

THE LAWS

AGRICULTURE

CHAPTER 1

H. B. No. 310—(Schimke, Schauss, and Hofstrand)

BEE INSPECTION

An act to amend and re-enact Section 2790a7 and 2790a8 of the 1925 Supplement to the Compiled Laws of the State of North Dakota; relating to duties of bee inspector and of owners; providing for inspection fees and the collection thereof and repealing all acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2790a7 of the 1925 Supplement to the Compiled Laws of North Dakota be amended and re-enacted to read as follows:

§ 2790a7. DUTY TO INSPECT.] The inspector shall inspect, in person or by deputy, every apiary, including all appliances, structures, buildings and bees thereof, at least once each year during any month between May first and October first.

§ 2. AMENDMENT.] That Section 2790a8 of the 1925 Supplement to the Compiled Laws of the State of North Dakota as amended by Chapter 91 of the 1929 Laws of the State of North Dakota is amended and re-enacted to read as follows:

§ 2790a8. INSTRUCTIONS TO OWNER.] If such inspection discloses any infection in such apiary, appliances, structures, buildings or bees, the inspector shall give instruction and supervise the owner or person in charge of such property in such treatment as in the judgment of the inspector may be necessary for the eradication or control of such infection; and the owner or person in charge shall immediately carry out such instructions.

§ 3. INSPECTION FEES.] Every owner or person in charge of bees shall pay an inspection fee of ten cents (10¢) for each and every colony inspected up to and including one hundred (100) colonies and five (5¢) cents a colony for each and every colony over one hundred (100) inspected, provided that in no case shall this

inspection fee be less than fifty (50¢) cents. This fee shall be collected by the inspector or his deputy making the inspection at the time of the completion thereof. All inspection fees so collected shall be turned over to the Commissioner of Agriculture and Labor, and by him, be paid monthly to the State Treasurer who shall deposit the same to the credit of the general funds of the State.

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 All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1939.

CHAPTER 2

H. B. No. 377—(Schimke, Schauss and Hofstrand)

BEE-KEEPERS ACT

An act to provide for the licensing of bee-keepers and/or apiaries; for issuance of license; for an appropriation; for penalties and declaring an emergency.

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

§ 1. SHORT TITLE.] This act shall be known, and may be cited as the "North Dakota Bee-Keepers Act."

§ 2. BEE-KEEPER DEFINED.] For the purposes of this act a bee-keeper shall mean any person, firm, association or corporation who owns, has possession or control of one or more colonies of bees for the production of honey, beeswax or by-products either for personal or commercial use.

§ 3. LICENSE.] Every bee-keeper shall, on or before the first day of April in each year, or within twenty days thereafter, make application to the Commissioner of Agriculture and Labor, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every bee-keeper who makes a satisfactory application in the form prescribed by the Commissioner of Agriculture and Labor and pays the license fee required herein.

§ 4. SUBSEQUENT POSSESSION.] Any person procuring or coming into possession of bees shall, within ten days thereafter, make application to the Commissioner of Agriculture and Labor for a license certificate pursuant to the provisions of Section 3 hereof. No person shall own bees or have bees in his possession unless he is the holder of a certificate of license for the current year or has made the application for the license certificate provided for herein.

§ 5. LICENSE FEES.] Any person owning bees or having bees

in his possession shall, upon making application for a license certificate pay a license fee based upon the following rates:

For one (1) to ten (10) colonies inclusive one (\$1.00) dollar.

For eleven (11) to fifty (50) colonies inclusive five (\$5.00) dollars.

For fifty-one (51) to one hundred (100) colonies inclusive ten (\$10.00) dollars.

For one hundred and one (101) to two hundred (200) colonies inclusive fifteen (\$15.00) dollars.

For two hundred and one (201) colonies and over, twenty-five (\$25.00) dollars.

§ 6. COLLECTION OF LICENSE FEES.] All fees collected by the Commissioner of Agriculture and Labor for the issuance of license certificates shall be paid to the State Treasurer and shall be deposited by him to the credit of the Bee Fund of the State.

§ 7. PENALTIES.] Failure of any person to comply with the provisions of this act is hereby declared to be a misdemeanor, punishable by a fine of not less than twenty-five (\$25.00) dollars nor more than fifty (\$50.00) dollars or thirty days in the county jail or by both such fine and imprisonment.

