person, association or corporation hereafter intending to acquire the right to the beneficial use of any waters, shall, before commencing any construction for such purpose, or before taking the same from any constructed works, make an application to the state engineer for a permit to appropriate, in the form required by the rules and regulations established by him. Such rules and regulations shall, in addition to providing the form and manner of preparing and presenting the application, require the applicant to state all the data necessary for the proper description and limitation of the right applied for, as to the amount of water and periods of annual use, together with such information, maps, field notes, plans and specifications as may be necessary to show the method and practicability of the construction and the ability of the applicant to complete the same. All such maps, field notes, plans and specifications shall be made from actual surveys

and measurements, and shall be retained in the office of the state engineer after the approval of the application. The state engineer may require additional information not provided for in the general rules and regulations, in any case involving the diversion of five hundred cubic feet of water per second, or more, or the construction of a dam more than thirty feet high from the foundation. The owners of works proposing to store or carry water in excess of their needs for beneficial use, may make application for such excess, and shall be held as trustees of such right for the parties applying the water to a beneficial use; and shall be required to furnish the water for such parties at reasonable rates for storage, or carriage, or both, as the case may be.

§ 20. FILING AND CORRECTION OF APPLICATION.] The date of receipt of such application in the state engineer's office shall be endorsed thereon and noted in his records. If the application is defective as to form, or unsatisfactory as to feasibility or safety of plan, or as to the showing of the ability of the applicant to carry the construction to completion, it shall be returned with a statement of the corrections, amendments or changes required within thirty days after its receipt, and sixty days shall be allowed for the refileing thereof. If refiled, corrected as required within such time, the application shall, upon being accepted, take priority as of date of its original filing, subject to compliance with the further provisions of the law and the regulations thereunder. Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its refileing; provided, that the plans of the construction may be amended, with the approval of the state engineer, at any time; but no such change shall authorize any extension of time for construction beyond five years from the date of the permit, except as provided in section 30; provided further, that a change in the proposed point of diversion of water from a stream shall be subject to the approval of the state engineer, and shall not be allowed to the detriment of the rights of others having valid claims to the use of water from said stream.

§ 21. PUBLICATION OF NOTICE.] Upon the filing of an application which complies with the provisions of this act and the rules and regulations established thereunder, the state engineer shall instruct the applicant to publish notice thereof, in a form prescribed by him, in some newspaper of general circulation in the stream system, once a week for four consecutive weeks. Such notice shall give all essential facts as to the proposed appropriation, among them the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of the applicant and the time when the application will be taken up by the state engineer for consideration. Proof of publication, as required, shall be filed with the state engineer within sixty days from the date of his instructions to make publication. In case of failure to file satisfactory proof of publication in accordance with the rules and regulations applicable

thereto, within the time required, the application shall thereafter be treated as an original application filed on the date of receipt of proofs of publication in proper form.

§ 22. APPROVAL OF APPLICATION.] Upon the receipt of the proofs of publication, the state engineer shall determine from the evidence presented by the parties interested, from such surveys of the water supply as may be available, and from the records, whether there is unappropriated water available for the benefit of the applicant. If so, he shall endorse his approval on the application, which shall thereupon become a permit to appropriate water, and shall state in such approval the time within which the construction shall be completed, not exceeding five years from the date of approval, and the time within which the water shall be applied to a beneficial use, not exceeding four years in addition thereto.

§ 23. REJECTION AND APPEAL.] If, in the opinion of the state engineer, there is no unappropriated water available, he shall reject such application. He shall decline to order the publication of notice of any application which does not comply with the requirements of the law and the rules and regulations thereunder. He may also refuse to consider or approve an application or to order the publication of notice thereof if, in his opinion, the approval thereof would be contrary to the public interest. Any applicant may appeal from such decision of the state engineer, or from any other decision by him which denies a substantial right, within sixty days from the date thereof, to the district court of the county in which the proposed place of diversion or storage is situated. In the absence of such appeal, the decision of the state engineer shall be final.

§ 24. PROSECUTION OF WORK.] The construction of the works shall be diligently prosecuted to completion, and if one-fifth of the work shall not be completed within one-half the time allowed, the state engineer may accept and approve, as herein provided, an application for the use of all or any of the waters included in the permit issued to the prior applicant and the right to use such waters under the former permit shall thereupon be forfeited; provided, that the state engineer shall allow an extension of time on request of the prior applicant, equal to the time during which work was prevented by the operation of law, beyond the power of the said applicant to avoid.

§ 25. COMPLETION OF WORK.] On the date set for the completion of the work, or prior thereto, upon notice from the owner that the work has been completed, the state engineer shall cause the work to be inspected, after due notice to the owner of the permit. Such inspection shall be thorough and complete, in order to determine the actual capacity of the work, their safety and efficiency. If not properly and safely constructed the state engineer may require the necessary changes to be made within a reasonable time, not to exceed six months, and shall not issue his certificate of completion until such changes are made. Failure to make such changes shall cause the

postponement of the priority under the permit for such time as may elapse from the date for completing such changes until made to the satisfaction of the state engineer, and applications subsequent in time shall have the benefit of such postponement of priority; provided, that for works involving the diversion of not exceeding twenty cubic feet of water per second or a dam not exceeding ten feet in the extreme height from the foundation, the state engineer may, in his discretion, accept the report of an inspection by a reputable hydraulic engineer.

§ 26. CERTIFICATE OF COMPLETION.] When the works are found in satisfactory condition, after inspection the state engineer shall issue his certificate of construction, setting forth the actual capacity of the works and such limitations upon the water right as shall be warranted by the condition of the works, but in no manner extending the rights described in the permit.

§ 27. INSPECTION OF WORKS.] If the state engineer shall, in the course of his duties, find that any works used for the storage, diversion or carriage of water are unsafe and a menace to life or property, he shall at once notify the owner or his agent, specifying the changes necessary and allowing a reasonable time for putting the works in safe condition, not exceeding three months. Upon the request of any party, accompanied by the estimated cost of inspection, the state engineer shall cause any alleged unsafe works to be inspected. If they shall be found unsafe by the state engineer, the money deposited by such party shall be refunded, and the fees for inspection shall be paid by the owner of such works; and, if not paid by him within thirty days after the decision of the state engineer, shall be a lien against any property of such owner, to be recovered by suit instituted by the district attorney of the county at the request of the state engineer. The state engineer may, when in his opinion necessary, inspect any works under construction for the storage, diversion, or carriage of water, and require any changes necessary to secure their safety; and the fees for such inspection shall be a lien on any property of the owner and shall be subject to collection as provided herein; provided, that any works constructed by the United States, or by its duly authorized agencies, shall not be subject to such inspection while under the supervision of officers of the United States.

§ 28. USE OF UNSAFE WORKS.] The use of works for the storage, diversion or carriage of water, at any time after an inspection thereof by the state engineer and receipt of notice from him that the same are unsafe for the purpose for which they are used, until the receipt of notice from him that in his opinion they have been made safe, shall be a misdemeanor and it shall be the duty of the state engineer to give prompt notice to the district attorney of the county in which such works are located in case of such violation. The district attorney shall at once proceed against the owner, and all parties responsible therefor.

