

LAWS

PASSED AT

THE TWENTY-SEVENTH SESSION

OF THE

Legislative Assembly

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID
STATE, ON TUESDAY, JANUARY SEVENTH, 1941 AND
CONCLUDING FRIDAY, MARCH SEVENTH, 1941.



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AUTHENTICATION

STATE OF NORTH DAKOTA,
Department of State, Bismarck.

I, Herman Thorson, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed at the Twenty-seventh Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 7, 1941, and terminating Friday, March 7, 1941, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July, 1941.

(SEAL)

HERMAN THORSON,
Secretary of State.

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Secretary of State
of the State of North Dakota

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THE LAWS

AGRICULTURE

CHAPTER 1

H. B. No. 177—(Smart)

BEE INSPECTION

An Act to Amend and Re-enact Section 2790a7 of the 1925 Supplement to the Compiled Laws of the State of North Dakota as amended by Chapter 1, of the 1939 Session Laws, and Repealing Section 3 of Chapter 1 of the 1939 Session Laws; Repealing All Acts or Parts of Acts in Conflict Herewith and Declaring an Emergency.

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, such apairies, including all appliances, structures, buildings and bees thereof, as shall be deemed necessary by the Commissioner of Agriculture and Labor and the State Bee Inspector, during any month between May first and October first.

§ 2. REPEAL.] That Section 3 of Chapter 1 of the 1939 Session Laws is hereby repealed; and all acts or parts of acts in conflict herewith are hereby repealed.

§ 3. 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 13, 1941.

CHAPTER 2

H. B. No. 272—(Smart)

BEEKEEPERS LICENSE

An Act to amend and re-enact Sections 3 and 5 of Chapter 2 of the 1939 Session Laws; relating to beekeepers' licenses and license fees, and repealing all acts in conflict herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3 of Chapter 2 of the 1939 Session Laws be amended and re-enacted to read as follows:

§ 3. LICENSE.] Every beekeeper shall, on or before the first day of May 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 beekeeper who makes a satisfactory application in the form prescribed by the Commissioner of Agriculture and Labor and pays the license fee required herein.

§ 2. AMENDMENT.] That Section 5 of Chapter 2 of the 1939 Session Laws be amended and re-enacted to read as follows:

§ 5. LICENSE FEES.] Any person owning bees or having bees in his possession shall, upon making application for license certificate pay a license fee of one dollar (\$1.00) plus three cents (3¢) per colony.

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

§ 4. 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 14, 1941.

CHAPTER 3

H. B. No. 251—(McIntyre, Culver, Halvorson, Haugland, Sandness, Schwartz)

POSTING PRICES OF BUTTER FAT AT CREAMERIES, CREAM STATIONS, ETC.

An Act to Amend and Re-enact Section 1 of Chapter 118, Laws 1929 Relative to the Posting of Butter Fat Prices at Creamery and Cream Stations and Other Places of Business Purchasing Such Products From the Public.

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

That Section 1 of Chapter 118, Laws 1929 be amended and re-enacted to read as follows:

§ 1. PRICES TO BE POSTED.] Every person, firm or corporation who owns, operates or manages a creamery or cream station or other butter fat purchasing establishment in the State of North Dakota, where butter fat is purchased from the public shall post the prices being offered for butter fat at such station. If any different price is being offered at any other creamery or cream station or other butter fat purchasing establishment owned, operated or controlled by the same person, firm or corporation within one hundred miles, there shall also be posted at the same place the amount of each different price being offered on the same day at such other places. If a different price is being paid at any one creamery, cream station or other butter fat purchasing establishment within a radius of one hundred miles owned, operated or controlled by the same person, firm or corporation for butter fat shipped directly, than is being offered for butter fat delivered at such point, both a direct shipment and delivered price must be so posted. All such prices shall be posted in a place where they can be clearly seen from the street. It shall be unlawful to pay for such products, a price different from that so posted for any given town or cream buying establishment.

Approved March 22, 1941.

CHAPTER 4**H. B. No. 212—(Starck by Request)**

REGISTRATION OF CONCENTRATED COMMERCIAL FEEDING STUFFS**An Act to Provide for Registration of Concentrated Commercial Feeding Stuffs in small Packages and Payment of Registration Fees. Repeal.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1.] Concentrated Commercial Feeding Stuffs in cans or small packages of ten pounds or less may be registered upon payment of an annual registration fee of Fifteen (\$15.00) Dollars for each brand of such feeding stuffs registered, in lieu of the tonnage tax provided in Chapter 141, Laws of North Dakota for 1927.

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

Approved March 7, 1941.

CHAPTER 5**H. B. No. 33—(Hogoboom, Morland and Olson of Bowman)**

FILING OF A FARM LEASE**An Act to Require the Filing of a Farm Lease Containing a Reservation of Title to Crop in the Lessor and Providing for a Waiver of Rights by the Lessor Upon Failure to File Such Lease.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. FILING FARM LEASE CONTAINING RESERVATION OF TITLE TO CROP: WAIVER OF RIGHTS ON FAILURE TO FILE.] When a lease of a farm contains a provision reserving title to all or any part of the crops in the lessor until the conditions of the lease have been complied with by the lessee and a division made of the crop, such lease must be on file in the office of the register of deeds in the county in which the lands described in such lease are located prior to July first in the years in which the crops are raised to render such reservation of title to crops effective as to subsequent purchasers or encumbrancers of the lessee of the grain raised upon the lands described in such lease. The failure to file such lease or contract in accordance with the requirements of this section shall constitute a waiver by the lessor of all rights reserved by him in such crops as against any subsequent purchaser or encumbrancer of the lessee. This Act shall not be operative until January 1st, 1942.

Approved March 14, 1941.

CHAPTER 6**H. B. No. 54—(Kindem and Hofstrand)**

CLOSING GATES ON FARMS**An Act to Amend and Re-enact Section 10091, Compiled Laws 1913 and Requiring and Printing of Sections 10088 and 10091 or a Summary Thereof, on Hunting Licenses.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1.] Section 10091 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 10091. PENALTY.] Anyone violating the provisions of Section 10088, Supplement 1925, shall be punished by fine of not less than twenty five dollars (\$25.00) or more than one hundred dollars (\$100.00) or a jail sentence of not more than thirty days (30) or both such fine and sentence, and in the event that such violation is committed while hunting, the hunting license of person violating this law shall be forfeited during the remainder of the current hunting season, and such violator shall in addition be civilly liable for any damages that may result, directly or indirectly, because of livestock entering or escaping through such open gate or bars.

§ 2. Section 10088, Supplement 1925 and Section 10091, as hereby amended, or a summary thereof, shall be printed on each hunting license hereafter issued.

Approved February 8, 1941.

CHAPTER 7**S. B. No. 212—(Stucke)**

MANUFACTURE OF IMITATION BUTTER PROHIBITED**An Act to Prohibit the Manufacture, Sale or Storage of Imitation Butter, Patent or Processed Butter, or Ingredients Sold for the Purpose of Home Manufacture of Imitation Butter; except Oleomargarine; and Providing a Penalty and declaring an emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. MANUFACTURE, SALE OR STORAGE OF IMITATION BUTTER AND INGREDIENTS THEREFOR PROHIBITED; OLEOMARGARINE EXCEPTED.] No person by himself, his agents, or servants shall render or manufacture, sell, offer for sale for the future delivery of, have in his possession, keep in storage, distribute, deliver, transfer or convey

with intent to sell within this state any article, product, or compound made wholly or partly from any compound, article, or product not produced from unadulterated milk or cream, nor any imitation butter made of part cream and part caseine or other ingredients under any process whereby the caseine and other products are made to imitate and resemble genuine butter, nor any ingredients sold for the purpose of the home manufacture of any imitation butter. Provided, however, that nothing herein contained shall prohibit the manufacture or sale of oleomargarine as now permitted by law.

§ 2. PENALTY.] Any person violating the provisions of this act shall be guilty of a misdemeanor.

§ 3. 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 17, 1941.