§ 8. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, in the Bee Fund not otherwise appropriated, the sum of three thousand six hundred (\$3,600.00) dollars, or as much thereof as may be necessary to defray the expenses of the Commissioner of Agriculture and Labor, or his agents, in carrying out the provisions of this act.

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

Approved March 18, 1939.

CHAPTER 3

H. B. No. 120—(Belzer, McIntyre and Culver)

SANITARY REGULATIONS CREAM HANDLERS

An act establishing rules and regulations and sanitary conditions for cream buying stations; sanitary requirements for haulers of cream; equipment and care of equipment; care of cream held in the State; care of cream in transit; repealing acts in conflict herewith; providing penalties; and declaring an emergency.

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

§ 1. CREAM STATION DEFINED.] For the purpose of this act a cream station shall be defined as any place or room where cream is purchased from the producer to be later transported to a processing plant.

§ 2. CREAM STATION REQUIREMENTS.] Any room where cream is purchased or concentrated for shipment in any cream buying station shall hereafter be used exclusively for the purchasing, handling and storing of cream. Walls and ceilings shall be tight, so as to exclude dust, and all openings in such stations shall be tightly screened against insects. The floors must be tight, and shall be maintained in a clean and sanitary condition at all times. Any door or other opening between a cream station room and any other room used for the storing or handling of hides, meats, fruits, vegetables, grain, poultry, or oils of any kind, or other dust or odor-producing articles are kept shall be tightly fitted and kept closed when not in use. Cream buying stations must be well-lighted and ventilated, and shall have a floor space of not less than one hundred and twenty (120) square feet.

No hides, furs, live poultry, petroleum products, groceries, or leather goods, or other articles that may cause cream to be contaminated with offensive odors or sediment, may be kept at any time in any cream station in this State.

§ 3. All cans used in the purchase, sale or handling of cream shall be kept thoroughly clean, steamed and free from rust, and from and after the taking effect of this act, no cream station operator may loan out a marked or identified cream can, and all empty cream cans to be used in connection with the purchase of cream in this State when in the custody of any cream buyer, shall be stacked in the rack inside such cream station, on their sides with the covers off. Cans used for the handling, sale or shipping of cream shall not be used for any other purpose, and all equipment and utensils used in the purchasing or handling of cream shall be kept in a clean and sanitary condition at all times.

All cream buyers in this State shall have at least a five-gallon

can filled with fresh, clean water, in which he shall submerge his cream stirrer at all times when it is not in use.

An approved rubber scraper shall be used to scrape cream from stirring rod, can covers, and other equipment.

Nothing but pure, clean water or steam shall be used in any cream station for the purpose of rinsing cream from cream cans in which cream has been delivered to the station by the producer.

Cans containing cream at cream stations must be covered so as to prevent the entrance of rodents, flies, dust or other contaminating substances.

All cream stations shall be equipped with cooling facilities so as to maintain the cream on hand at a low temperature to avoid deterioration.

§ 4. CREAM IN TRANSIT.] Containers of cream in transit, or in the possession of cream buyers, shall not at any time be placed near hides, furs, live poultry, petroleum products, or any other article that may cause cream to be contaminated with offensive odors or sediment, and such containers, when delivered to carriers shall be so equipped as to prevent contamination in transit.

§ 5. PENALTIES.] Any person violating any of the provisions of this act, upon conviction thereof shall be fined not to exceed one hundred dollars (\$100.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

§ 6. REPEAL.] All acts or parts of acts in conflict herewith are hereby expressly repealed.

§ 7. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect upon its passage and approval.

Approved March 13, 1939.

CHAPTER 4

H. B. No. 105—(Ireland, Solberg, Symington, Lange, Haugland, Beede and J. M. Thompson)

DIVISION OF CO-OPERATIVES

An act creating a Division of Co-operatives in the Department of Agriculture and Labor, and prescribing its functions; creating and establishing the office of director of said division and prescribing his duties; and making an appropriation therefor.

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

§ 1. CREATION. There is hereby created in the Department of Agriculture and Labor a Division of Co-operatives, the purpose of which shall be to aid co-operatives by serving as a source of co-operation and information in the establishment and/or maintenance of co-operatives generally.

§ 2. DIRECTOR.] The chief administrative official of the Division of Co-operatives shall be the Commissioner of Agriculture and Labor.

§ 3. DUTIES.] It shall be the duty of the Commissioner of Agriculture and Labor to assemble, compile and maintain files of statistical data relating to the work and progress of co-operative enterprises, the statutes of the several States and, so far as reasonably convenient, those of foreign countries, affecting co-operatives. He shall also carry standard forms and outlines for use and reference in organization work.