§ 29. APPLICATION TO BENEFICIAL USE.] On or before the date set for the application of the water to a beneficial use, the state en-

gineer shall cause the works to be inspected, after due notice to the owner of the permit. Upon the completion of such inspection, the state engineer shall issue a license to appropriate water to the extent and under the conditions of the actual application thereof to a beneficial use, but in no manner extending rights described in the permit; provided, that the inspection to determine the amount of water applied to a beneficial use shall be made at the same time as that of the constructed work, if requested by the owner, and if such action is deemed proper by the state engineer.

§ 30. EXTENSION OF TIME.] The state engineer shall have power to extend the time for the completion of construction, or for application to beneficial use, for three years and two years, respectively, but only on account of delays due to physical or engineering difficulties which could not have been reasonably anticipated, or by operation of law beyond the power of applicant to avoid.

§ 31. ASSIGNMENT OF PERMIT OR LICENSE.] Any permit or license to appropriate water may be assigned, but no such assignment shall be binding, except upon the parties thereto, unless filed for record in the office of the state engineer. The evidence of the right to use water from any works constructed by the United States, or its duly authorized agencies, shall in like manner be filed in the office of the state engineer, upon assignment; provided, that no right to appropriate water for irrigation purposes shall be assigned, or the ownership thereof in any wise transferred, apart from the land to which it is appurtenant, except in the manner specially provided by law; provided, further, that the transfer of title to land in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes.

§ 32. TRANSFER OF WATER RECORDS.] It shall be the duty of the county register of deeds and the county auditor of each county in the state, within thirty days after the passage of this act, to prepare and forward by express or registered mail, at the expense of the county, to the office of the state engineer, a transcript of all records relating to water rights; provided, that they may forward any original records in their offices which have been duly recorded. The state engineer shall classify and arrange such records to conform to stream systems, and shall send copies thereof relating to each water division to the water commissioner thereof. He shall likewise forward to the water commissioner copies of all records, permits and licenses to appropriate water relating to his division, and shall advise him of all acts and decisions of the state engineer's office affecting the apportionment of waters in his division.

§ 33. REFEREE IN WATER SUITS.] In any water suit the court may appoint a referee or referees, not exceeding three, to take testimony and report upon the rights of the parties, as in other equity cases.

§ 34. ATTORNEY GENERAL AND DISTRICT ATTORNEY ADVISERS OF STATE ENGINEER.] The attorney general, and the district attorney

of the county in which legal questions arise, shall be the legal advisers of the state engineer, and shall perform any and all legal duties necessary in connection with his work, without other compensation than their salaries as fixed by law, except when otherwise provided.

§ 35. CHARGE FOR CARRYING AND DELIVERING WATER.] The owner or owners of any works for the storage, diversion or carriage of water, which contain water in excess of their needs for irrigation or other beneficial use for which it has been appropriated, shall be required to deliver such surplus, at reasonable rates for storage, or carriage, or both, as the case may be, to the parties entitled to the use of the water for beneficial purposes. In case of the refusal of such owner or owners to deliver any such surplus water at reasonable rates as determined by the state engineer, they may be compelled to do so by the district court for the county in which the surplus water is to be used.

§ 36. APPROPRIATION OF WATER BY THE UNITED STATES.] Whenever the proper officers of the United States, authorized by law to construct works for the utilization of waters within the state, shall notify the state engineer that the United States intends to utilize certain specified waters, the waters so described, and unappropriated at the date of such notice, shall not be subject to further appropriation under the laws of this state for a period of three years from the date of said notice, at which time the proper officers of the United States shall file plans for the proposed work in the office of the state engineer for his information, and no adverse claim to the use of the waters required in connection with such plans, initiated subsequent to the date of such notice, shall be recognized under the laws of this state, except as to such amount of the water described in such notice as may be formally released in writing by an officer of the United States, thereunto duly authorized; provided, that in case of failure to file plans of the proposed work within three years, as herein required, the waters specified in the notice given by the United States to the state engineer shall become public waters, subject to general appropriations.

#### WATER COMMISSIONERS.

§ 37. WATER DIVISIONS.] The state shall be divided into water divisions, as follows:

Water division No. 1 shall consist of all that portion of the state west and south of the Missouri river.

Water division No. 2 shall consist of all lands within the state drained by the Mouse river and its tributaries, and of all lands within the state north and east of the Missouri river drained by the Missouri river and its tributaries from the boundary of the state of Montana as far down as Fort Berthold.

Water division No. 3 shall consist of all lands within the state east of the Missouri river drained by the Missouri river and its tributaries below Fort Berthold, and of all lands within the state drained by the James or Dakota river and its tributaries.

Water division No. 4 shall consist of all lands within the state drained by the Red river and its tributaries, except the Mouse river, as hereinbefore specified, and of all lands within the state drained into Devils Lake.

§ 38. WATER COMMISSIONERS.] The governor may nominate and by and with the advice and consent of the senate appoint a water commissioner for each water division, as hereinbefore established, to serve for the term of six years, or until his successor shall have qualified, and shall be subject to removal by the governor; provided, the water commissioners first appointed after the passage of this act, shall serve for the terms specified as follows:

Water division No. 1, six years; water division No. 2, four years; water division No. 3, two years; water division No. 4, six years; provided, further, that during any temporary or permanent vacancy in the office of water commissioner, the powers and duties of such water commissioner shall devolve on the state engineer.

§ 39. DUTIES OF WATER COMMISSIONERS.] Each water commissioner shall have the supervision of the apportionment of water in his division, according to the licenses issued by the state engineer and the adjudications of the courts. Each commissioner shall have the custody of the records relating to his division, which shall be public records, and shall be transmitted to his successor in office. Each water commissioner, before entering upon the duties of his office, shall take and subscribe an oath of office and give a bond with good and sufficient sureties, to be approved by the supreme court, in the sum of two thousand dollars, for the faithful performance of the duties of this office, which oath and bond shall, upon approval, be filed in the office of the secretary of state.

§ 40. BOARD OF WATER COMMISSIONERS. The water commissioners of all the water divisions, together with the state engineer, who shall be president thereof, shall constitute the board of water commissioners, which shall have general supervision of the apportionment of the waters of the state. The board shall adopt general rules and regulations to govern its proceedings and the operations in the various divisions. The state engineer shall have a vote on all matters coming before the board, except appeals, authorized by law, from his acts as the state engineer. The board shall meet on the first Monday in March of each year, at the office of the state engineer, and at such other times and places as may be agreed upon by a majority of its members, whereupon the state engineer shall give notice of such meeting to all members.

§ 41. PAY OF WATER COMMISSIONERS.] The water commissioners shall be paid from the state treasury out of the moneys appropriated for such purposes at the rate of ten dollars per day for the time actually engaged in official duties, not exceeding two hundred days in any one year, and shall also be paid actual and necessary traveling expenses while away from their homes on official business.

§ 42. WATER DISTRICTS.] The state engineer shall, from time

to time, as may be necessary for the economical and satisfactory apportionment of the water, divide each water division in conformity with drainage areas, into water districts to be designated by names, and to comprise as far as possible one or more distinct stream systems in each district. The districts may be changed from time to time as may in his opinion be necessary for the economical and satisfactory apportionment of the water.

