

CHAPTER 272  
(S. B. No. 66—Whitman.)

TRANSFER LICENSE UNIVERSITY RADIO STATION KFJM

An Act authorizing the Board of Administration with the approval and consent of the Governor to transfer the license of radio station located at the State University of North Dakota at Grand Forks, North Dakota.

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

§ 1. TRANSFER OF LICENSE.] The Board of Administration with the approval and consent of the Governor is hereby authorized to transfer the license of radio station KFJM located at the University of North Dakota at Grand Forks, North Dakota, to private parties on condition that they continue to operate such radio station at the University with the power station located on the University campus and that perpetual rights be retained for the use of the station for observation for the students taking courses in radio communication at the University of North Dakota; provided that no discrimination shall be shown as between individuals, corporations, copartnerships, or associations, societies or political parties by the parties owning or operating this station following this transfer of license. Any violation of this provision shall be sufficient grounds for cancellation of the transfer of this license.

Approved March 10, 1931.

STATE SECURITIES COMMISSION

CHAPTER 273  
(H. B. No. 140—Committee on State Affairs.)

RE-ESTABLISHMENT SECURITIES COMMISSION RECORDS

An Act to require licensed investment companies and dealers, to furnish to the Securities Commission certain exhibits, records and data for the purpose of re-establishing the records and files of the Commission; and providing for re-issuance of such licenses.

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

§ 1. Any person, co-partnership, association or corporation, licensed as an investment company or dealer by the State Securities Commission prior to December 28, 1930, is hereby required to forward to the Securities Commission copies of all applications and all exhibits heretofore filed with the Commission pursuant to Section 5235a3, and acts amendatory thereto, of the Supplement to the Compiled Laws of North Dakota for 1913, if an investment company; or pursuant to Section 5235a12, and acts amendatory thereto, of the Supplement to the Compiled Laws of North Dakota for 1913, if a dealer; together with any other documents that, subsequent to

such licensing, may have been required to be filed, and upon which applications and exhibits such investment company or dealer licenses have been issued; also the original license and copy of excerpt from Commission record showing all conditions imposed upon the granting thereof.

The documents heretofore prescribed to be filed with the Securities Commission shall be accompanied by the affidavit of the applicant, if a person, member of the firm, if a co-partnership, or an officer, if an association or corporation, which affidavit shall state that said documents are true copies of the original instruments.

§ 2. Upon compliance by the applicant with the provisions of the foregoing section, the Securities Commission shall issue to the applicant, without charge, a Lieu Certificate, which shall be issued upon the same conditions and confer the same rights as the original license. Provided: The Securities Commission may issue a Lieu Certificate whenever in its discretion the applicant has made substantial compliance with the provisions of Section 1 of this act.

§ 3. All licenses issued to investment companies or dealers by the Securities Commission, prior to December 28, 1930, shall on July 1, 1931, be deemed cancelled and shall thereupon be null and void.

§ 4. EMERGENCY.] Whereas, the records and files of the North Dakota Securities Commission were destroyed by fire on December 28, 1930, and whereas, it is necessary for the protection of the investing public that such records be re-established and that the Securities Commission be enabled to exercise supervision over the sale of securities authorized prior to said date, this act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 7, 1931.

#### CHAPTER 274

(H. B. No. 141—Committee on State Affairs.)

#### REQUIREMENTS AND EXEMPTIONS SECURITIES COMMISSION

An Act amending and re-enacting Section 5235a3 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, and as further amended by Chapter 219, Session Laws 1929; and Sections 5235a5 and 5235a6 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 255, Session Laws of 1927; and Section 5235a9 of the Supplement to the Compiled Laws of 1913; and Sections 5235a12 and 5235a14 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 255, Session Laws of 1927; and Sections 5235a20 and 5235a22 of the Supplement to the Compiled Laws of 1913.