The Commissioner of Agriculture and Labor shall disseminate such information and materials for the use and benefit of established co-operatives and new co-operative projects in process of organization. He shall also render such personal assistance to co-operatives generally as may be possible with the means and facilities at his disposal.

§ 4. APPROPRIATION.] There is hereby appropriated for the establishment and maintenance of the said Division of Co-operatives out of the general funds of the State the sum of \$2,000 to be used and expended under the direction and in the discretion of the Commissioner of Agriculture and Labor.

Approved March 14, 1939.

CHAPTER 5

S. B. No. 34—(Thorson)

FEDERATED CO-OPERATIVE AGRICULTURAL ASSOCIATION
ACT AMENDMENT

An act to amend and re-enact Section 5 and Section 9 of Chapter 4 of the Session Laws of North Dakota for 1935.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 4 of the Session Laws of North Dakota for 1935 be and the same is hereby amended and re-enacted to read as follows:

§ 5. FEDERATION. HOW ESTABLISHED.] As soon as three or more States have accepted the plan of federation as herein proposed, and their respective legislatures have authorized the formation thereof, said commissioners from each State shall proceed to organize by electing officers, adopting by-laws for the proper conduct of the business of such federation, not inconsistent with the purposes thereof.

§ 2. AMENDMENT.] That Section 9 of Chapter 4 of the Session Laws of North Dakota for 1935 be and the same is hereby amended and re-enacted to read as follows:

§ 9. NAME OF NATIONAL ORGANIZATION.] Whenever any three States have accepted, by legislative enactment, the purposes and objects of this act, and have organized a federation it may be called the National Federated, Co-operative, Agricultural Association, or any name according to the judgment of the commissioners, the only restriction being that the purposes and objects of this act shall be preserved.

Approved March 16, 1939.

CHAPTER 6

S. B. No. 89—(Guthrie, Morrison & Aandahl)

SOIL CONSERVATION DISTRICTS ACT AMENDMENT

An act to amend and re-enact Sub-section (a) and Sub-section (f) of Section 5, Section 6, Section 8 and Section 9 of Chapter 9 of the Session Laws of North Dakota for 1937; relating to the organization of soil conservation districts, the election, qualification and tenure of supervisors thereof; and relating to the adoption and enforcement of land-use regulations, and declaring an emergency.

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

§ 1. AMENDMENT.] That Sub-section (a) and Sub-section (f) of Section 5 of Chapter 9 of the Session Laws of North Dakota for 1937 is hereby amended and re-enacted to read as follows:

§ 5. (a) Any twenty-five occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil Conservation Committee asking that a soil conservation district be organized in the territory described in the petition. Such petition shall set forth:

First: The proposed name of said district.

Second: That there is need for a soil conservation district to function in the territory described in the petition.

Third: A description of the territory proposed to be organized as a district.

Fourth: A request that the State Soil Conservation Committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Committee may consolidate all or any such petitions.

(f) If the committee shall determine that the operation of such proposed district is administratively practicable and feasible, it shall file with the Secretary of State a certified statement indicating and describing the boundaries of such district and the name thereof. Such statement shall also indicate the reasons for the formation of such districts and the result of the referendum. Upon such certification by the committee to the Secretary of State such district shall become a governmental sub-section of this State and a body corporate and politic; and the Secretary of State shall make and issue to the State committee a certificate, under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such

district shall include the territory as determined by the State Soil Conservation Committee, as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

§ 2. AMENDMENT.] That Sub-division (a) of Section 6 of Chapter 9 of the Session Laws of North Dakota for 1937 is hereby amended and re-enacted to read as follows:

§ 6. ELECTION, QUALIFICATION AND TENURE OF SUPERVISORS.]
(a) 1. As soon as practicable after the issuance by the Secretary of State of a certificate of organization of a soil conservation district, the State committee shall give notice that an election will be held in such district for the election of three supervisors, who shall be land occupiers of the district and who shall constitute the governing body of the district, and that petitions for the nomination of candidates for the office of supervisor may be filed with the committee not later than the date and hour stated in such notice. At least twenty days before such election, the State committee shall cause such notice to be posted in at least five conspicuous places within the district and shall publish such notice once each week for two consecutive weeks in a newspaper of general circulation in the district. The final date for filing nominating petitions shall be ten days prior to such election. Such notice shall be substantially in the following form:

“Notice is hereby given that on the-----day of-----, 19----, an election will be held at----- (here designate the polling place, or places), for the purpose of electing three supervisors of----- (name of district) soil conservation district. Polls will be open at nine o'clock in the forenoon and will close at five o'clock in the afternoon of that day.