§ 43. WATER MASTERS.] The water commissioners of each division shall appoint, subject to the approval of the state engineer, a water master for each district in his division, who may be removed by the commissioner, or by a majority of the board of water commissioners. The water master shall have immediate charge of the apportionment of the waters in his district under the general supervision of the water commissioner, and he shall so apportion, regulate and control the waters of the district as will prevent waste.

§ 44. APPEALS TO STATE ENGINEER.] Any person may appeal from the acts or decisions of the water master and water commissioner, to the state engineer, who shall promptly and at a stated time and place, to be fixed by him, upon due notice to the parties, hear and determine the matter in dispute, and his decision shall be final, unless and appeal is taken to the courts within thirty days.

§ 45. PAY TO WATER MASTERS.] The water master shall be allowed pay at the rate of four dollars per day and actual and necessary expenses in the performance of his duties. He may employ assistants in cases of emergency, upon the specific authority of and at rates of pay as authorized by the water commissioner, such employment to continue only during the existence of the emergency. The water masters and assistants employed by him shall be paid by the county, upon accounts approved by the water commissioner. If the district is in more than one county, each county shall pay its proportionate part of each account rendered. The accounts of the water master shall in all cases specify the distribution of the amounts charged, based upon the amount of work performed as to each ditch and water right, showing the charges to be allotted to each owner. The amounts paid by the counties shall be a lien upon the property of the water users and ditch owners, in accordance with the distribution thereof, as shown by the accounts of the water master, and shall be collected in the manner provided by law for the collection of taxes.

§ 46. REPORTS OF WATER MASTERS.] Each water master shall report to the water commissioner, as often as may be deemed necessary by the commissioner, as to the amount of water needed to supply the requirements of his district, the amount available, the works which are without their proper supply, the supply required during the period preceding his next regular report, and such other information as the commissioner may require. These reports shall, at the end of each irrigation season, be filed in the office of the state engineer. The water commissioner shall give directions for correcting any errors of apportionment in his division that may be shown by such reports.

## MISCELLANEOUS PROVISIONS.

§ 47. UNITS OF MEASUREMENT.] The standard of measurement of the flow of water shall be the cubic foot per second of time; the standard of measurement of the volume of water shall be the acre-foot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand five hundred sixty cubic feet. The miner's inch shall be regarded as one fiftieth of a cubic foot per second in all cases, except when some other equivalent of the cubic foot per second has been specially stated by contract, or has been established by actual measurement or use.

§ 48. ABANDONMENT.] When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

§ 49. AMOUNT OF WATER FOR IRRIGATION.] In the issuance of permits to appropriate water for irrigation or in the adjudication of the rights to the use of water for such purpose, the amount allowed shall not be in excess of the rate of one cubic foot of water per second for each 80 acres, or the equivalent thereof, delivered on the land, for a specified time in each year.

§ 50. WATER APPURTENANT TO LAND FOR IRRIGATION PURPOSES.] All water used in this state for irrigation purposes shall remain appurtenant to the land upon which it is used; provided, that if for any reason it should at any time become impracticable to beneficially or economically use water for the irrigation of any land to which the right of use of the same is appurtenant, said right may be severed from said land, and simultaneously transferred, and become appurtenant to other land, without losing priority of right theretofore established, if such change can be made without detriment to existing rights, on the approval of an application of the owner to the state engineer. Before the approval of such application the applicant must give notice thereof by publication once a week for four weeks in a newspaper of general circulation in the stream system in which the tracts of land are located, in the form required by the state engineer. Upon the receipt of the proofs of publication, the state engineer shall render his decision thereon in writing, which shall be final, unless some party interested in the same source of water supply shall within sixty days, bring appropriate action in the circuit court of the county in which the land is located, for a review of such decision. If the owner of the land to which water has become appurtenant abandons the use of such waters upon such land, said waters shall become public waters, subject to general appropriation.

§ 51. CHANGE OF USE OR PLACE OF DIVERSION.] Any appropriator of water may use the same for other than the purpose for which it was appropriated, or may change the place of diversion, storage, or

use, in the manner, and under the conditions, prescribed in section 50 of this act.

§ 52. MEASURING DEVICES.] Every ditch owner shall construct and maintain a substantial headgate at the point where the water is diverted, and shall construct a measuring device, of a design approved by the state engineer, at the most practicable point or points for measuring and apportioning the water as determined by the state engineer. The state engineer may order the construction of such device by the ditch owner, and if not completed within twenty days thereafter, the water commissioner shall, upon instructions from the state engineer, refuse to deliver water to such owner. The taking the water by such ditch owner until the construction of such device and the approval thereof by the state engineer shall be a misdemeanor. Such devices shall be so arranged that they can be locked in place, and when locked by the water master or his authorized agent, for the measurement or apportionment of water, it shall be a misdemeanor to interfere with, disturb or change the same, and the use of water through such device after having been interfered with, disturbed or changed shall be prima facie evidence of the guilt of the person benefited by such interference, disturbance or change.

§ 53. UNLAWFUL INTERFERENCE WITH RIGHTS TO USE OF WATER.] Any person, association or corporation interfering with or injuring or destroying any dam, headgate, weir, bench-mark or other appliance for the diversion, storage, apportionment, or measurement of water, or for any hydrographic surveys, or who shall interfere with any person or persons engaged in the discharge of duties connected therewith, shall be guilty of a misdemeanor, and shall also be liable for the injury or damage resulting from such unlawful act. The water master or any authorized assistant within his district, shall have power to arrest any person offending against the provisions of this section, and deliver him to the nearest peace officer of the county. It shall be the duty of the person making the arrest to make complaint at once before the court having jurisdiction thereof. The state engineer, the water commissioners, the water masters and their authorized assistants and agents, may enter upon private property for the performance of their respective duties, doing no unnecessary injury thereto.

§ 54. UNLAWFUL USE OF WATER, AND WASTE.] The unauthorized use of water to which another person is entitled, or the wilful waste of water to the detriment of another, shall be a misdemeanor. It shall also be a misdemeanor to begin or carry on any construction of works for storing or carrying water until after the issuance of permit to appropriate such waters, except in the case of construction carried on under the authority of the United States.

§ 55. BRIDGES OVER DITCHES OR CANALS.] The owner or owners of any ditch, canal or other structure for storing or carrying water, shall construct and maintain a substantial bridge where the same crosses any highway or publicly traveled road, not less than fourteen

feet wide; or reconstruct the road in a substantial manner and in a convenient location for public travel. Any violation of the provisions of this section shall be a misdemeanor. The county commissioners shall be authorized to construct such bridge or road, if not built by the owner of the work within three days after the obstruction of the road, and may recover the expense thereof and costs in a civil suit, unless the same shall be paid by the owner of the works within ten days after demand therefor. The county commissioners may make reasonable requirements as to the size and character of such bridges along public highways, or for the necessary reconstruction of roads, and upon failure to comply therewith, may do the necessary work and collect the expense thereof and costs as hereinbefore provided. After the construction of such bridge or road as part of a public highway, the same shall be maintained by the county commissioners.

§ 56. OBSTRUCTING WORKS.] Whenever any appropriator of water has the right of way for the storage, diversion or carriage of water, it shall be unlawful to place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto. Any violation of the provisions of this section shall be a misdemeanor.