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

§ 1. AMENDMENT.] Section 5235a3 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session

Laws of 1927 and as further amended by Chapter 219, Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 5235a3. It shall hereafter be unlawful for any person, co-partnership, association or corporation, hereinafter called the Investment Company, either as principal or through agents, to sell, or offer for sale, or by means of any advertisement, circulars, or prospectus, or by any other form of public offering, to attempt to promote the sale of, any securities, or induce any person, firm, association, or corporation, in this state, to become financially interested in any securities, unless there shall first have been filed with the Securities Commission: (1) A copy of the securities to be so promoted, together with any subscription or order blanks to be used in connection with the sale thereof; (2) A statement, in substantial detail, of the assets and liabilities of the person or company making and issuing such securities and of any person or company guaranteeing the same, including specifically the total amount of such securities and of any securities prior thereto in interest or lien, authorized or issued by any such person or company; (3) If such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal or valuation of the property covered thereby, with a specific statement of all prior liens thereon, if any; (4) A full statement of facts showing the gross and net earnings, actual or estimated, of any person, or company making and issuing or guaranteeing such securities, or of any property covered by any such mortgage or liens; (5) All knowledge or information in the possession of such Investment Company relative to the character or value of such securities, or of the property or earning power of the person or company making and issuing or guaranteeing the same; (6) A copy of any general or public prospectus or advertising matter which is to be used in connection with such promotion, and no such prospectus or advertising matter shall be used unless the same has been filed hereunder; (7) The names, addresses, and selling territory in this state, of any agents by or through whom any such securities are to be sold, including a statement giving the qualifications, occupations and business experience of each of such agents for a period of five years prior to such filing; the name and address of each employer, the period of employment and reason for resignation or discharge, and no such agents shall be employed unless such statement with respect to them has been filed hereunder, and there shall have been paid to the Commission a registration fee of five dollars (\$5.00) for each such agent. The payment of such fee shall be payment in full of all fees for registration of such agent from January 1st to January 1st the following year; (8) The name and address of such promoter, including the names and addresses of all partners, if the Investment Company be a partnership, and the names and addresses of the directors or trustees, and of any person owning ten per centum, or more, of the capital stock, if the pro-

moter be a corporation or association; (9) A statement showing in detail the plan on which the business or enterprise is to be transacted; (10) The articles of co-partnership or association, and all other papers pertaining to its organization, if the securities be issued or guaranteed by a co-partnership or unincorporated association; (11) A copy of its charter and by-laws if the securities be issued or guaranteed by a corporation; (12) A filing fee of \$1.00 per \$1,000.00 on the total proposed sale price of the securities covered by such application; provided, that the minimum qualification fee shall be \$25.00 and the maximum qualification fee \$500.00. In case of denial of the application, all such fees, in excess of \$25.00, will be returned to the applicants.

Such Securities Commission may, in its discretion, at any time, either before or after issuance of a license, require any person, firm, corporation or association heretofore licensed or which may hereafter be licensed to sell its securities within the State of North Dakota as in this chapter provided, to deposit with the Treasurer of the State of North Dakota securities of such kinds, in such amounts and at such times as it may deem necessary or expedient to protect from loss any purchasers within the State of North Dakota who have heretofore invested in, or who may hereafter invest in or contract for any such securities, and make such rules and regulations governing the deposit, withdrawal, or substitution of such securities as in its judgment is necessary or expedient. Any person, firm, corporation or association, heretofore licensed, neglecting or refusing, for thirty days after notice thereof, to comply with any direction or order of said Commission relating to such deposit required herein, shall forfeit its right to sell such securities within the State of North Dakota and its license shall be immediately revoked.

§ 2. AMENDMENT.] Section 5235a5 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a5. It shall be the duty of the Commissioner as soon as is practical, to examine the statement and documents so filed and if said Commission shall deem advisable, it shall make, or have made, a detailed inspection, examination, audit and investigation of the affairs of the makers or guarantors of such securities which said inspection, examination, audit and investigation shall be at the applicant's expense. As a part of the aforesaid inspection, examination, audit and investigation, the Commission may cause an appraisal to be made of the property of the maker or guarantor, including the value of patents, formulae, and good-will, promotion, and intangible assets and such appraiser or appraisers shall furnish a full and complete statement or report of his or their inspection and investigation aforesaid to the Securities Commission. If the statement discloses that any of such securities have been or it is intended they shall be issued for any patent right, copyright, trade-