Notice is further given that petitions for the nomination of candidates for the office of such supervisor may be filed with the State committee not later than the hour of noon on the-----day of-----, 19----. Nominating petitions may be delivered or mailed to----- (Here give address and office or place where petitions may be filed).”

No nominating petition shall be accepted by the State unless it shall be subscribed by twenty-five or more occupiers of lands lying within boundaries of such district. Land occupiers may sign more than one such nominating petition to nominate more than one candidate for supervisor; provided that for subsequent elections the name of only one nominee shall appear on a petition if only one supervisor is to be elected and no land occupier shall then sign more than one petition. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be arranged in the alphabetical order of the surnames upon the ballots and ballots shall be printed. A square shall

appear after each name and a direction to insert an X mark in the square after any three names to indicate the voters preference. Only land occupiers shall be eligible to vote in such election. The three candidates receiving the largest number, respectively, of the votes cast in such election shall be the supervisors for such district. The State committee shall pay all the expenses of such election and shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein and shall publish and declare the results thereof.

2. Prior to such election the State committee shall appoint from the land occupiers of the district one inspector, one judge and two clerks who shall constitute a board of election. Before opening the polls each member of the election board shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will perform my duties as inspector, judge or clerk (as the case may be) according to law and to the best of my ability." The inspector of the election shall take such oath or affirmation before some officer authorized to administer oaths and the inspector shall have the authority to administer and certify all oaths or affirmations taken by other members of the election board and shall administer all oaths or affirmations required during the progress of the election.

Immediately after the polls are closed, the board shall publicly open and proceed to canvass the ballots cast and shall declare the result of their canvass. The inspector shall then securely wrap all lists, tally sheets, oaths and affirmations and other documents relating to the progress of the election and shall deliver or mail the same to the State committee.

3. As soon as practicable, the State committee shall meet and canvass the returns and shall verify and declare the results thereof and shall issue or cause to be issued to each person elected supervisor a certificate of election. Such certificate of election shall be in such form as the committee shall prescribe.

4. The supervisors thus elected shall designate a chairman and may, from time to time, change such designation. One supervisor elected at the first general election of the district shall serve until the next general election of the district, one shall serve until the third general election and the third shall serve until the fourth general election; provided, however, that each supervisor shall serve until his successor has been duly elected and qualified. The term of office of the supervisor receiving the lowest number of votes shall expire at the next general election of the district and the supervisor receiving the highest number of votes shall hold office for the longest term. In case the office of supervisor shall for any reason become vacant, the remaining supervisors shall, with the advise and consent of the State committee, fill the vacancy by appointment. A supervisor appointed to fill a vacancy shall serve until the next general election of the district, and until his successor is elected and qualified.

Supervisors elected at subsequent elections shall hold office for a term of three years and until their successors are elected and qualified.

5. In 1940, and each year thereafter, the general election of soil conservation districts shall be held on the second Tuesday in June of each year. The notice of such election and the conduct thereof shall be the same as provided herein for the first district election, except that the supervisors of the district shall give notice of the election, designate the polling place or places, and shall appoint the election officers; provided that the returns of all elections shall be submitted to the State committee in the same manner as the returns of the first election and such returns shall be canvassed and verified by the State committee and certificates of election shall be issued by the State committee.

§ 3. AMENDMENT.] That Section 8 of Chapter 9 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 8. ADOPTION OF LAND-USE REGULATIONS.] The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No.-----□, prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No.-----□, prescribing land-use regulations for conservation of soil and prevention of erosion," shall be printed, with a direction to insert an "X" mark in the square before one of the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the

district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least three-fourths of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by three-fourths of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches and other necessary structures;
2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;
3. Specifications of cropping programs and tillage practices to be observed;
4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;
5. Provisions for such other means, measures, operations and programs as may assist conservation of soil and water resources

and prevent or control soil erosion in the district, having due regard to the declaration of policy set forth in Section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district.