§ 57. PENALTY FOR MISDEMEANORS UNDER THIS ACT.] All violations of the provisions of this act, declared herein to be misdemeanors, shall be punished by a fine not exceeding two hundred fifty dollars nor less than twenty dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment; and any justice court of the county in which such misdemeanor has been committed shall have jurisdiction thereof.

§ 58. LIENS ON LAND.] All liens on land, provided for in this act shall be superior in right to all mortgages or other incumbrances placed upon the land and the water appurtenant thereto or used in connection therewith, after the passage of this act.

§ 59. SEEPAGE WATER.] In the case of seepage water from any constructed works, any party desiring to use the same shall make application to the state engineer, as in the case of unappropriated water, and such party shall pay to the owner of such works reasonable charge for the storage or carriage of such water in such works; provided, that the appearance of such seepage water can be traced beyond reasonable doubt to the storage or carriage of water in such works. The state engineer shall not issue a permit to appropriate such seepage waters until an agreement for the payment of such charges shall have been entered into by the said parties.

§ 60. RIGHT OF WAY OVER STATE LANDS.] There is hereby granted, over all the lands now or hereafter belonging to the state, a right of way for ditches or canals and for tunnels, tramways and telephone and electrical transmission lines, constructed by authority of the United States. All conveyances of state lands hereafter made shall contain a reservation of such right of way.

§ 61. DISPOSITION OF STATE LANDS.] No lands belonging to the

state, within the areas to be irrigated from works constructed or controlled by the United States, or its duly authorized agencies, shall hereafter be sold except in conformity with the classification of farm units by the United States, and the title to such lands shall not pass from the state, until the applicant therefor shall have fully complied with the provisions of the laws of the United States and the regulations thereunder concerning the acquisition of the right to use water from such works and shall produce the evidence thereof duly issued. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of state lands within the limits of such withdrawal shall be accepted, except upon the conditions prescribed in this section. Any state lands needed by the United States for irrigation works shall be sold to the United States at the lowest price authorized by law.

§ 62. APPROPRIATIONS.] There is hereby appropriated out of any moneys in the general fund of the state treasury not otherwise appropriated the sum of six thousand dollars annually, or so much thereof as may be necessary, for the payment of the salaries and expenses of the state engineer and assistant state engineers, and the services of assistants and expenses of the office and department of the state engineer, as provided by this act. All claims for services rendered and expenses incurred and materials and supplies furnished under the provisions of this act shall be audited by the state auditor for payment by the state treasurer in accordance with the provisions of the general statutes relating to the auditing of claims against the state.

§ 63. DUTY OF STATE ENGINEER OR ASSISTANT TO CO-OPERATE WITH COUNTY COMMISSIONERS WHEN REQUESTED.] Whenever requested so to do by any of the boards of commissioners of any of the counties of this state, it is hereby made the duty of the state engineer, either by himself, or by any authorized assistant engineer, to co-operate with said county commissioners in the engineering work required to lay out, establish and construct any drain to be used by any county or counties or portions of the same for the purpose of diverting flood waters, lakes, water courses, and in general to aid and assist the counties of this state in making preliminary surveys and establishing systems of drainage.

§ 64. REPEAL.] All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

§ 65. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 1, 1905.

## CHAPTER 35.

[S. B. No. 135—Kraabel.]

## MAYVILLE NORMAL SCHOOL.

AN ACT to Provide an Appropriation for the Repairing of and the Building of an Addition to the Present Building and Heating Plant and for the Erection and Equipment of a Dormitory for the State Normal School at Mayville.

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

§ 1. APPROPRIATION.] There is hereby appropriated for the state normal school at Mayville, out of any money in the state treasury, not otherwise appropriated, for the purpose of paying for the repairing of and the building of an addition to the present building and heating plant the sum of twenty-five thousand dollars, and for the erection and equipment of a dormitory building the sum of twenty thousand dollars, or so much thereof as may be necessary.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that at present there are not adequate buildings for said school; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 15, 1905.

## CHAPTER 36.

[H. B. No. 89—Purden.]

## NATIONAL GUARD.

AN ACT to Authorize the Issuance of Faithful Service Medals to Officers and Enlisted Men in the National Guard of the State of North Dakota.

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

§ 1. COMMANDER-IN-CHIEF MAY PROVIDE MEDALS.] The commander in chief of the national guard of the state of North Dakota may issue an order providing suitable mark of distinction for all officers and enlisted men who have served in the national guard for an aggregate period of ten, fifteen, and twenty years, respectively, and for a like service hereafter.

§ 2. APPROPRIATION.] There is hereby appropriated out of the funds in the state treasury, not otherwise appropriated, the sum of \$100 for the purpose of carrying out the provisions of this act, the same to be paid out on the order of the commander in chief, who shall file vouchers with the state auditor.

Approved February 23, 1905.

## CHAPTER 37.

[S. B. No. 16—Little.]

## PENITENTIARY.

AN ACT Making Appropriations for the Current and Contingent Expenses of the State Penitentiary, and for Making Permanent Improvements Thereto.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the moneys in the state treasury, not otherwise appropriated, for the purpose of paying the current and the contingent expenses of the state penitentiary at Bismarck, as follows, viz:

For warden's salary.....	\$ 4,000
For deputy warden's salary.....	2,400
For salary assistant gatekeeper and clerk.....	1,500
For salary matron and housekeeper.....	1,000
For salary chaplains .....	500
For salaries guards and employes.....	22,000
For maintenance .....	24,000
For heating and lighting.....	7,000
For repairs and improvements.....	2,000
For incidentals .....	1,000
For physician and medicines.....	2,400
For transportation, temporary aid and clothing for discharged inmates.....	4,000
For clothing of inmates.....	4,000
For bedding .....	700
For books and stationery.....	500
For water supply .....	5,000
Total .....	\$82,000

And for making permanent improvements thereto, as follows, viz:

For building and equipping a hospital.....	\$12,000
For building a department for female inmates.....	8,000
Total .....	\$20,000

§ 2. EMERGENCY:] Whereas, an emergency exists in that a portion of the money hereby appropriated is urgently needed for immediate use, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1905.

## CHAPTER 38.

[S. B. No. 9—LaMoure.]

## PROTECTION TO PROF. LADD.

AN ACT Making an Appropriation of \$1,500 for the Payment of the Expenses of Prof. E. F. Ladd, State Pure Food Commissioner, in Defending a Suit Brought Against Him by an Association of Food Manufacturers.

Whereas, A suit for one hundred thousand dollars damages has been brought against Prof. E. F. Ladd, state pure food commissioner of North Dakota, by an association of food manufacturers, in which suit it is alleged that this association has been libeled by Prof. Ladd in articles written and published to the public, containing statements based upon expert analysis as to the quality of certain food products put forth by this association; and

Whereas, Prof. Ladd has been a diligent and faithful servant of this state, has endeavored by all proper means to improve the character of food products sold in this state, has not hesitated to denounce the adulteration of foods wherever he found such adulteration to exist, and has by his good work raised the standard of food products sold in North Dakota, whereby benefit and advantage has come to the merchants and consumers of this state; and,

Whereas, This legislative assembly believes that the state of North Dakota should not fail to stand firmly behind its pure food commissioner in all legitimate efforts to improve the quality of foods sold in this state; now, therefore,

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of fifteen hundred dollars, or so much thereof as may be necessary, for the purpose of assisting Prof. E. F. Ladd to make his defense in an action for libel brought against him by the association of manufacturers and distributors of food products, which said action is now pending in the federal courts of the jurisdiction of North Dakota; the bills for the defense of Prof. Ladd as provided for in this action, to be audited and paid by the state as other accounts against the state are audited and paid.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the action against Prof. Ladd may be brought to trial and the necessary expenses of his defense be incurred prior to the first day of July of this year, therefore an emergency exists, and this act shall take effect from and after its passage and approval.