CHAPTER 8

S. B. No. 59—(Young, Stucke, Olson of Mountrail, and Brant)

LIVESTOCK DEALERS, REGULATION

An Act to amend and re-enact Section 1 of Chapter 5, Laws 1937 and Section 2 of Chapter 5, Laws 1937 as amended by Chapter 14, Laws 1939 relative to the regulation and licensing of dealers in livestock, poultry and wool, requiring bond of such dealers, prohibiting the licensing of those convicted of felony and declaring an emergency.

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

§ 1.] Section 1 of Chapter 5, Laws 1937 is hereby amended and re-enacted to read as follows:

§ 1. DEALERS DEFINED: ACT NOT APPLICABLE, TO WHOM.] The term "dealer" as used herein shall mean any person, co-partnership, association or corporation engaged in the business of buying and selling and dealing in livestock, horses, mules, cattle, hogs, sheep and poultry and wool from the producer for re-sale and shipment within or without the State, and also re-sale in the local markets.

Nothing in this Act contained shall apply to farmers or farm associations who buy and sell livestock or wool among themselves as producers, or who purchase livestock or wool to complete a load of livestock of their own for shipment to market, provided, however, that this Act shall apply in such cases if purchases of livestock or wool are made exceeding twenty-five per cent of a railroad car

load; and nothing in this Act contained shall apply to co-operative livestock or wool marketing associations of producers of livestock or wool in their dealings with their members, or livestock purchased by local butchers or dealers to be slaughtered or processed in their business for local home consumption, or trading for merchandise or machinery.

§ 2.] Section 2 of Chapter 5, Laws 1937 as amended by Chapter 14, Laws 1939 is hereby amended and re-enacted to read as follows:

§ 2. LICENSE AND BOND REQUIRED.] All dealers, as herein defined, shall be duly licensed as hereinafter provided. No agent shall act for any such dealer unless the dealer is duly licensed and has designated such agent to act in his behalf and notified the Public Service Commission in his application for license or in writing of such appointment, and requested the Commission to issue to such agent an agent's license; and the dealer shall be accountable and responsible for all the acts of his agent.

Each dealer, before entering into the business as such as herein defined, shall annually on or before January 1 of each year, file an application with the Public Service Commission on a form prescribed by it for a license to transact such business. The applicant shall state the nature of the business for which a license is desired and whether it is for the business of buying livestock, poultry and wool or for any two or more, the name or names of persons applying for the license, and if the applicant is a firm, association, partnership or corporation the full name of each member of such firm, association, or partnership, or the names of the official officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership or corporation, the post office address and the principal place of business of the applicant, and if a foreign corporation, it must state its principal place of business without the State and the name of the State incorporated in and it must also state that it has complied with the corporation laws of this State relating to foreign corporations, and such other facts as the commissioners may prescribe.

Each applicant shall file with his application a surety company bond to be approved as to amount, form and sufficiency by the commission in the sum of not less than \$1,500.00 for a livestock dealer without agent and the amount of the bond to be increased not less than \$500.00 for each agent appointed by the dealer and licensed by the commission, in which the commissioners shall be the obligee but which shall be for the benefit and purpose of protecting any person, and shall be for the benefit of all persons selling livestock or poultry, or both, to such licensed livestock dealer or his agent. Such bond shall be conditioned upon the faithful performance of his duties as a dealer in livestock and all of the provisions of law relating to the

purchase of livestock or poultry, or both, by such livestock dealer, and for the payment by said livestock dealer of all livestock purchased by such dealer, as a dealer in livestock, and for the purpose of protecting any person which bond shall cover the entire license period; provided, however, that a separate bond for each agent appointed and licensed, may be given in the sum of \$1,500.00, in lieu of the additional amount on the principal bond; provided further that the commission may demand at any time additional bond for either principal or agent when in the discretion and judgment of the commission the volume of business of the principal or any agent named by such principal warrants it.

The commissioners shall thereupon issue to such applicant for a livestock dealer's license on the payment of the sum of five dollars a license entitling the applicant, his agent, to conduct the business of dealing in livestock as herein defined, at the place or places named in the application until the 31st day of December next following; provided that for each agent to whom a license is issued, the sum of five dollars shall be paid to the commission.

Provided, however, that if a buyer desires to buy poultry only, he may upon the payment of the sum of \$2.00, receive a license which will entitle him to buy nothing but poultry, and, in such event, he need only post a bond as aforesaid, in the sum of \$1,000.00 for the principal bond and \$500.00 for each additional agent as heretofore provided.

Each applicant for a wool dealer's license shall pay a license fee of \$5.00 which license shall be increased \$5.00 for each agent to be appointed by such dealer, the maximum license fee, however, not to exceed \$50.00. In addition, each applicant for a wool dealer's license shall furnish a bond like that required for livestock dealers for the protection of those selling wool to such dealers, in an amount not less than \$3,000.00, which bond shall be increased \$500.00 for each agent appointed by the said wool dealers and licensed by the commission, which bond, however, shall not exceed \$25,000.00.

No license herein provided for shall be issued to a dealer or an agent who has been convicted of a felony in this State or elsewhere.

EMERGENCY.] An emergency is hereby declared to exist and this act shall therefore be in effect from and after the date of its passage and approval.

Approved February 24, 1941.

CHAPTER 9

H. B. No. 224—(Haugland and Sellens)

LIVESTOCK SALES RINGS

An Act to Amend and Re-enact Chapter 5 of the Session Laws of North Dakota for 1937 as Amended by Chapter 14 of the Session Laws of North Dakota for 1939 by adding thereto the sections herein set out; Providing for the Regulation of Livestock Sales Ring; Providing for a License and Bond of such Livestock Sales Rings; Empowering the Public Service Commission to Promulgate Rules and Regulations Therefor; Providing for the Investigation of Sales and Transactions in such Sales Rings; Requiring the Inspection of Livestock Handled or Sold in such Rings, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Chapter 5 of the Session Laws of 1937 as amended by Chapter 14 of the Session Laws of 1939 is hereby amended so as to add the following Sections thereto and the same are hereby made a part thereof and all of the provisions of said Chapter 5 of the Session Laws of 1937, as amended, apply thereto in so far as the same may be applicable.

§ 18. APPLICATION.] Any person, partnership or corporation upon a written statement of financial responsibility and ownership or control of adequate facilities for the care, sorting, feeding, loading, unloading and shipment of livestock for the operation of a livestock sales ring, made to the Public Service Commission, and tendering the fee prescribed herein, may procure a license from said Commission to establish and operate a livestock sales ring within this state.

§ 19.] The term livestock as applicable to livestock sales rings shall mean and include horses, mules, cattle, swine, sheep and goats. The term livestock sales ring shall mean a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held or kept for sale and where such livestock is sold or offered for sale at either public auction or private sale, except as provided herein.

The provisions of this act shall not apply to any place used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business, or to the premises of any butcher, packer or processor who receives animals exclusively for immediate slaughter, or any place where an individual or a duly constituted association of breeders of livestock of any class assembles and offers for sale and sells under his or its management registered livestock or breeding sires, provided

said individuals or association assumes all responsibility of such sale and guarantees title of said livestock and makes proper provision for the inspection of all animals sold.

§ 20.] No person, partnership or corporation shall operate a livestock sales ring within this state without first procuring a license from the Public Service Commission and paying therefor a fee of \$100.00. Each license issued pursuant to this act shall expire on the 31st day of January, next after the issuance thereof. Each such person shall annually thereafter and on or before January 31st, of each year renew said license at the same fee prescribed for the original license. The application for such license shall be in writing and in the form prescribed by the Public Service Commission. If for any reason the Public Service Commission does not issue a license requested, or the renewal thereof, the fee paid for such license or renewal shall be refunded to the applicant.

§ 21. Each applicant shall file with his application for a license, or for a renewal thereof, a surety bond to be approved as to amount, form and surety by the Commission, in the penal sum of \$10,000.00, in which said bond the Commission shall be the obligee and which shall be for the benefit and purpose of protecting any person selling or buying livestock, to or through the licensee, or his or its agent, conditioned upon the payment of all money received, less reasonable expenses and agreed commissions, by the licensee and operator of such livestock sales ring, and upon the faithful performance of the duties of such licensee of his duties as such licensee and of all the provisions of laws relating to the purchase, sale or holding of livestock by such licensee, which said bond shall cover the entire license period.