§ 4. AMENDMENT.] That Section 9 of Chapter 9 of the Session Laws of 1937 is hereby amended and re-enacted to read as follows:

§ 9. ENFORCEMENT OF LAND-USE REGULATIONS.] The supervisors shall have authority to go upon any land within the district to determine whether land-use regulations adopted under the provisions of Section 8 of this act are being observed.

§ 5. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1939.

CHAPTER 7

H. B. No. 260—(State Affairs Committee)

POULTRY IMPROVEMENT BOARD

An act to create a North Dakota Poultry Improvement Board; to define its powers and duties; to provide for licenses and fees for poultry processors, packers, hatching [hatcheries], baby chick jobbers, record of performance breeders and poultry feed manufacturers and wholesalers, and for the disposition of the proceeds thereof; to require the filing of reports by carriers and shippers of poultry and poultry products, and fixing penalties for violation hereof.

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

§ 1. NORTH DAKOTA POULTRY IMPROVEMENT BOARD ESTABLISHED. PURPOSE.] There is hereby created a board to be known as the North Dakota Poultry Improvement Board, for the following purposes:

(a) To promote the welfare of and stimulate interest in the poultry industry.

(b) To cooperate with the North Dakota Department of Agriculture and Labor, and all other State and Federal agencies in all activities and programs designed for the advancement, promotion and improvement of the poultry industry of the State of North Dakota.

(c) To improve poultry breeding and to cooperate with the North Dakota Livestock Sanitary Board in controlling and eradicating communicable disease of poultry.

(d) To act as the official State agency for North Dakota in cooperation with the Bureau of Animal Industry, United States Department of Agriculture, for the purpose of furthering the objectives and supervising the State's participation in the national poultry improvement plan.

(e) To act as the State agency to cooperate with the Bureau of Agricultural Economics, United States Department of Agriculture, to supervise the Federal-State poultry grading service.

(f) And generally, to promote the welfare and improvement of the poultry industry and the marketing of poultry and poultry products within the State of North Dakota through such means and in such manner as may, by said board, be deemed conducive to such improvement, and to effectuate these purposes, this act shall be liberally construed.

§ 2. MEMBERSHIP OF BOARD. TERM OF OFFICE.] The North Dakota Poultry Improvement Board shall consist of the chairman of the Poultry Department at the North Dakota Agricultural College, the Commissioner of Agriculture and Labor, and the executive officer of the Livestock Sanitary Board, ex-officio, and five members to be appointed by the Governor in the manner hereinafter set forth. The ex-officio members shall have no voting power, but shall attend and participate in the meetings of the board in an advisory capacity. As soon as possible after the taking effect of this act, and in any event not later than July 10, 1939, the boards of directors of the North Dakota State Poultry Association and the North Dakota Turkey Improvement Association, acting concurrently, shall submit to the Governor a list of nominees for appointment to said board containing the names of three bona fide hatchery operators or owners, three poultry processors, and marketing men, three record of performance breeders under the national poultry improvement plan, three poultry producers, and three turkey breeders, and shall designate in such list the classification for which the nominees are selected. All of such nominees shall be qualified electors of the State of North Dakota. Not to exceed five days after the receipt of such list of nominees, the Governor shall appoint from such list, five members of said board, consisting of one member from each of such classifications. One of such members shall be appointed for a term to expire July 1, 1940, one for a term to expire July 1, 1941, one for a term to expire July 1, 1942, one for a term to expire July 1, 1943,

and one for a term to expire July 1, 1944, and said members shall serve until such dates, respectively, and until their successors are appointed and qualified. On or before July 1st in each year hereafter when a term is to expire, the Governor shall appoint one member, for a five year term, who shall be appointed from a list of three nominees selected and submitted to him in the same manner as above set forth, which nominees shall be named from the classification represented by the member whose term expires. Vacancies arising by reason of the death, resignation, removal or disqualification of a member of said board shall be filled in the same manner as to nomination and appointment, and members appointed to fill vacancies shall serve for the unexpired term in which the vacancy has arisen.