mark, process or good-will, or for promotion fees or expenses, or for other intangible assets, the amount and nature thereof shall be fully set forth, and securities issued in payment of such patent right, copyright, trademark, process or good-will, or for promotion fees or expenses, or for other intangible assets, shall be delivered, in escrow, to such bank or trust company as shall be designated by the Commission, under an escrow agreement, that the owners of such securities shall not, in case of dissolution or insolvency, participate in the assets of the corporation until after the owners of all other securities shall have been paid in full. Said escrow agreement shall remain in full force until the securities of the issuer thereof are on a dividend paying basis. The State Securities Commission shall, within ten days thereafter, examine the statement or report, and give the promoter a hearing if he so desires.

If, from the statements, papers and documents on file, and the investigations made or caused to be made by the Commission, or from other evidence submitted, it shall appear, and the State Securities Commission shall find either:

1. That the makers and guarantors of such securities are insolvent or that the applicants plan of business is dishonest or fraudulent; or

2. That the applicants literature or advertising is misleading and calculated to deceive purchasers or investors; or

3. That the securities offered or to be offered are to be issued in payment for property, patents, formulae, good-will, promotion, or any intangible assets, in excess of the reasonable value thereof; or

4. That the enterprise of the applicant is unlawful or against public policy; or is a mere scheme of a promoter or promoters to get rich quick at the expense of the purchasers of the aforesaid securities; or

5. That there is lack of adequate proof sufficient to satisfy said Commission of the soundness of the venture or enterprise or prospective success thereof; or

6. That in the judgment of the Commission the prospect of future earnings is too uncertain to insure to the investors the safety of their investment and the return thereof with a reasonable profit thereon; or

7. That the agreements, contracts or securities under whatever name designated, purposed to be issued to any purchaser are in the judgment of the Commission, harsh, unconscionable or unfair to any such purchaser, then said Commission may in its discretion deny such application; provided however that if in the minds of the Commission, there is any doubt as to the sufficiency of the showing of the applicant as to subdivision 6 above, said Commission may in lieu of an adverse finding as to said subdivision 6, require all advertising, subscription blanks and certificates or other instruments by whatever name designated, issued or to be issued or used, in connection with the sale of said securities, to be stamped in red

letters in 18-em Ionic or Gothic type diagonally across the face thereof the following words "SPECULATIVE SECURITY."

Provided further, that if said Commission shall find from the statements, papers, and documents of any licensee to whom a license has been issued that the prospect of future earnings is too uncertain to insure to the investors the safety of their investment and the return thereof with a reasonable profit thereon, it may require any licensee heretofore licensed to stamp the words "SPECULATIVE SECURITY" across the face of any subscription blanks, certificates or instruments hereafter used or issued in the manner hereinbefore provided.

If, however, said Commission is satisfied with the showing made and that the said applicant has complied in all respects with the provisions of this statute, it may direct the issuance of a license to the applicant.

It is the intent and purpose of this act that the applicant or the licensee shall at all times assume the burden of satisfying said Commission of the soundness and safety of the enterprise and of the good faith and intentions of the promoters thereof.

§ 3. AMENDMENT.] Section 5235a6, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927 is hereby amended and re-enacted to read as follows:

§ 5235a6. The State Securities Commission shall at all times, have authority and jurisdiction to investigate the affairs of any enterprise, the securities of which are being sold, or offered for sale, in this State, and if, after having given the licensee or dealer a hearing, which shall be after such notice as the Commission deems necessary or advisable, such Commission finds adversely to such licensee or dealer on any of the grounds enumerated in Section 5235a5 of this Chapter, or acts amendatory thereof, or finds that the licensee or dealer, its agents or solicitors, have been guilty of misrepresentation or of any fraudulent practices in the sale of such securities, or finds that by reason of anything done or omitted to be done by said licensee or dealer the operations or practices of said licensee or dealer may tend to endanger the soundness or safety of the investments made therein, or finds that said licensee or dealer has violated any provisions of this chapter, such Commission shall immediately revoke the license of said licensee or dealer, and it shall thereafter be unlawful for such licensee or dealer to sell, either directly, or through dealers, agents or solicitors, any of its securities within the State of North Dakota.