§ 22. Upon its own motion, or upon complaint by any person, the Commission may enter into an investigation of the sales and transactions of any livestock sales ring and the conditions under which the business is conducted and if in its judgment such hearing is necessary, may conduct a hearing to determine whether the license of any sales ring should be revoked or the issuance of a license of such ring refused.

§ 23. Every livestock sales ring shall be maintained in a sanitary condition and on and after October 1, 1941 that portion thereof which is used for the handling of hogs, including all hog pens, alleys and sales ring, shall be equipped with concrete floors at least three inches thick, and these floors must be cleaned and disinfected after each sale or in case of continuous sale not less than once weekly, or as often as may be prescribed by the North Dakota Livestock Sanitary Board.

§ 24. All scales used in the operation of livestock sales rings shall be tested and inspected by the Department of Weights and

Measures, as provided by law, and all livestock sold by weight shall be weighed on said scales and the purchaser and seller thereof furnished with a true and correct statement of such weight.

§ 25. Operators of all livestock sales rings shall keep on file an accurate record of the date on which each consignment of animals was received and sold, together with the name and address of the buyer and seller, the number of species of the animals received and sold and the marks and brands on each animal. Said records, together with the gross selling prices, commission, and other proper care, handling and sales charges on each consignment shall be available for inspection by the Public Service Commission, or its authorized inspector, and a copy thereof shall be supplied to the owner of said livestock. All records of sales during the preceding twelve months shall be kept readily accessible for immediate examination.

§ 26. All livestock upon entering a livestock sales ring shall be inspected for both health and brands before being offered for sale. Such inspection shall be made by a veterinarian approved by the Livestock Sanitary Board, whether moved interstate or intrastate, and the fees for such inspection and the payment thereof shall be established by rules and regulations of the Livestock Sanitary Board.

§ 27. It shall be unlawful for the operator of a livestock sales ring to permit the removal of any livestock from the establishment until such livestock has been treated in accordance with the rules and regulations prescribed by the Livestock Sanitary Board. The authorized veterinarian shall furnish each purchaser with a certificate showing that inspection has been made and treatment administered as provided by the rules and regulations of the Livestock Sanitary Board and in case of livestock destined to be shipped interstate that such livestock has been inspected in accordance with the requirements of the state of destination. All fees for veterinary inspection, treatment and services, including brand inspection, shall be collected by the operator of the livestock sales ring and paid to the inspectors.

§ 28. The operator of each livestock sales ring in this state shall warrant to the purchaser thereof the title of all livestock sold through his or its sales ring and shall be liable to the rightful owner thereof for the net proceeds in cash received for such livestock so sold, and it shall be the further duty of such operator, when notified by an authorized brand inspector that there is a question as to whether any designated livestock sold through said ring is lawfully owned by the consignor thereof, to hold the proceeds received from the sale of said livestock for a reasonable time, not to exceed sixty (60) days, to permit the consignor to establish ownership; and if, at the expiration of that time the consignor fails to establish his lawful ownership of such livestock to the satisfaction of the said brand inspector, said proceeds shall be transmitted by such operator to the Commission

and said Commission shall have authority to dispose of said proceeds in accordance with the laws of the state to the rightful owner.

§ 2. 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 17, 1941.

CHAPTER 10

H. B. No. 277—(Swanson of Richland, Fitch, Crockett)

ESTABLISHMENT OF A MARKETING BUREAU

An Act to establish a marketing bureau within the Department of Agriculture and Labor of the State of North Dakota and defining its functions.

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

§ 1. That there be established within the Department of Agriculture and Labor of the State of North Dakota a marketing bureau for the purpose of gathering and disseminating statistical information on agricultural marketing problems of the State, and to engage in marketing services of agricultural products.

Approved March 14, 1941.

CHAPTER 11

H. B. No. 267—(Falconer and Fitch)

INSPECTION FEES FOR SALE OF NURSERY STOCK

An Act Relating to reciprocal agreements between the Director of the North Dakota Experiment Station and officers of other states pertaining to fees for inspection certificates or permits in connection with the sale of nursery stock.

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

§ 1.] Notwithstanding the provisions of Sections 2824 to 2834 of the 1913 Compiled Laws of the State of North Dakota, the Director of the North Dakota Experiment Station may enter into reciprocal agreements with the responsible officers of other states under which nursery stock owned by nurserymen or dealers of such states may be sold or delivered in this State without the payment

of a North Dakota registration fee, provided like privileges are accorded to North Dakota nurserymen, dealers, or agents in such other states, and provided, further, that the said Director shall find that such other states before issuing their certificates, require inspections equal to those required under the North Dakota law and provided further, that the Director of the North Dakota Experiment Station may enter into reciprocal agreements with the responsible officers of other states under which nursery stock owned by nurserymen or dealers of such states may be sold or delivered in this State without furnishing bond, without special permit tags of all descriptions, without filing of special invoice, without fumigation of stock, without making special inspection at time of shipping, without signing of special statements concerning locations of stock, or without any other kind of special inspection other than that necessary for complying with the regular filing of the accepted certificate of inspection.

Approved March 4, 1941.

CHAPTER 12

H. B. No. 208—(Dalzell and Anderson)

GRADING, LABELING AND INSPECTING POTATOES AND OTHER PRODUCTS

An Act to Amend and Re-enact Sections 1, 3 and 4 of Chapter 214, Session Laws of 1931, Relating to the Establishment of a Standardized and Uniform System of Grading, Labeling and Inspecting Potatoes and Certain Other Produce, and to Regulate the Sale and Distribution Thereof. Repeal; and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 214, Session Laws of 1931, be and the same is hereby amended and re-enacted to read as follows:

§ 1. STATE SEED COMMISSIONER TO ESTABLISH GRADE INSPECTION SERVICE AND APPOINT NECESSARY AGENTS AND INSPECTORS.] In order to develop and protect the industries in this State engaged in the growing and marketing of potatoes and other produce and to conserve and promote the welfare of the citizens of the State, the State Seed Commissioner, hereinafter referred to as the "Commissioner," is hereby authorized and empowered to promulgate rules and regulations prohibiting or otherwise regulating the importation or dissemination within the state of particular detrimental insects and diseases, to establish potato and other produce grades and inspec-

tion service for the purpose of making inspections on, and otherwise providing for proper handling and marketing of the agricultural commodities defined in Section 2 of this Act, under the classifications of "potatoes" and "other produce"; To appoint a Chief Inspector and such other agents, inspectors, assistants and clerical aids as the Commissioner finds necessary to assist, represent and act for him in enforcing and otherwise carrying out the provisions of this Act, and to fix salaries of said employees and provide for operating expenses.

§ 2. AMENDMENT.] That Section 3 of Chapter 214, Session Laws of 1931, be and the same is hereby amended and re-enacted as follows:

§ 3. NORTH DAKOTA GRADES FOR POTATOES AND OTHER PRODUCE.] The following grades for potatoes are hereby designated as official and standard grades for North Dakota; namely, "U. S. Fancy," "U. S. No. 1", "U. S. Commercial", "U. S. No. 2", "North Dakota Certified Seed", and "Unclassified." The U. S. grades and standards herein designated shall be subject to change only, provided the said U. S. Department promulgates any new and definite changes, and such changes shall thereupon be adopted by the Commissioner for use in North Dakota.

The State Seed Commissioner shall have authority by regulation to promulgate or change North Dakota state grades.

The "North Dakota Certified Seed" grade shall conform in all respects to the provisions of the seed laws of this state and the regulations made thereunder, and shall be labeled in accordance therewith.

"Unclassified" lots shall include all potatoes not meeting the requirements of any of the foregoing grades. It shall be optional, however, to use the "Unclassified" labeling on any lot of potatoes.

For "other produce" the grades which may have been heretofore or shall be hereafter fixed by the Department of Agriculture of the United States, for such produce, are hereby adopted and designated as the official standard grades for North Dakota. Inspections on incoming produce may be made and certificates issued on the basis of other applicable state grades or in accordance with sales contracts.