Approved February 21, 1905.

## CHAPTER 39.

[S. B. No. 31—Hanna.]

## PURE FOOD LAWS.

AN ACT Appropriating Money for the Enforcement of the Pure Food Laws and for Investigating the Strength and Purity of Drugs and of Formaldehyde.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of six thousand dollars to the North Dakota government agricultural experiment station at Fargo, the same to be used for the further and better enforcement of the pure food law as the said station may be charged with the enforcement of by acts of the legislative assembly, and for determining the strength and purity of drugs and of formaldehyde sold or offered for sale in the state. The sum herein named shall be paid in equal quarterly installments to the treasurer of the board of trustees of said station upon the order of the state auditor who is hereby directed to draw his order for the same.

§ 2. REPEAL.] All acts and parts of acts, and especially section 2 of chapter 6, of the session laws of 1903, are hereby expressly repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the amount hereby appropriated is needed for immediate use, therefore this act shall take effect and be in force from and after its passage [and approval].

Approved March 14, 1905.

## CHAPTER 40.

[S. B. No. 106—Voss.]

## REFORM SCHOOL.

AN ACT to Make an Appropriation for the Current and Contingent Expenses of the State Reform School at Mandan, and Authorizing the Trustees of Said Reform School to Purchase Six Hundred Acres of Land Contiguous to the Present Site of Said Reform School.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the moneys of the state treasury, not otherwise appropriated, for the

purpose of paying the current and contingent expenses of the state reform school at Mandan:

For maintenance and salaries of officers and employes....	\$ 5,040
For fuel and lights.....	2,200
For clothing and bedding.....	2,000
For physicians and medicines.....	500
For repairs .....	600
For library .....	200
For finishing third story of main building.....	1,500
For water supply .....	3,500
	\$15,540
Total .....	\$15,540

§ 2. TRUSTEES AUTHORIZED TO PURCHASE LAND.] The trustees of the said state reform school located at Mandan are hereby authorized and empowered to purchase not more than six hundred acres of land adjoining said reform school at a price not to exceed fifteen dollars per acre, and there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of nine thousand dollars for the purchase of said lands, or so much thereof as may be necessary; provided, that before any of the money hereby appropriated for the purchase of said lands is available, the governor of this state shall give his assent thereto.

§ 3. EMERGENCY.] Whereas, in the opinion of the legislative assembly, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

VETO.

This bill is approved except for the following items of appropriation: Three thousand five hundred dollars for water supply, as proposed in section 1 of this bill; nine thousand dollars for the purchase of additional land as proposed in section 2. These items are vetoed for the following reasons: The appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state and these vetoed items can be dispensed with without interfering with the proper management and maintenance of this institution for the ensuing two years.

E. Y. SARLES,  
Governor.

Filed March 15, 1905.

## CHAPTER 41.

[H. B. No. 288—Rose.]

## REVISED CODES 1905.

A JOINT RESOLUTION to Provide for the Compilation and Publication of the Revised Codes of North Dakota, of 1905, Providing for the Payment and Directing the Manner of Sale of the Same.

Whereas, The edition of the revised codes of North Dakota of 1899 is entirely exhausted, and there is a general demand and necessity for a compilation that shall embrace all laws and conform to all amendments made by the legislative assembly since 1899, up to and including the ninth legislative assembly; and,

Whereas, The secretary of state is already empowered by law, in the publication of codes and statutes, to have general supervision over the compilation, renumbering and readjusting of sections, chapters, articles and subdivisions, and general arrangement thereof; and,

Whereas, It is advisable to secure at least expense to the state the compilation of the laws up to date; now, therefore,

*Resolved by the House of Representatives, the Senate Concurring:*

As soon as practicable after the adjournment of the ninth legislative assembly the secretary of state, with the approval of the governor, is authorized, on the general plan of the revised codes of 1899, to eliminate such sections, articles and chapters therein as shall have been repealed by the legislative assemblies of 1901, 1903 and 1905, substitute and incorporate all amendments, without change or modification, renumber the sections, articles and chapters where necessary to perfect and harmonize the statutes, and revise and rearrange the table of contents, and in a general way supervise the compilation and have charge of the publication of a revised edition of the codes to be known as the revised codes of 1905. The said revised codes shall contain, by appropriate references, annotations to each section, so far as decided by the supreme courts of the territory of Dakota, and the state of South Dakota and the state of North Dakota. In order that the said edition of the revised codes may be issued as speedily as possible, and with the least expense to the state, the secretary of state is hereby empowered to employ, with the approval of the governor, one or more competent compilers and digestors, who shall be learned in the law and familiar with the work to be performed, and he may also employ one or more stenographers and typewriters, as may in his judgment, with the approval of the governor, be deemed necessary to facilitate the work and prepare the copy for said publication, the same to be completed and the codes ready for delivery as early as possible. When the revision herein provided for shall be completed and the

books delivered to the secretary of state, the governor shall issue a proclamation, setting forth the fact, and thirty days thereafter said revised codes shall be in full force and effect and be received as evidence of the laws of this state in all courts thereof. The entire cost to the state for the compilation, annotations and printing herein authorized shall not exceed the sum of four dollars and seventy-five cents per volume for two thousand copies, and after allotting a sufficient number of said revised codes of 1905 to supply all state and other officers entitled thereto, and the public libraries and other institutions authorized by law to receive the same, the secretary of state shall keep for sale the remainder for the benefit of the state, at six dollars per volume. All vouchers for the payment of services and furnishing the supplies called for by this act shall be audited by the governor and commissioners of public printing, a sufficient amount being hereby appropriated out of the general fund of the state not otherwise appropriated to pay the same.

Approved March 15, 1905.

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## CHAPTER 42.

[S. B. No. 155—Simpson.]

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### J. G. SAUNDERS.

AN ACT Appropriating to James G. Saunders, Clerk of the District Court of Stark County, North Dakota, \$200 Clerk's Fees for Services Rendered in the Unorganized Territory Attached to Stark County for Judicial Purposes During the Years 1903 and 1904.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of two hundred dollars to James G. Saunders, clerk of the district court of Stark county, North Dakota, as fees for services performed in the prosecution of criminal cases arising in the unorganized territory attached to Stark county for judicial purposes during the years 1903 and 1904.

Approved March 15, 1905.

## CHAPTER 43.

[S. B. No. 34—Stade.]

## SCHOOL FOR THE DEAF AND DUMB.

AN ACT to Provide for New Buildings and for Making Needed Permanent Improvements for the School of Deaf and Dumb, Located at Devils Lake, North Dakota, and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of forty-two thousand, two hundred and fifty-seven dollars for improvements and repairs of the school for the deaf and dumb of North Dakota at Devils Lake.