§ 3. MEETINGS. COMPENSATIONS.] The said board shall meet in Bismarck within ten days after their appointment, upon the call of the Commissioner of Agriculture and Labor, and shall organize by electing one of the members thereof chairman of said board, to serve as such for such period as said board may determine. A majority of the appointed members of said board shall constitute a quorum for the transaction of business. Said board shall make all necessary rules and regulations for the conduct of its meetings and business, and for carrying out the purpose of this act. The board shall hold its meetings at the State Capitol at such times as it may determine, but there shall not be more than four regular meetings each year; provided, that the chairman of said board shall have power to call special meetings whenever in his judgment a meeting is necessary. The appointed members of said board shall receive five dollars per diem while in session, and for performance of their duties hereunder, including the attendance at meetings of this board, the sum of five cents for each mile so travelled, and shall receive no other compensation. Ex-officio [officio] members shall receive no compensation nor expense money from the fund hereinafter provided for, but nothing herein is to be construed as prohibiting such ex-officio members from charging and collecting expenses from the departments which they represent for expense incurred in connection with carrying out the work of said Poultry Improvement Board.

§ 4. EXECUTIVE SECRETARY.] The board shall appoint an executive secretary who shall serve at the will of said board, and who shall receive such compensation as shall be fixed and determined by such board. It shall be his duty to execute all orders and regulations of the board, to present at each meeting of the board a detailed statement of all work done by him or his subordinates, and perform such other duties as may be required by such board. He shall carry on all correspondence and keep all files, records, documents, legislative bills and other material pertaining to said board and the poultry industry of the State of North Dakota. He shall be furnished suitable quarters in the Capitol Building. Before

entering upon the discharge of his duties he shall take the oath of office required of State officers and shall be bonded in the State Bonding Fund (or otherwise as provided by law) in the sum of five thousand (\$5,000.00) dollars.

§ 5. LICENSES AND FEES.] No person shall hereafter engage in the business of poultry and/or turkey buyer, processor, packer, hatchery operator, baby chick jobber, record of performance breeder, or poultry and/or turkey feed manufacturer or jobber without first securing from said North Dakota Poultry Improvement Board a license to engage therein, which said licenses shall expire on the 1st day of July of each year, and shall be issued or renewed by said board only upon payment to said board of such fees as may be fixed by said board for each of said occupations, not exceeding, however, the amounts hereinafter set forth, to-wit:

(a) Poultry and/or turkey buyers, processors and packers: annual license fee, \$1.00, plus 25¢ per thousand pounds (or fraction thereof) of poultry and/or turkeys processed, packed or sold.

(b) Hatcheries: annual license fee, \$1.00, plus 50¢ per thousand eggs or fraction thereof based upon manufacturer's rated incubating capacity.

(c) Baby chick and/or turkey poult jobbers: annual license fee, \$1.00, plus 50¢ per thousand chicks and/or poult or fraction thereof sold.

(d) Records of performance breeders: annual license fee, \$10.00, plus 5¢ per pullet candidate over 100 birds entered in R. O. P. Work.

(e) Poultry and/or turkey feed manufacturers and wholesalers: annual license fee \$1.00, plus 50¢ per ton for all mixed poultry feeds produced or sold in the State of North Dakota.

It is the intention of this act that the foregoing schedule of license charges and fees shall constitute the maximum to be charged and collected, but the North Dakota Poultry Improvement Board shall have authority, if it determines that any or all of such fees or charges are excessive or unduly burdensome, or that a lesser schedule of fees will produce all income necessary for carrying on the work of the board, to reduce the license charges and fees of any or all of such occupations.

The annual license fees for the ensuing year, plus all other fees previously accrued, must be paid before any license is issued, and all accrued fees other than license fees must be remitted at the time of making the reports hereinafter required. Failure to pay any fee or license charged within ten (10) days after the same shall become due shall constitute a violation of this act.

§ 6. REPORTS OF LICENSEES.] All persons engaged in any of the occupations required by this act to be licensed shall make quar-

terly reports on the first days of the months of January, April, July and October to the North Dakota Poultry Improvement Board, except that hatcheries and record of performance breeders shall report annually on the first day of January. Such reports shall contain the information required to determine the fees payable for the preceding reporting period, together with such other information as may be required by the board and shall be accompanied by remittance for the amount of fees then due. Failure to make any such report within ten days after the same shall become due, and failure to remit for fees within ten days after the reporting date herein set forth, shall constitute a violation of this act.

§ 7. SPECIAL FUND.] All license charges and fees collected under this act shall be deposited in the State Treasury in a special fund to be known as the Poultry Improvement Fund, and shall be disbursed upon proper vouchers approved by the president of the North Dakota Poultry Improvement Board, and said fund shall constitute the sole source of funds for the carrying out of the provisions of this act, and said fund and the affairs of the board shall be audited in the same manner and by the same officer as other similar public funds and boards of the State of North Dakota.,

§ 8. PURPOSES OF FUND.] The Poultry Improvement Fund may be expended under the direction of said North Dakota Poultry Improvement Board for the payment of any and all expenses incident to the fulfillment of the purposes of this act, including assistance in the promotion, co-ordination, assist with financing of State, county or district poultry shows, and any other instrumentality or agency designed for the welfare and improvement of the poultry industry in North Dakota.