§ 3. AMENDMENT.] That Section 4 of Chapter 214, Session Laws of 1931, be and the same is hereby amended and re-enacted as follows:

§ 4. LABELING AND OFFICIAL INSPECTION OF POTATOES CLOSED CONTAINERS.] Every closed container packed with potatoes grown in North Dakota, and sold, offered for shipment or sale, or consigned for sale in less than car lots or in carload lots, shall bear upon the outside thereof, either by brand, tag or label, in plain letters and

figures, the variety or class name, the net weight when packed and correct grade designation, or, in lieu thereof, each container shall be labeled to show the net weight when packed and official North Dakota inspection shall be obtained and the lot must not be mislabeled.

Every closed container packed with potatoes grown in North Dakota, which is transported, shipped, sold, offered or exposed for sale in truck lots by a person other than the grower thereof, shall bear upon the outside thereof, either by brand, tag, or label, in plain letters and figures, the variety or class name, the net weight when packed and correct grade designation, or, in lieu thereof each container shall be labeled to show the net weight when packed and the lot official North Dakota Grade inspection shall be obtained and not be mislabeled.

When an individual shipment is made from such towns or stations at which regular inspection service is not maintained, and when such shipments cannot be so routed as to be stopped in transit for inspection at a town or station at which inspection service can be provided, or when due to unforeseen circumstances which make it physically impossible for an inspector to perform such inspection, or when definite or sufficient evidence followed by proof if demanded is presented to establish the fact that the shipment will be repossessed and when inspection service is available officially inspected in transit, then the commissioner, or his agent, may waive, by a special written permit, the inspection and labeling requirements provided in this section for such individual shipment.

The labeling prescribed in this Act may be accompanied by additional marks or brands which are not inconsistent with or in the same location more conspicuous than, or which do not in any way obscure the labeling described in this Act. The Commissioner shall, by regulation, prescribe the general location of the labeling on the container and the minimum size of the letters and figures used in the labeling of the potatoes as herein provided.

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

§ 5. EMERGENCY.] This Act is hereby declared should be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1941.

CHAPTER 13**S. B. No. 66—(Thatcher)**

**DISTRIBUTION OF SEEDS AND PLANTING STOCK BY
STATE FORESTER**

An Act to amend and re-enact Chapter 243 of the Session Laws of 1939 relating to the distribution of seeds and planting stock by the State Forester, and declaring an emergency.

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

§ 1. AMENDMENT.] That Chapter 243 of the Session Laws of 1939, be amended and re-enacted to read as follows:

Seeds and planting stock from such nursery may be distributed by the State Forester to citizens and land owners of this state upon payment of a price not greater than the cost to the state of production in the case of planting stock or collection in the case of seeds, and the cost of transportation from the nursery, except in the case of planting stock distributed for the specific purpose of live snow fence or highway beautification plantings; which may be distributed free of charge.

§ 2. 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 6, 1941.

CHAPTER 14**H. B. No. 300—(Hofstrand, Anderson, Dalzell and Stormon)**

STATE SEED DEPARTMENT, AMENDMENT

An Act to amend and re-enact Sections 7, 8, 9 and 17 of Chapter 258 of the Session Laws of 1931 relating to the State Seed Department, and Declaring an Emergency.

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

§ 1.] That Section 7 of Chapter 258 of the Session Laws of 1931 is hereby amended and re-enacted as follows:

§ 7. PROVISIONS FOR FREE LABORATORY SERVICE.] For the purpose of this act, from and after the first day of July A. D. 1941, the fees charged for all samples submitted by any *resident* person of the State in excess of the specified free tests shall be amended as follows: A fee of fifty cents shall be paid for each purity analysis

of clovers, alfalfa, cereals, flax, corn, beans, peas, etc.; a fee of \$1.00 for each purity analysis of grass seeds, or mixtures of grass and/or clover seeds; and a fee of fifty cents for each germination test.

§ 2. AMENDMENT.] That Section 8 of Chapter 258 of the Session Laws of 1931 is hereby amended and re-enacted as follows:

Section 8 of the act entitled "Weed Seeds" to be repealed and amended as follows: For the purposes of this act, from and after the first day of July A. D. 1941, the term "Weed Seeds" shall include the seeds of all plants generally recognized as weeds within the state, and shall include noxious weed seeds. Noxious weed seeds shall be divided into two classes, "Prohibited Noxious Weed Seeds" and "Primary Noxious Weed Seeds," which are designated as follows:

(1) "Prohibited Noxious Weed Seeds" are the seeds of perennial weeds, which when established are highly destructive and difficult to control by ordinary good cultural practices, namely, Leafy Spurge (*Euphorbia esula* L.) Field Bindweed or Creeping Jennie (*Convolvulus arvensis* L.) Perennial Pepper Grass or White Top (*Lepidium draba* L., *Lepidium repens* Schrenk, *Hymenophysa pubescens* C. A. Mey) and Russian Knapweed (*Centaurea picris* Pall.)

(2) "Primary Noxious Weed Seeds" are the seeds of annual and perennial weeds which when established are difficult to control, but yield more readily to good cultural practices, namely, Quack Grass (*Agropyron repens* L. Beauv), Canada Thistle (*Cirsium Arvense* L.), Perennial Sow Thistle (*Sonchus arvensis* L. and Dodder (*Cuscuta* species except *coryli*).

Any lot of seed containing said noxious weed seeds shall be properly labeled, as hereinafter provided, to indicate their presence, if the said noxious weed seeds are present singly or collectively as follows:

(a) In the case of "Prohibited Noxious Weed Seeds" in excess of one seed in each ninety grams.

(b) In the case of "Primary Noxious Weed Seeds", in excess of one seed in each twenty grams.

§ 3. AMENDMENT.] That Section 9 of Chapter 258 of the Session Laws of 1931 is hereby amended and re-enacted as follows:

§ 9. LABELING REQUIREMENTS OF SEED.] For the purpose of this act, from and after the first day of July A. D. 1941, the label prescribed in the act shall include, in addition to the prescribed specifications (a) to (g) the following additional information:

(h) Lot number or other lot identification.

(i) The percentage by weight of agricultural seeds other than those required to be named on the label as stated in subsection (b) of this section.

(j) The percentage by weight of inert matter.

§ 4. AMENDMENT.] That Section 17 of Chapter 258 of the Session Laws of 1931 is hereby amended and re-enacted as follows:

§ 17. MISLABELING.] It shall be unlawful for any person knowingly either for himself or while acting as agent or servant for any other person to sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale or to deliver or distribute within the state, any seed which shall be mislabeled within the meaning of this act or the regulations made thereunder, or which is falsely labeled, represented or advertised in any respect, or which is designated, offered, represented or advertised under any name or identification other than that by which such seed was originally known, provided, however, that any person may, under rules and regulations to be made therefor by the Commissioner, submit to the State Seed Commissioner a sample of any seed which he claims to be a new variety distinct from any commonly known variety of such seed, together with a proposed distinctive name therefor. The State Seed Commissioner shall thereupon make such tests as he shall consider necessary and if he finds as a result of such tests that such seed or plant is of a new variety distinct from any variety of such seed known theretofore, and that the name proposed therefor will properly distinguish said seed from any and all other varieties thereof, he shall issue to the person applying therefor a permit to designate such seed by said name.

In the event of the shipment into this state from any point outside thereof, of any seed it shall be the duty of the purchaser or vendor or any person receiving such seed to have the same labeled in accordance with and conforming to the requirements of this act; Provided, however, that certain standardized grades and labeling of seed in use elsewhere may be permitted by the Commissioner, in connection with shipments of seed into this state from points outside thereof, in lieu of the labeling provided for in this act; Provided, further, that the provisions of this act shall not apply to any common carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a common carrier; and provided further, that no person, excepting common carriers as herein provided, shall knowingly distribute, sell, offer, expose or have in possession with intent for sale for sowing or planting purposes, any seed included in Section 3, sub-section (a) of this act, or any garden vegetable seed or any other kind or nature of seed that is falsely represented by labeling or in any form of advertising or in any other way as to quality, condition, grade, viability, purity, character, nature, variety or any other description.

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

§ 6. 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 7, 1941.