For completion of present building.....	\$22,266
For purchase of additional land.....	660
For heating plant, including boilers, pumps, machinery, brick corridor and vacuum system.....	10,000
For sewerage .....	5,000
For building barn.....	2,000
For constructing spur track.....	331
Total amount .....	<u>\$40,257</u>

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which this appropriation is made shall not begin before July first, and the funds hereby appropriated for the making of improvements, and the building of new buildings will be needed before that time; therefore, this act shall take effect immediately after its passage and approval.

## VETO.

The following items in this bill are vetoed: For completion of present building, \$22,266; for heating plant, including boilers, pumps, machinery, brick corridor and vacuum system, \$10,000; for building barn, \$2,000. The following items are approved: For purchase of additional land, \$660; for sewerage, \$5,000; for constructing spur track, \$331. The items vetoed are disapproved for the following reasons: The appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state. Liberal appropriations are made for this institution by existing laws, and a deficiency building appropriation has been made by enactment of this legislative assembly. Under existing conditions, the approval of large additional items for building can be justified only on the ground of urgent neces-

sity. I cannot see that such a necessity exists in this case. Until the finances of the state will enable it to make a direct appropriation for the carrying out of contemplated improvements, this institution must avail itself to the utmost of present resources and accommodations, which I believe can be done without distress or hardship for the ensuing two years.

E. Y. SARLES,  
Governor.

Filed March 17, 1905.

CHAPTER 44.

[S. B. No. 168—Movius.]

SCHOOL OF SCIENCE.

AN ACT Making an Appropriation for Purchasing or Erecting a Building, Furnishing and Equipping the Same, for the Use of North Dakota Academy of Science Located at Wahpeton, North Dakota, and to Provide Funds for the Maintenance of Said School.

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

§ I. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, not otherwise appropriated, for the purpose of erecting or purchasing a suitable building and furnishing and equipping the same, for the use of the North Dakota academy of science located at Wahpeton, North Dakota, and for the purpose of maintaining the said school for the period beginning January 1, 1905, and ending December 31, 1906, as follows:

For the purchase or erection of a building.....	\$30,000
For furnishing and equipping said building.....	6,000
For maintenance .....	7,000
Total .....	\$43,000

VETO.

The following items in this bill are vetoed: For the purchase or erection of a building, \$30,000; for furnishing and equipping said building, \$6,000. The item of \$7,000 for maintenance is approved. The vetoed items are disapproved because the appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state. Under these circumstances a large appropriation for the erection of a building cannot be approved, except upon the ground of urgent necessity. I cannot see that such a necessity exists. This institution, in its present stage of advancement, will not suffer if its work is done in temporary quarters until such time as the finances of the state will permit the erection or purchase of a building.

The income of the institution from its land endowment, with the item of \$7,000 for maintenance, will enable it to carry on its work in a creditable manner and to build up such an institution as the state shall provide with a fit building at such time as its finances will permit.

E. Y. SARLES,  
Governor.

Filed March 16, 1905.

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CHAPTER 45.

[H. B. No. 1—Buttz.]

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SOLDIERS' HOME.

AN ACT Making Appropriation for the Current and Contingent Expenses of the Soldiers' Home, Located at Lisbon, North Dakota, and for Making Permanent Improvements and Additions Thereto and Erecting a Monument.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of moneys in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the soldiers' home, located at Lisbon, North Dakota, and for the purpose of making permanent improvements and additions thereto, for the two years from July 1, A. D. 1905, to June 30, 1907, inclusive, as follows:

For current expense fund.....	\$ 3,000
Household expense fund.....	3,200
Hospital expense fund.....	3,000
Subsistence expense fund.....	7,000
Clothing expense fund.....	1,000
Transportation and burial expenses.....	500
Construction .....	500
Farm .....	1,500
Repairs .....	1,500

For the erection of a central monument in Oakwood cemetery and appropriate markings to commemorate the names and mark the graves of deceased Union soldiers, who have or may die in the soldiers' home and have been or may be buried in such cemetery at Lisbon, N. D., and for the purpose of purchasing and keeping an appropriate record of the names, company and regiment of soldiers dying in the soldiers' home at Lisbon, N. D., said money to be expended for the purpose above set forth under the direction of the board of trustees of said soldiers' home, and to be in addition to the amount of one thousand dollars heretofore appropriated and now in the treasury and available for this purpose. That of the amount herein appropriated the sum of nine thousand

nine hundred dollars shall be taken from this appropriation and charged to the fund now in the treasury and known as the "interest and income fund" realized from the lands belonging to the said soldiers' home; provided, that said nine thousand nine hundred dollars to be taken from said "interest and income fund" be expended for the support and maintenance of said home..... 1,000

Total ..... \$22,200

VETO.

This bill is approved except as to the item of \$7,000 for subsistence which is vetoed for the reason that the appropriations of the ninth legislative assembly largely exceed the revenues of the state and makes necessary the disapproval of all items of expense not absolutely necessary. I believe this item of expense can be supplied from other sources of revenue without interfering in any way with the proper maintenance of this institution.

E. Y. SARLES,  
Governor.

Filed March 17, 1905.

CHAPTER 46.

[S. B. No. 82—Bacon.]

STATE FAIRS.

AN ACT Establishing State Fairs, Locating Them at Grand Forks and Fargo, and Making an Appropriation Therefor.

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

§ 1. LOCATION PERMANENTLY AT GRAND FORKS AND FARGO.] For the purpose of promoting and improving the condition of agriculture, horticulture, mechanical, manufacturing and household arts, a state fair or exposition shall be held biennially at or near the city of Grand Forks, in the state of North Dakota, during each odd numbered year, and biennially at or near the city of Fargo, in the state of North Dakota, during each even numbered year, subject to the conditions hereinafter named, and the location of the state fairs as herein provided is hereby declared to be permanent.

§ 2. CONDITIONS TO BE COMPLIED WITH BY GRAND FORKS.] If an organization, to be known and designated as the North Dakota state fair association for Grand Forks, or by some similar name, shall be, during the year 1905, created and organized under and pursuant to the general laws of this state, in relation to corporations, with a paid-up capital stock of not less than twenty thousand dollars, such association shall become entitled to receive the appropriations hereinafter named, upon the conditions set forth in this act. The said association

may acquire the title to not less than seventy nor more than one hundred and sixty acres of ground at or near the city of Grand Forks, in said state, and such association may, and it is hereby empowered and authorized to convey the title to the land so acquired by it, unto the state of North Dakota, which property, when so conveyed, shall be held by the state of North Dakota forever for the following purposes and none other: For the purpose of exhibiting thereon under the management of such association, or its successors, biennially, during each odd numbered year the agricultural, stock breeding, horticultural, mining, mechanical, industrial and other products and resources of the state of North Dakota, including proper exhibits of the arts, sciences and all other public displays pertinent to and dependent upon exhibitions and expositions of human art, industry and skill. The said association may use so much of its paid-up capital stock as may be necessary for the acquisition of title to the land so to be purchased by it for use as fair grounds, and the balance thereof shall be and constitute a fund toward the construction of buildings and other permanent improvements thereon.