§ 9. ANNUAL REPORT.] The said board shall make an annual report to the Governor of all its proceedings and transactions for the preceding year, on or before the 1st day of January of each year, and said reports shall be published as one of the official documents of the State of North Dakota.

§ 10. PENALTY.] Violation of this act shall constitute a misdemeanor and be punishable by a fine of not to exceed \$50.00 for each offense, and as additional or alternative penalties, the board may revoke any license issued, and may by injunction restrain the continuance of any operations covered by this act.

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

Approved March 14, 1939.

CHAPTER 8

H. B. No. 111—(Schwartz)

UNFAIR DISCRIMINATION PURCHASE CERTAIN
FARM PRODUCTS

An act to amend and re-enact Chapter 3 of the Session Laws of 1933; defining unfair discrimination in the purchase of certain farm products; prohibiting such discrimination; providing a penalty therefor; and repealing act in conflict herewith; and declaring an emergency.

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

§ 1. DEFINITION.] The following words, terms and phrases shall, for the purposes of this act, be given the meaning hereinafter subjoined to them.

§ 2. (a) The term "person" means an individual, firm, co-partnership, corporation or association.

(b) The term "farm products," as used in this act, shall mean and include butter, milk, cream, butterfat, cheese, and other dairy products, honey, eggs and poultry.

(c) The term "bona fide competitor" shall be deemed to be a duly licensed dealer in any farm product maintaining a place of business in the same trade territory.

§ 3. Any person engaged in the business of buying any such farm products, for manufacture or sale, who shall discriminate between different sections, localities, communities, cities or villages of this State, by purchasing any such farm products at a higher price or rate in one locality than is paid for such products of the same kind, quality and grade by such person in another section, locality, community, city or village, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the actual cost of transportation paid from the locality of purchase to the locality of manufacture or sale, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. It shall not be unfair discrimination for any person to pay in any section, locality, community, city or village, a price equal to that actually paid on the same day by any bona fide competitor in such section or locality, for farm products of the same kind and grade, provided such price is paid in a bona fide and good faith effort to meet competition, and in such case the burden of proving such facts shall be upon the defendant.

§ 4. Proof that any person has paid a higher price for any such farm products in one section, locality, community, village or city, than in another, or has paid another person a different price for the same kind and quality product in the same community, after

due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of this act.

§ 5. The Commissioner of Agriculture and Labor, the State Dairy Commissioner and his deputies, assistants and agents, and the state's attorneys, sheriffs and peace officers of the respective counties, shall enforce the provisions of this act, and in so doing shall have all the powers conferred upon each of them by the provisions of law.

§ 6. If complaint shall be made to the Commissioner of Agriculture and Labor, or to the Dairy Commissioner, that any person is guilty of unfair discrimination, either of them shall forthwith investigate such complaint, or may, upon his own initiative, investigate whether this statute has been violated, and in either event, for that purpose, either of them may subpoena, supervise and control witnesses the same as the district court, administer oaths, take testimony, and if, in his opinion, sufficient ground exists therefor, he may prosecute an action in the name of the State in the proper court to annul the corporation or the existence of the corporation violating the provisions of this act. If any corporation is adjudged by the courts to be guilty of unfair discrimination, such court may vacate the charter or revoke the authority of such corporation to do business in the State of North Dakota, and may permanently enjoin it from transacting business in this State.

§ 7. Any person violating the provisions of Section 3 of this act shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00), for each offense, and in default of the payment of such fine be imprisoned in the county jail for not less than three (3) months, nor more than one (1) year.

§ 8. The authority hereby extended to the Commissioner of Agriculture and Labor and the Dairy Commissioner shall be considered as their duties only, and shall not be construed to preclude any other prosecuting officer or any interested party from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of this act.

§ 9. REPEAL.] Chapter 3 of the Session Laws of 1933 is hereby expressly repealed, but nothing in this act shall be construed as repealing any other act or parts of acts, but the remedies herein provided for shall be cumulative to all other remedies provided by law.

§ 10. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall take effect immediately upon its passage and approval.

Approved February 15, 1939.