CHAPTER 15

S. B. No. 93—(Flatt and Young)

TREE BOUNTY

An Act to Amend and Re-enact Section 1 of Chapter 252 of the Session Laws of North Dakota for the year 1937, as Amended by Chapter 245 of the Session Laws of North Dakota for the year 1939, Relating to Bounty for Tree Planting.

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

§ 1. AMENDMENT.] Section 1 of Chapter 252 of the Session Laws of the State of North Dakota for the year 1937, as amended by Chapter 245 of the Session Laws of the State of North Dakota for the year 1939, is hereby amended and re-enacted to read as follows:

§ 1. BOUNTY FOR TREE PLANTING.] Any person who shall subsequent to July 1, 1937 plant or cause to be planted, cultivated and kept in growing, thrifty condition one acre and not more than ten acres of prairie land with any kind of forest trees, and shall plant, or have planted said trees, shall be entitled to four dollars (\$4.00) for each acre so planted and cultivated and two dollars (\$2.00) bounty per acre for each succeeding year up to four, in which such trees are kept cultivated and growing to be credited upon the taxes assessed against the land upon which such trees are planted, and such credit shall be apportioned to the shares due the state and respective taxing districts for general fund levies, but such bounty shall not be so allowed unless such grove be maintained upon a tract of not less than eighty acres and shall have at least four hundred living trees in each acre so maintained and kept in growing condition, and in no case shall any bounty be allowed in excess of the amount of real estate taxes levied for such year upon the quarter section of land of which such parcel of land planted to trees is a part. Provided, further, that in the event there are any unpaid taxes levied and unpaid against the quarter section of land of which such parcel of land planted to trees is a part of the time application is made for said bounty, such bounty, if allowed, shall be credited upon the amount of such taxes.

Approved March 14, 1941.

ANIMALS

CHAPTER 16

H. B. No. 294—(Haugland, Anderson, Hofstrand)

BANG'S TESTS IN TOWNSHIPS

An Act to Amend and Re-enact Section 1 of Chapter 11, Session Laws of 1939, Relating to the Application of the Bang's Test in Townships in Counties in North Dakota Under the Direction of the North Dakota Livestock Sanitary Board by Petition of Seventy-five per cent of the Freeholders or Livestock Owners in such Townships, and providing for the compulsory Bang's testing of townships in Counties in which seventy-five per cent of the townships are completely Bang's tested.

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

§ I. AMENDMENT.] That Section I of Chapter II, Session Laws of 1939, is hereby amended and re-enacted to read as follows:

§ I. Upon receipt of a petition signed by not less than seventy-five per cent of the resident freeholders or livestock owners of any township in any county in North Dakota petitioning for the application of the Bang's test to all cattle within such township, the North Dakota Livestock Sanitary Board is authorized and empowered to enforce the Bang's testing of all such cattle in such township, in accordance with the laws providing for the eradication of Bang's disease and reimbursement of owners of cattle slaughtered on account of Bang's disease and the regulations of the North Dakota Livestock Sanitary Board.

Provided, that in any circumscribed area as established by the North Dakota Livestock Sanitary Board, where all the cattle in said area are to be Bang's tested and said Bang's test is undertaken under the direction of the North Dakota Livestock Sanitary Board, no other cattle shall enter said area unless Bang's tested under the direction of the North Dakota Livestock Sanitary Board or are accompanied by a proper Bang's test health certificate, except under special permit and restrictions provided by the North Dakota Livestock Sanitary Board.

Provided further, that when seventy-five per cent or more of the townships in any county in North Dakota are completely Bang's tested it becomes mandatory on the part of the remaining freeholders or livestock owners in said area to submit their herds of cattle to the Bang's test.

Approved March 7, 1941.

CHAPTER 17

H. B. No. 189—(Drovdal and Anderson)

HERD LAW SUSPENSION

An Act to Amend and Re-enact Section 1 of Chapter 140 of the Session Laws of 1919, being Section 2618 of the Supplement to the Compiled Laws of 1913, as amended by Chapter 4 of the Session Laws of 1931, Relating to Herd Law Suspension.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 140 of the Session Laws of 1919, being Section 2618 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 4 of the 1931 Session Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 2618. HERD LAW: HOW AND WHEN SUSPENDED.] The board of county commissioners of each county in the state shall establish stock districts including all territory within the county for the purposes hereinafter provided. The boundaries of districts so established shall follow township lines or cooperative grazing district boundaries. A district may consist of one or more congressional townships or the entire county may be made to comprise one district and all district shall be subject to the jurisdiction of the board of county commissioners for the purposes of this act. Upon petition of sixty per cent of the electors of any such district as determined by the whole of the number of votes polled at the general election last held therein excluding those votes cast within the corporate limits of any city, town or village, or within the boundaries of any irrigation district organized pursuant to the irrigation laws of the state of North Dakota within such district, being filed in the office of the county auditor asking that stock be permitted to run at large between certain dates specified in such petition, it shall be the duty of the board of county commissioners of such county, within ten days thereafter, at a regular or special meeting to declare by resolution that stock may run at large within the limits of said district between the dates named in said petition, except within the corporate limits of any city, town or village, but no stallion, jack, boar, ram, bull or any animal known to be vicious shall be permitted to run at large at any time. Said resolution shall state the date of its taking effect and the date of its discontinuance, which dates shall correspond to those found in the petition hereinbefore provided for, and said resolution shall be effective to permit stock to run at large between said dates of the year or years named only. Provided that if sixty per cent of the electors of any district as determined by the whole number of the votes polled at the general election last held therein,

excluding those votes cast within the corporate limits of any city, town or village therein, shall file a petition in the office of the county auditor asking that such resolution be revoked, it shall be the duty of the board of county commissioners of said county, within ten days thereafter at any regular or special meeting, to revoke the previous resolution declaring that stock may run at large, and said board shall not thereafter within one year from the date of such revocation declare it lawful for stock to run at large within said district or any part thereof.

Approved March 7, 1941.

CHAPTER 18

S. B. No. 90—(Guenther and Morgan of Richland by Request)

PREDATORY ANIMALS

An Act to appropriate seven thousand, five hundred (\$7,500.00) dollars for the biennium to provide for the control of predatory animals such as wolves, coyotes, bobcats and other predatory animals which are injurious to livestock, poultry and game animals and birds; to authorize cooperation with the United States in the control of such predatory animals; and to provide for funds to enable the Department of Agriculture and Labor to carry out the provisions of this act; repealing all acts or parts of acts in conflict herewith and declaring an emergency.

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

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

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

(b) For such expenditures there is hereby appropriated out of money in the State Treasury not otherwise appropriated the sum of seven thousand, five hundred (\$7,500.00) dollars, which appropriation shall be available until expended.

§ 3. All furs, skins and specimens taken by hunters whose salaries are paid out of funds hereinbefore appropriated shall be disposed of in such manner as the Department of Agriculture and Labor shall determine to be in the best interests of the State: provided, that if such furs, skins or specimens are sold, the net proceeds of such sales shall be available and are hereby appropriated for expenditure by the Department of Agriculture and Labor in the same manner as herein provided for the expenditure of funds appropriated pursuant to Section 2 of this act.

§ 4. Should the courts declare any section, provision, paragraph, clause, sentence, phrase or part thereof of this Act invalid, then such decision shall affect only the section, provision, paragraph, clause, sentence, phrase or part thereof so declared invalid and shall not affect any other part of this Act.

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

§ 6. 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 14, 1941.

CHAPTER 19**H. B. No. 273—(Benno, Haugland and Smart)****RENDERING PLANTS, REGULATIONS**

An Act for the Licensing, Regulating, Establishing and Inspecting of Rendering Plants or Establishments, and Providing Punishment for Violation Thereof; Exempting Certain Plants; Providing an Appropriation; Declaring an Emergency.

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

§ 1. No person, firm or corporation shall operate any rendering plant or establishment using the carcasses of domestic animals and wild animals which are not intended for human consumption, without first filing an application with the North Dakota Livestock Sanitary Board for a license to do so, subject to the provisions of this Chapter and the regulations of said Board.

§ 2. Upon the receipt of said application, the North Dakota Livestock Sanitary Board shall cause an inspection to be made of any establishment for which a license is requested, including its equipment, vehicles, and manner of conduct of its business, with reference and due regard of danger of disease transmission and dissemination.