§ 3. CONDITIONS TO BE COMPLIED WITH BY FARGO.] If an organization, to be known and designated as the North Dakota state fair association for Fargo, or by some similar name, shall be, during the year 1905, created and organized under and pursuant to the general laws of this state, in relation to corporations, with a paid-up capital stock of not less than twenty thousand dollars, such association shall become entitled to receive the appropriations hereinafter named upon the conditions set forth in this act. The said association may acquire the title to not less than seventy nor more than one hundred and sixty acres of ground at or near the city of Fargo, in said state, and such association may, and it is hereby empowered and authorized to convey the title to the land so acquired by it, unto the state of North Dakota, which property, when so conveyed, shall be held by the state of North Dakota forever, for the following purposes and none other: For the purpose of exhibiting thereon under the management of such association, or its successors, biennially, during each even numbered year, the agricultural, stock breeding, horticultural, mining, mechanical, industrial, and other products and resources of the state of North Dakota, including proper exhibits of the arts, sciences and all other public displays pertinent to and dependent upon exhibitions and expositions of human art, industry and skill. The said association may use so much of its paid-up capital stock as may be necessary for the acquisition of title to the land so to be purchased by it for use as fair grounds, and the balance thereof shall be and constitute a fund toward the construction of buildings and other permanent improvements thereon.

§ 4. CUSTODY AND CONTROL OF GRAND FORKS GROUNDS VESTED IN NORTH DAKOTA STATE FAIR ASSOCIATION FOR GRAND FORKS. OFFICES TO BE MAINTAINED.] The custody and control of the premises upon which said fair at Grand Forks is located shall be vested in said North

Dakota state fair association for Grand Forks, and the general offices thereof shall be located and maintained either upon the premises so acquired or at some suitable place in the city of Grand Forks, and said association is hereby authorized, required and empowered to maintain its said offices as aforesaid, wherein shall be contained the property and records of such association and the entire care, custody, management and control of said premises, and the structures thereon, shall be vested in said association.

§ 5. CUSTODY AND CONTROL OF FARGO GROUNDS VESTED IN NORTH DAKOTA STATE FAIR ASSOCIATION FOR FARGO. OFFICES TO BE MAINTAINED.] The custody and control of the premises upon which said fair at Fargo is located shall be vested in said North Dakota state fair association for Fargo, and the general offices thereof shall be located and maintained either upon the premises so acquired or at some suitable place in the city of Fargo, and said association is hereby authorized, required and empowered to maintain its said offices as aforesaid, wherein shall be contained the property and records of said association, and the entire care, custody, management and control of said premises, and the structures thereon, shall be vested in said association.

§ 6. GOVERNOR AND ATTORNEY GENERAL TO ACCEPT TITLE TO LAND FROM BOTH ASSOCIATIONS. ON FAILURE TO MAKE APPROPRIATIONS LAND REVERTS TO SOCIETIES. NUMBER OF DIRECTORS. WHO SHALL CONSTITUTE.] When the state of North Dakota accepts the title to the land so acquired by either of said associations, which acceptance shall be made by the governor and attorney general, thereupon, and not before such time, shall the deed of conveyance of said property to the state be accepted and recorded. Should the state of North Dakota cease to appropriate the sum of at least five thousand dollars annually to be awarded as premiums in connection with said fairs then the title of said premises shall revert to and become the property of the association that transferred the same to the state; provided, further, that the state shall never become liable for any of the debts and liabilities of said associations, save as appropriations shall be made therefor from time to time by the legislature. This act shall not become binding upon the state as to either fair association until the stockholders of such association shall adopt and file with the secretary of state an irrevocable by-law, consenting and providing that its board of directors shall consist of fifteen persons; that the governor, commissioner of agriculture and labor and the state auditor shall, ex-officio, constitute three of such directors; that five of the directors of such association shall be residents of the judicial district in which said fair is to be held, and that one director shall be selected from each other judicial district of this state, and shall be a resident of the same.

§ 7. DIRECTORS SHALL APPOINT EXECUTIVE COMMITTEE. DUTIES OF.] The board of directors of each association shall appoint an executive committee which shall keep an accurate account of the expenditures of all moneys appropriated to it by the state and of all other

receipts and expenditures, and shall collect, arrange and collate all the information in their power in relation to the nature and preparation of soils, the cultivation and growth of crops, the breeding and management of stock, the application and character of manure and fertilizers, the introduction of new cereals and other grains and other agricultural subjects, and report the same together with a statement of their doings, and such account of their expenditures, to the governor on or prior to the first day of January each year following the holding of a state fair, such report to be audited by the governor, commissioner of agriculture and labor and the auditor, and by the governor laid before the legislative assembly. All moneys hereby appropriated shall be paid over to the treasurer of the association entitled to the same on the order of the president attested by the secretary.

§ 8. APPROPRIATION FOR ENCLOSING GROUNDS AND ERECTION OF BUILDINGS. PROVISIONS.] For the purpose of enabling said associations to suitably enclose their grounds and to aid them in the erection thereon of proper buildings, structures and other improvements suitable for the purposes of giving expositions or fairs the sum of ten thousand dollars is hereby appropriated out of the moneys in the state treasury, not otherwise appropriated, one-half of which amount shall go to each association; provided, nevertheless, that no part of said appropriation shall be payable until after a deed of conveyance of the premises upon which the fair is to be held, has been made and accepted by the state as hereinbefore provided; and provided, further, that this appropriation shall lapse and shall only be available to the association whose conveyance is made and accepted by the state on or prior to June 1, 1906.

§ 9. GENERAL APPROPRIATION.] There is hereby appropriated out of any funds in the treasury of the state of North Dakota not otherwise appropriated, the sum of ten thousand dollars, annually, to be expended by the directors of said association as follows: Not more than five thousand dollars thereof in any one year for the erection of buildings and making of other permanent improvements upon the fair grounds; not less than five thousand dollars in any one year as premiums to the exhibitors at said fair; such appropriation to be paid to the North Dakota state fair association for Grand Forks in odd numbered years and to the North Dakota state fair association for Fargo in even numbered years.

§ 10. CONDITIONS UPON WHICH ACT IS BINDING ON STATE.] This act shall not become binding or effective upon the state as to either of such associations until the stockholders of such association shall adopt a by-law expressly accepting and agreeing to all of the conditions hereof, and file a certified copy of said by-law with the secretary of state.

§ 11. IN EVENT OF FAILURE OF EITHER ASSOCIATION TO COMPLY, OTHER MAY AVAIL ITSELF OF BENEFITS OF THIS ACT AND HOLD ANNUAL FAIRS.] In the event of the failure of such associations to comply with the provisions of this act then the other association shall be

entitled to hold a state fair upon its grounds during each year and receive the appropriation herein made for the association failing thus to comply with this act, and such failure on the part of either association shall operate to permanently establish the state fair upon the grounds of the other association.

§ 12. Provided, that nothing in this act contained shall be construed to prohibit the fair association leasing said grounds and buildings for the purpose of holding stock and agricultural exhibits when they deem it advisable.

§ 13. REPEAL.] All acts and parts of acts in conflict with this are hereby expressly repealed.

§ 14. EMERGENCY.] Whereas, an emergency exists in this, that there is no adequate law providing for the holding of a state fair in the state of North Dakota, and it is desirable that the needed steps be taken to the end that a state fair may be held during the year 1905; therefore this act shall take effect and be in force from and after its approval.

Approved March 14, 1905.

CHAPTER 47.

[S. B. No. 169—Young.]

VALLEY CITY NORMAL.