§ 4. AMENDMENT.] Section 5235a9 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a9. The provisions of this act shall not apply to (a) Securities of the United States or of its territories or insular possessions; or of any state of the United States; or of any county,

city, township, school district or any other public taxing subdivision thereof, provided that the securities of any such county, city, township, school district or other public taxing subdivision are general obligations such as are or may be payable directly or indirectly from ad valorem taxes and whose net debt, as defined by the laws under which same are issued, shall not exceed 10% of the assessed valuation of all the taxable property of such municipality or taxing district. Provided that during each of the ten fiscal years next preceding the date of such investment any such municipality shall have paid the matured principal and interest of all its outstanding general obligation indebtedness. (b) Any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating a railroad or any other public service utility; *provided*, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by a public commission, board or officer of the Government of the United States, or of any state, territory or insular possession thereof, or of any municipality, located therein, or of the District of Columbia, or of the Dominion of Canada or any province thereof; also equipment securities based on chattel mortgages, leases, or agreements for conditional sale of cars, motive power or other rolling stock mortgaged, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States of or any state, or of the Dominion of Canada, to secure the payment of such equipment trust certificates, bonds or notes; also bonds, notes or other evidences of indebtedness issued by a holding corporation and secured by collateral consisting of any securities hereinabove in this clause (b) described; provided, that the collateral securities equal in fair value at least 125 per centum of the par value of the bonds, notes or other evidences of indebtedness so secured. However, before offering any such securities descriptive circulars of all securities described in this subsection (b) shall be filed with the Securities Commission and said Commission shall have three days from and after the receipt of such circulars within which to require any of such securities to be qualified by application, otherwise said securities shall be exempt. (c) Securities of state of (or) national banks or trust companies, or building and loan associations authorized to do business in this state. (d) Securities of any domestic corporation, organized without capital stock, for charitable or reformatory purposes. (e) Securities listed on the New York Stock Exchange and New York Curb Exchange, which securities have been so listed pursuant to official authorization by such Exchange, and all securities senior to any securities so listed, or represented by subscription rights which have been so listed or evidence of indebtedness guaranteed by companies, any stock of which is so listed, such securities to be exempt only so long as such listing shall remain in effect.

In a prosecution based upon any of the provisions of Chapter 32A of the Supplement to the Compiled Laws of 1913, and acts amendatory thereto, the state shall not be required to negative the exceptions provided by this section; such exceptions may be proved by the defendant as defensive material and the burden of proof shall be upon the defendant to establish such defense.

§ 5. AMENDMENT.] Section 5235a12 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 5235a12. Any dealer desiring to sell or offer for sale within this state any stocks, bonds or other securities not exempted under the terms of this act, shall first register with the North Dakota Securities Commission and shall furnish said Commission upon oath, in such form as the Commission shall prescribe, the following information, to-wit: the dealer's name, residence and business address, the general character of the securities to be dealt in, the place or places where the business is to be conducted within the state, and where the business in this state is not to be conducted by the dealer in person, then the name and addresses of all persons in charge thereof, and shall furnish said Commission with such other information in addition to that above specified as said Commission shall deem necessary in order to thoroughly acquaint such Commission with the character of the business of said dealer. All authorized agents of any dealer shall be registered with the Commission and the name of any agent shall be stricken from the register by the Commission upon the written request of the dealer and additional agents may be registered by the Commission upon like request of the dealer; provided, that no agent shall act as such until his name and address shall be registered with the Commission. If the dealer shall be a non-resident of this state, or a corporation other than a domestic corporation, he shall, at the time he registers with the Commission, file with the Commission a written duly authenticated appointment of the Secretary of State of this state as his or its agent in North Dakota upon whom process or pleadings may be served for and on behalf of the dealer, which appointment shall be irrevocable. Every such dealer shall file with his application an indemnity bond in such amount as the Commission may require, running to the State of North Dakota, the form of bond used to be approved by the Commission and to be conditioned upon the faithful compliance with all the provisions of this act, by the dealer, and all agents licensed by him and for the faithful performance and payment of the obligations of such dealer or his agents. Such bond shall be executed as surety by a surety company authorized to do business in this state. Upon compliance by such dealer with the provisions of this act, the said Commission shall issue to such dealer a license under the seal of said Commission and signed by the secretary thereof, which said license shall expire on the 31st day of December