If said inspection fails to reveal any danger of disease transmission, said Board shall issue the license applied for upon payment of a fee of fifty dollars (\$50.00). Such license shall remain valid for a period of one year from the date of issuance or until revoked for cause by said Board.

§ 3. No rendering establishment or plant shall be deemed sanitary unless it conforms to the following specifications. All floors must be made of concrete. All openings must be screened to prevent the entrance of flies and insects. The building must be provided with good drainage and be thoroughly sanitary in every respect. All collecting vats or tanks shall be air tight, except for proper escape for live steam for cooking. Such steam shall be reverted into a tank of water or firebox so as not to become an unnecessary annoyance or nuisance.

§ 4. All rendering plants and establishments shall be situated and conducted in such a manner as not to interfere with the comfort or property of the citizens of this state. No liquid wastes, either from the rendering process or from washing shall be discharged into any stream, water place, or on the surface of the ground nor shall such be discharged so as to contaminate or make unfit for human or livestock use any water supply. All sewage from washing floors, and vehicles and liquid wastes from the rendering process shall be

disposed of in a manner satisfactory to the North Dakota Livestock Sanitary Board. However, rendering establishments that are situated so that all waste can be disposed of into the city's disposal plant, may do so if permission is granted by the city, provided, however, that no permit shall be granted to any such plant or establishment which comes into existence after this act becomes effective unless the same is equipped for dry rendering.

§ 5. Vehicles for transporting carcasses of dead animals to rendering establishments must be provided with a watertight bed or tank, not less than fifty inches in width, all metal or metal-lined or watertight for at least six inches above the floor of the box or bed, and the endgate must be metal lined and hinged at the bottom of the box or bed, and fastened firmly to the top when closed. The sides, top and endgate must be so constructed as to prevent flies and insects from entering. All vehicles used for the purpose of collecting dead animals must carry a tank filled with a 4% solution of creosol to be used as a disinfectant, or other disinfectant as prescribed by the Board. All unloading places or chutes must be on cement floors which can be cleaned and disinfected. All vehicles after collecting dead animals at farms and before entering upon any of the public highways of the state shall be disinfected with the above described solution, giving special attention to all those parts of the vehicles which come in contact with the ground while upon the premises. The same shall be required of the operator of such vehicle, with special reference to his footwear and hands. After unloading the vehicle or tank at the rendering plant, it shall be thoroughly washed and disinfected with the same strength of solution as required above, or with live steam or both.

§ 6. No carcasses collected at farms in this state shall be removed from the vehicle except at the rendering plant for final disposal.

§ 7. Anyone operating a vehicle for a licensed rendering establishment must first have an authorized certificate from the rendering establishment which has been approved by the North Dakota Livestock Sanitary Board, and if this certificate is not in his possession, he shall not be considered an agent of such rendering establishment.

§ 8. It shall be the duty of the operator of any rendering establishment to permit for inspection thereof, at any time, by any official authorized by the North Dakota Livestock Sanitary Board, or by any health officer.

§ 9. Provided that any rendering done in connection with regular packing plant operations under Federal Inspection will be exempt from the provisions of this act.

§ 10. Money collected under this act shall be deposited with

the State Treasurer to the credit of the North Dakota Livestock Sanitary Board, and there shall be appropriated to the North Dakota Livestock Sanitary Board the sum of four hundred dollars for the biennium period.

§ 11. No plant now in existence, if located within three miles of any city, village, or town shall be rebuilt. Hereafter, no rendering plant shall be constructed within three miles of the limits of any city, village, or town, nor within one mile of any farmstead.

§ 12. PUNISHMENT.] Any person, firm or corporation or any employee of each thereof, violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and shall upon conviction be fined in the sum of not exceeding \$100.00, or by imprisonment in the County Jail for not more than ninety days, or both such fine and imprisonment, in the discretion of the Court.

§ 13. 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 17, 1941.

CHAPTER 20

S. B. No. 91—(Guenther and Morgan of Richland by Request)

WOLF AND COYOTE BOUNTY

An Act to amend and re-enact Chapter 7 of the Session Laws of 1935, relating to wolf and coyote bounty.

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

That Chapter 7 of the Session Laws be amended and re-enacted to read as follows:

§ 2645. STATE BOUNTY FOR WOLVES AND COYOTES.] For the purpose of encouraging the destruction of wolves and coyotes, a bounty shall be paid by the State of North Dakota for each wolf and coyote killed, as follows:

That there shall be paid for each mature wolf and mature coyote killed between the first day of April and the first day of October of each year, the sum of Two Dollars and fifty cents (\$2.50), and One Dollar (\$1.00) for each wolf or coyote pup killed between the first day of April and the first day of October of the year of the whelping of such wolf and coyote pup, provided that no bounty shall be paid for wolves and coyotes killed between the first day of October and the first day of April of each year; provided

further, that no bounty shall be paid on wolves or coyotes killed by the Extension Division of the North Dakota Agricultural College through the directors thereof cooperating with the Fish and Wildlife Service of the United States Department of the Interior.

Approved March 17, 1941.

APPROPRIATIONS

CHAPTER 21

H. B. No. 16—(Committee on Appropriations)

ATTORNEY GENERAL—LICENSING DEPT.

An Act Making an appropriation for the enforcement and administration of the Attorney General Licensing Department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Attorney General License Fund in the State Treasury, the sum of \$24,240.00, or so much thereof as may be necessary for salaries and general expenses for the Attorney General Licensing Department as provided for in Sec. 11, Chap. 258, S. L. 1939, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire:

Chief Inspector	\$ 3,600.00
Deputy Inspectors—Three	9,000.00
Chief Clerk	2,640.00
Postage	1,000.00
Printing	500.00
Miscellaneous	500.00
Travel Expense	7,000.00
Total	\$24,240.00

§ 2. In addition to the sums above appropriated, there is hereby appropriated, for the purpose of administration of the affairs of said Licensing Department, out of the Attorney General's Inspection Fund, the proceeds of the sales of property seized and confiscated by inspectors of the State Licensing Department, and sold under order of the District Court, as provided by Chapter 227, Session Laws of 1929.

Approved March 21, 1941.

CHAPTER 22

H. B. No. 278—(Committee on Appropriations)

APPROPRIATIONS, WHEN AVAILABLE

An Act to Amend and Re-enact Section 635 of the 1913 Compiled Laws of the State of North Dakota as Amended by Chapter 12 of the 1937 Session Laws, and Amending Section 2 of Chapter 12 of the 1937 Session Laws, with reference to Availability of Appropriations; and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 635 of the 1913 Compiled Laws as amended by Chapter 12 of the 1937 Session be and the same is hereby amended to read as follows:

§ 635. APPROPRIATIONS WHEN AVAILABLE.] Seventy-five per cent of the total of all appropriations and of each separate item thereof made by the Legislative Assembly for the maintenance of any State institution, department, board, commission, or bureau for the biennium, shall become available on the first day of July next succeeding the enactment by the Legislature and the remaining twenty-five per cent of any such appropriation shall be available only at the beginning of the fourth quarter of the biennium, and it shall be unlawful for any State institution, department, board, commission, or bureau for which an appropriation is made, to disburse more than seventy-five per cent of said appropriation during the first eighteen months of the biennium or to incur any expense or liability which shall be discharged from such appropriation or for which such appropriations shall become available. The term 'maintenance' shall not apply to or include moneys appropriated for the payment of the cost of any buildings or equipment or for making improvements and repairs to buildings and grounds, or any other special appropriations exempted from the operation of this Act by the Act making such appropriation.