AN ACT to Provide for the Maintenance of Summer School and for New Buildings and for Making Needed and Permanent Improvements for the State Normal School at Valley City, North Dakota, and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of two thousand five hundred dollars annually for the purpose of conducting a summer school at the state normal school at Valley City, North Dakota.

§ 2. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of forty-six thousand one hundred and ninety-five dollars for buildings, improvements, and repairs of the state normal school at Valley City, North Dakota, as follows:

For construction of sewer and making necessary connections .....	\$ 945.00
For installation of closets and plumbing.....	1,000.00
For artesian well.....	1,250.00
For new floors in main building.....	1,000.00
Other repairs to main building and present dormitory and painting.....	2,500.00
For the purchase of real estate.....	2,000.00
For furniture for new model school and dormitory.....	2,500.00
For building a model school.....	35,000.00
<b>Total .....</b>	<b>\$46,195.00</b>

§ 3. EMERGENCY.] An emergency exists in this, that the improvements and buildings provided for will be needed long before July 1, 1905, therefore this act shall take effect from and after its passage and approval.

VETO.

This bill is approved except for the following items of the appropriation: Two thousand five hundred dollars annually for the purpose of conducting a summer school, as proposed in section 1; one thousand dollars for new floors in main building, and two thousand five hundred dollars for other repairs to main building and present dormitory and painting. These items are vetoed for the following reasons: The appropriations of the ninth legislative assembly are largely in excess of the probable revenues of the state, and these items can be dispensed with without interference with the proper management and maintenance of this institution for the ensuing two years.

E. Y. SARLES,  
Governor.

Filed March 15, 1905.

CHAPTER 48.

[S. B. No. 113—Thatcher.]

WHITE STONE HILLS BATTLEFIELD.

AN ACT to Provide for the Care and Improvement of the "White Stone Hills Battlefield," and Making an Appropriation to Pay for the Same.

Whereas, There has been granted to the state of North Dakota by act of congress, six hundred forty acres of land, described as follows, to-wit: The southeast quarter of section seven, the southwest quarter of section eight, the northeast quarter of section eighteen, and the northwest quarter of section seventeen, all in township one hundred and thirty-one, north of range sixty-five west, in Dickey county, North Dakota, embracing the White Stone Hills Battlefield and the burial ground of soldiers killed in that engagement; and,

Whereas, There was fought upon said lands on the third day of September, 1863, a noted battle between soldiers of the United States army and the Sioux Indians; and,

Whereas, The remains of a large number of said soldiers of the regular army, who were killed in said engagement, were buried on said ground; and,

Whereas, It is desired by the citizens of North Dakota to preserve the said burial grounds and to suitably mark the graves and to prevent the land from passing into private ownership; and,

Whereas, Different military organizations, as well as the legislatures of the states to which the soldiers who fell in said battle were

accredited, have expressed a desire to assist in the erection of monuments and the marking of the graves of their dead as soon as the grounds are properly enclosed and protected from trespass ; therefore,

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

§ 1. GRANT OF GOVERNMENT LAND ACCEPTED.] That the grant of said land, to-wit: The southeast quarter of section seven, the southwest quarter of section eight, the northeast quarter of section eighteen and the northwest quarter of section seventeen, all in township one hundred and thirty-one north, of range sixty-five west, in Dickey county, made by the United States to the state of North Dakota, is with all the emoluments and obligations, connected therewith, hereby in all things accepted.

§ 2. WHITE STONE HILLS BATTLEFIELD COMMISSION CREATED. GOVERNOR TO APPOINT. TERM OF OFFICE.] That the governor be, and he is hereby authorized, directed and empowered of forthwith appoint a commission of three citizens of the state of North Dakota, to be known as the "White Stone Hills Battlefield Commission" and the members of which commission shall hold office for the term of two years from and after the date of their appointment.

§ 3. WHERE BOARD TO ORGANIZE. DUTIES. AUTHORIZED TO ACCEPT CONTRIBUTIONS. ALL PROPERTY TO BE THE PROPERTY OF THE STATE.] It shall be the duty of such commission to meet for organization at the city of Oakes in the county of Dickey, in the state of North Dakota, within thirty days after appointment, and to organize by the election of one of their number as chairman and another as secretary ; that said commission shall then take all the necessary steps to properly enclose said battlefield and to improve the same in so far as may be done consistently with the provisions of this act, and to make and enforce regulations relating to the further improvement, erection of monuments, markers, roads, drives, walks and other means of making the same attractive, and preserving the natural attractions thereof, and regulating the entry of persons thereon and traffic over the same ; that in so doing, the said commission shall be and the same is hereby authorized and empowered to receive for and in the name of the state contributions or gifts of money, work, material, monuments, markers, and other things which may come into its hands in the performance of the things herein contemplated by it to be done. All property of every kind coming into the hands of said commission and all monuments, markers and other improvements made upon and about said premises, shall be forever the property of the state of North Dakota.

§ 4. COMMISSION NOT ENTITLED TO SALARY OR COMPENSATION.] That the members of said commission shall not be entitled to any salary or compensation for services rendered or time expended by them or either of them.

§ 5. TREASURER OF STATE MADE TREASURER OF COMMISSION.] The treasurer of the state of North Dakota is hereby made the treasurer of said commission and all moneys coming into the hands of said

commission, or of the members thereof, shall be by them immediately paid over to the state treasurer for account of the same.

§ 6. VOUCHERS OF COMMISSION FOR DISBURSEMENTS TO BE APPROVED BY CHAIRMAN AND SECRETARY AND FILED WITH STATE AUDITOR.] That the disbursements of said commission shall be at all times evidenced by vouchers approved by the chairman and secretary of said commission and filed with the state auditor.

§ 7. APPROPRIATION.] That for the purpose of carrying out the provisions of this act there is hereby appropriated the sum of one hundred dollars, or so much thereof as may be necessary, out of any moneys in the state treasury not otherwise appropriated.

§ 8. COMMISSION TO KEEP RECORD AND FILE ANNUAL REPORT WITH THE GOVERNOR.] The said commission shall keep a complete record of all its proceedings and shall, on or before the first day of January of each odd numbered year transmit to and file with the governor a report of the same.

Approved March 13, 1905.

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## AUTOMOBILES.

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### CHAPTER 49.

[H. B. No. 9—House Committee on State Affairs.]

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### AUTOMOBILES.

AN ACT Regulating the Operation of Automobiles on the Public Roads, Highways and Streets Within the State of North Dakota, and Providing Penalties for the Violation Thereof.

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

§ SPEED REGULATED.] No person, driver or operator in charge of any automobile or motor cycle on any public road, highway or street within the state shall drive, operate or move or permit to be driven, operated or moved any automobile or motor cycle at a speed faster than eight miles per hour within any town, village or city within this state, or at a rate faster than twenty-five miles per hour on any public road or highway outside of any town, village or city.

§ 2. MUST HAVE BELL OR HORN.] Every automobile or motor cycle shall be provided with a bell or horn which when operated outside of a city or village, shall be rung or blown by the driver or operator when approaching from behind a vehicle propelled by animals so as to give timely notice of the approach of said motor vehicle.

§ 3. MUST USE MUFFLER, WHEN. MUST HAVE LIGHTS.] Every automobile or motor cycle using gasoline, steam, or any other sub-