in each year, but new licenses for the succeeding year shall be issued upon written application and upon the payment of the fee as herein-after provided, without the filing of further statements or the furnishing of any further information, unless specifically required by the Commission. Applications for renewals must be made not less than fifteen nor more than forty-five days before the first of the ensuing year, otherwise, they shall be treated as original applications. The initial fee for such license of dealers shall be fifty dollars (\$50.00), and for each renewal thereof, within the time herein provided for, fifteen dollars (\$15.00); and the annual fee for agents license shall be five dollars (\$5.00). If said dealer's license is issued after July 1st of any year, the fee shall be reduced one-half.

§ 6. AMENDMENT.] Section 5235a14 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 255, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 5235a14. No dealer within the meaning of this act shall sell or offer for sale within this state any of the stock, bonds or other securities of any investment company unless such investment company shall have fully complied with all the provisions of this act, nor until said dealer shall have registered with the Commission under the terms of this act; provided, however, that should any dealer desire to sell or offer for sale within the state the stocks, bonds or other securities of an investment company which has not itself complied with the provisions of this act, said dealer shall file a notification of each issue of securities he is about to sell, giving the following information.

- (a) Name of issuer.
- (b) Amount of issue covered by the notification.
- (c) A descriptive circular or statement briefly describing the securities.
- (d) The price at which the securities are to be sold.

The fee for filing such notification of intention to sell shall be 50 cents per \$1,000.00 on the total proposed sale price of the securities covered by such notification; provided, that the minimum fee shall be \$10.00 and the maximum fee \$100.00.

The Commission shall have three (3) days from and after receipt of such notification in which to take formal action and in case the Commission does not take such action within this given time, such securities shall be considered registered subject to the terms of such notification.

The Commission shall have the power to approve or deny the sale of said securities upon such registration or to require that the dealer qualify said securities under Section 5235a3 of this act. In case the dealer is required to comply with Section 5235a3 of this act there shall be a fee of \$1.00 per \$1,000.00 of the total amount so qualified, with the minimum of \$25.00 for any one issue.

§ 7. AMENDMENT.] Section 5235a20 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a20. Any person, partnership, association or corporation who shall commit in this State any act declared unlawful by Sections 3, 5, 8, 10, 13 or 14 of this act, shall be deemed guilty of a felony and on conviction in any court of competent jurisdiction be punished by a fine of not less than one hundred nor more than five thousand dollars, or by confinement in the North Dakota State Penitentiary for a term of not less than one year nor more than seven years.

§ 8. AMENDMENT.] Section 5235a22 of the Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 5235a22. All fees herein provided for shall be collected by the Securities Commission and shall be by it turned into the State Treasury, and the amount thereof over and above the amount appropriated by the Legislature to the use of said Commission is hereby appropriated to said Commission for its use in such manner as it may deem necessary and proper for enforcing the provisions of this act. All claims for the payment thereof shall be audited and paid in the same manner as are other claims against the state; provided, however, that any balance in said fund at the end of each biennial period shall revert to the general fund.

Approved March 11, 1931.

## STATE TRANSPORTATION OFFICER

### CHAPTER 275

(S. B. No. 142—Hamilton and Lynch.)

#### STATE TRANSPORTATION OFFICER

An Act to amend and re-enact Section 3526a1 Supplement to the Compiled Laws of 1913, providing for a State Transportation Officer, his compensation, and relating to the transportation of prisoners and patients to institutions under the jurisdiction of the State Board of Administration.

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

§ 1. AMENDMENT.] That Section 3526a1 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3526a1. APPOINTMENTS; DUTIES; COMPENSATION.] The State Board of Administration shall appoint a competent person who shall be known as the State Transportation Officer and whose duty it shall be to transport and convey to the Penitentiary and to the