§ 2. AMENDMENT.] That Section 2 of Chapter 12 of the 1937 Session Laws be and the same is hereby amended to read as follows:

§ 2. The State Auditor and State Treasurer shall keep a record in their offices showing: (1) the total amount appropriated for maintenance for each state official or agency thereof, and of each separate item thereof; (2) the amount equal to seventy-five and twenty-five per cent of the total so appropriated and of each separate item thereof; (3) the amount disbursed and the balance on hand. That the State Auditor shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five per cent of any item appropriated for maintenance of any state official or state agency nor shall the State Treasurer pay such warrant;

provided, however, the duties and limitations imposed upon the State Auditor and State Treasurer shall apply only to the total amount appropriated for the biennium but not to separate items appropriated for maintenance to all institutions under the jurisdiction and supervision of the Board of Administration and the State Board of Higher Education. Said boards shall keep a record showing the amount equal to seventy-five and twenty-five per cent of the total amount and of each separate item appropriated for maintenance for all such institutions and shall be responsible for the enforcement of the restrictions upon the disbursements of all moneys appropriated to such institutions for maintenance purposes.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1941.

CHAPTER 23

H. B. No. 6—(Committee on Appropriations)

THE BANK OF NORTH DAKOTA

An Act Making an appropriation for the purpose of defraying the expense of the maintenance and operation of the Bank of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury in the Bank of North Dakota Fund created by transfer of profits from said institution, the sum of \$596,100.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Bank of North Dakota for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

BANKING DEPARTMENT

Salary—Manager	\$ 10,400.00
Clerkhire:	
Manager—Credits Department	8,400.00
Ass't Mgr. Credits Department.....	6,000.00
Auditor	6,000.00
Legal Counsel	7,200.00
Tellers	13,680.00
Mgr. Transit & Bookkeeping Dept.....	4,272.00
Ass't. Mgr. Transit & Bkpg. Dept.....	3,192.00

Bookkeepers -----	18,312.00
Transit Machine Operators -----	7,896.00
Stenographers -----	11,400.00
Clerks -----	15,288.00
Janitors -----	6,000.00
Fieldmen & Collectors -----	3,600.00
Temp. & Spl. Clerks & Stenos -----	4,000.00
Postage -----	15,000.00
Office Supplies -----	2,100.00
Furniture & Fixtures -----	10,000.00
Printing -----	4,500.00
Miscellaneous -----	5,500.00
Travel -----	5,000.00
Examinations & Legal Expense -----	6,000.00
Advertising -----	5,300.00
Insurance -----	14,200.00
Bank Bldg., Mtce. & Repair -----	12,000.00
Taxes -----	4,350.00
Service and Repair on Equipment -----	2,000.00
Telephone & Telegraph -----	2,000.00
Rents -----	300.00
Emergency Fund -----	10,000.00
Total -----	<u>\$223,890.00</u>

COLLECTION & LAND DEPARTMENT

Salary—Farm Manager -----	\$ 8,000.00
Salary—Collection Dept. Mgr. -----	6,000.00
Clerkhire:	
District Managers -----	24,480.00
Manager, Insurance Dept. -----	5,640.00
Attorney -----	6,600.00
Accountants -----	12,240.00
Bookkeepers -----	8,640.00
Stenographers -----	36,460.00
Clerks -----	14,880.00
Repair Foremen -----	4,200.00
Fieldmen & Appraisers -----	95,820.00
Temp. & Spl. Clerks & Stenos -----	4,800.00
Postage -----	15,000.00
Office Supplies -----	4,200.00
Printing -----	9,000.00
Miscellaneous -----	4,000.00
Travel -----	60,000.00
Examination & Legal Expense -----	10,000.00
Advertising -----	700.00

Insurance -----	5,800.00
Taxes -----	250.00
Emergency Fund -----	30,000.00
Service & Repair on Equipment -----	500.00
Telephone & Telegraph -----	4,000.00
Rents -----	1,000.00
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Total -----	\$372,210.00
Grand Total -----	\$596,100.00

Approved March 14, 1941.

CHAPTER 24

H. B. No. 17—(Committee on Appropriations)

AGRICULTURE AND LABOR—BEE KEEPERS ACT

An Act Making an appropriation to defray the expenses for the Bee Keepers Act.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Bee License Fund in the State Treasury, the sum of \$2,500.00, or so much thereof as may be necessary to defray the expenses of the Commissioner of Agriculture and Labor or his agents as provided for in Chap. 2, S. L. 1939, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Licensing Bee Keepers.....	\$2,500.00
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Total.....	\$2,500.00

Approved March 21, 1941.

CHAPTER 25

S. B. No. 32—(Committee on Appropriations)

STATE BOARD OF AUDITORS

An Act to provide for the payment of the expenses of auditing and examining the affairs of the State Industrial institutions, and the special departments and its subdivisions, of the State of North Dakota, designating and appropriating the funds from which paid; providing for the payment of said collection into the Special Fund in the State Treasury; providing for repeal of acts.

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

§ 1. In order to reimburse the State for the expense of making the audits and examinations of industrial and business institutions of the State of North Dakota by the State Board of Auditors as provided for by Section 369b of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 186 of the Laws of 1933, the North Dakota Mill and Elevator Association for the State Mill and Elevator at Grand Forks, the Bank of North Dakota, including the Farm Loan Department, the State Hail Insurance Department, the Workmen's Compensation Bureau of the State of North Dakota, the Coal Mine Inspection Department, the North Dakota Teachers Insurance and Retirement Fund, the Highway Department, the Motor Vehicle Department, Drivers License Department, the Game and Fish Department and the State Laboratories, immediately upon receipt of a statement of the actual expense of auditing such departments or institutions, such department or institution shall pay to the State Treasurer of the State of North Dakota, to the account of the State Board of Auditors and to be deposited by the State Treasurer in a special fund to be known at (as) the State Board of Auditors Fund. Provided, however, that the auditing fee for such service in any one year shall not exceed 50 percent of the sum set forth for the various institutions and departments, as follows:

North Dakota Mill and Elevator Ass'n for the State Mill and Elevator at Grand Forks.....	\$ 8,000.00
Bank of N. Dak., including Farm Loan Dept.....	14,000.00
State Hail Insurance Department.....	4,000.00
Workmen's Compensation Bureau.....	3,000.00
Coal Mine Inspection Department.....	150.00
Teachers Insurance & Retirement Fund.....	800.00
State Highway Department.....	12,000.00
Motor Vehicle Department.....	3,000.00
Drivers License Department.....	1,000.00
Game & Fish Department.....	1,500.00
State Laboratories.....	1,500.00
Total.....	\$48,950.00

§ 2. APPROPRIATION.] There is hereby appropriated out of the State Board of Auditors Fund the sum of \$48,950.00, or as much thereof as is necessary for the biennium ending June 30th, 1943, to-wit:

Salaries -----	\$40,950.00
Supplies & Printing-----	2,000.00
Travel -----	3,500.00
Miscellaneous -----	2,500.00

Total-----	\$48,950.00

§ 3. REPEAL.] All acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

Approved March 21, 1941.

CHAPTER 26

S. B. No. 15—(Committee on Appropriations)

PREMIUMS BONDS STATE OFFICIALS

An Act Making an appropriation for the purpose of paying premiums on bonds of State Officials.

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 \$1,700.00, for the biennium, or so much thereof as may be necessary to pay the premiums on bonds of State officials, bonded under the provisions of Section 663al of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 6, 1941.

CHAPTER 27

H. B. No. 5—(Committee on Appropriations)

STATE BONDING FUND

An Act Making an appropriation for the purpose of operating and maintaining the State Bonding Fund.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the monies in the State Bonding Fund the sum of \$31,610.00, or so much thereof as may be necessary to maintain and operate the State Bonding Fund of the State of North Dakota for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries	\$ 6,480.00
Postage	1,200.00
Office Supplies	270.00
Furniture & Fixtures	150.00
Printing	400.00
Miscellaneous	360.00
Excess Re-insurance	15,000.00
Inspections	500.00
Premium Refunds	750.00
Assistant Attorney General	1,200.00
State Examiner's Office	5,000.00
Emergency Fund	300.00
Total	\$31,610.00

Approved March 21, 1941.

CHAPTER 28

S. B. No. 23—(Committee on Appropriations)

BOYS' AND GIRLS' CLUB WORK

An Act Making an appropriation for the payment of the expenses to be incurred by boys' and girls' club work at State and district fairs.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,500.00 for the year 1941, and a like sum for the year 1942,

in equal shares, at the following named State and district fairs of the State of North Dakota.

North Dakota State Fair Association for Fargo;

North Dakota State Fair Association for Grand Forks;

Northwest Agricultural Livestock and Fair Association at Minot; and the

Missouri Slope Agricultural and Fair Association at Mandan; for the use and benefit of the boys' and girls' club premium and expenses as held and conducted at said fairs; provided that if any one of the above mentioned Fairs does not hold the official 4-H Club Fair, the proportionate share of the appropriation of said Fair shall go to any other 4-H Club Fair held in that District.

Approved March 7, 1941.

CHAPTER 29

H. B. No. 10—(Committee on Appropriations)

BUDGET

An Act to appropriate money for the expenses of the executive, legislative and judicial departments of the State government, and for all of the sub-divisions thereof, and for public schools, specifying the amount and time for which such appropriations shall be available, and repealing all acts, or parts of acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein, and declaring an emergency.

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

§ 1. APPROPRIATIONS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE STATE GOVERNMENT, AND FOR ALL OF THE SUBDIVISIONS THEREOF, AND FOR PUBLIC SCHOOLS.] The sums hereinafter named only or so much thereof as may be necessary, are hereby appropriated out of any moneys in the State Treasury, to the credit of each department, sub-division and public schools hereinafter named and the balance necessary out of the General Fund, except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

§ 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein

set out, during the fiscal period of two years, beginning July 1st, 1941, and ending June 30th, 1943.

§ 3. APPROPRIATIONS.]

Subdivision 1.

EXECUTIVE OFFICE

Salary	\$ 8,000.00
Clerkhire:	
Secretary to Governor	3,600.00
Clerks	9,100.00
Postage	1,200.00
Office Supplies	500.00
Furniture & Fixtures	500.00
Printing	900.00
Miscellaneous	1,570.00
Travel Expense	2,500.00
Contingent	3,800.00
Governor's Conference	300.00
Great Lakes-St. Lawrence Deep Waterway Project..	500.00
Total	\$ 32,470.00

Subdivision 2.

LIEUTENANT GOVERNOR

Salary	\$ 1,600.00
Total	\$ 1,600.00

Subdivision 3.

SUPREME COURT

Salary—5 Judges Supreme Court	\$ 50,000.00
Clerkhire:	
Clerkhire, Supreme Court Clerk.....	4,000.00
Stenographers to Justices	12,000.00
Postage	500.00
Office Supplies	450.00
Furniture & Fixtures	750.00
Printing	400.00
Miscellaneous	650.00
Travel Expense	100.00
Total	\$ 68,850.00

Subdivision 4.

SUPREME COURT REPORTER AND LAW LIBRARIAN

Salary	\$ 4,000.00
Postage	125.00

Office Supplies -----	60.00
Furniture & Fixtures -----	60.00
Printing -----	150.00
Miscellaneous -----	200.00
Purchase of Books, Law Reviews, etc.-----	4,000.00
Publishing North Dakota Reports-----	3,000.00
Total -----	\$ 11,595.00

Subdivision 5.

DISTRICT JUDGES

Salary—15 Judges -----	\$ 105,000.00
Expense -----	12,000.00
Total -----	\$ 117,000.00

Subdivision 6a.

SECRETARY OF STATE

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	4,000.00
Clerks -----	11,760.00
Extra Clerkhire -----	500.00
Postage -----	1,500.00
Office Supplies -----	600.00
Furniture & Fixtures -----	200.00
Printing -----	2,250.00
Miscellaneous -----	750.00
Travel Expense -----	200.00
Register of Deeds Recording Fees for Foreign Cor- porations -----	400.00
Total -----	\$ 26,960.00

Subdivision 6b.

SECRETARY OF STATE—PUBLIC PRINTING

Legal Notices -----	\$ 400.00
Publishing Abstract of Votes-----	600.00
1941 Session Laws -----	5,000.00
Publicity Pamphlet -----	6,000.00
Postage, Publicity Pamphlet -----	4,200.00
Printing & Binding 300 Public Documents as required by Sec. 54 & 110—C. L. 1913-----	1,200.00
Blue Book Printing and Distribution -----	5,000.00
Total -----	\$ 22,400.00

Subdivision 7a.

STATE AUDITOR

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	4,000.00
Bookkeepers & Clerks -----	19,500.00
Control Clerk -----	2,760.00
Postage -----	2,000.00
Office Supplies -----	500.00
Furniture & Fixtures -----	750.00
Printing -----	2,500.00
Miscellaneous -----	1,000.00
Travel Expense -----	1,500.00
County Care, etc. -----	500.00
Supplies for Depts. & Counties -----	800.00
New Posting Machine, available on passage and approval -----	1,500.00
Total -----	\$ 42,110.00

Subdivision 7b.

GAS TAX DIVISION

Salary—Field Auditor -----	\$ 3,600.00
Clerkhire (8 additional clerks) -----	25,000.00
Postage -----	5,000.00
Office Supplies -----	500.00
Furniture & Fixtures -----	2,500.00
Printing -----	4,000.00
Miscellaneous -----	1,200.00
Travel Expense -----	5,000.00
Total -----	\$ 46,800.00

Subdivision 8a.

STATE TREASURER

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	4,000.00
Chief Clerk & Bookkeeper -----	3,360.00
Clerks & Stenographers -----	19,000.00
Revenue Clerks (2 Cigarettes) -----	4,800.00
Extra Help -----	1,500.00
Postage -----	4,500.00
Office Supplies -----	400.00
Furniture & Fixtures -----	750.00
Printing -----	2,000.00
Miscellaneous -----	500.00

Travel Expense -----	200.00
Bonds of Deputy & Employees -----	300.00
Mtce. of Equipment -----	250.00
Burglary & Robbery Insurance -----	356.00
Total -----	\$ 46,716.00

Subdivision 9a.

COMMISSIONER OF INSURANCE

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	4,000.00
Actuary and Examiner -----	6,000.00
Chief Clerk and Stenographer -----	3,000.00
Bookkeeper -----	2,520.00
Ass't. Attorney General -----	1,200.00
Postage -----	1,000.00
Office Supplies -----	200.00
Furniture & Fixtures -----	150.00
Printing -----	4,500.00
Miscellaneous -----	800.00
Travel Expense -----	1,000.00
Investigation of Unauthorized Insurance Companies and Benevolent Societies -----	1,000.00
Chapter No. 32—1939 Session Laws -----	500.00
Printing Insurance Laws -----	1,000.00
Total -----	\$ 30,370.00

Subdivision 9b.

STATE FIRE MARSHAL

Salary—Deputy Fire Marshal -----	\$ 3,600.00
Clerkhire:	
Clerk & Stenographer -----	3,000.00
Ass't Att'g General at \$50.00 per month -----	1,200.00
Postage -----	350.00
Office Supplies -----	125.00
Furniture and Fixtures -----	50.00
Printing -----	100.00
Miscellaneous -----	200.00
Travel Expense -----	2,000.00
Fees to Fire Chiefs -----	500.00
Arson Hearing & Building Condemnation Hearing Fund -----	300.00
Printing of Fire Marshal Laws -----	150.00
Total -----	\$ 11,575.00

ATTORNEY GENERAL

Salary	\$ 6,000.00
Clerkhire:	
Clerks & Stenographers	10,080.00
Ass't Attorneys General	18,000.00
Spec. Ass't Attorney General	2,750.00
Commerce Counsel	4,608.00
Postage	1,000.00
Office Supplies	500.00
Furniture & Fixtures	400.00
Printing	800.00
Miscellaneous	1,000.00
Travel Expense	2,000.00
Library	800.00
Miscellaneous Court Cases	4,000.00
Total	\$ 51,938.00

Subdivision 11a.

DEPT. OF PUBLIC INSTRUCTION

Salary	\$ 4,800.00
Clerkhire:	
Deputy	4,000.00
Clerks and Stenographers	9,780.00
Postage	2,000.00
Office Supplies	600.00
Furniture & Fixtures	500.00
Printing	10,000.00
Miscellaneous	500.00
Travel Expense	1,500.00
Deficit Printing	311.91
Total	\$ 33,991.91

Subdivision 11b.

DEPT. OF PUBLIC INSTRUCTION
STATE AID AND EXAMINATIONS

Clerkhire:	
Director of Secondary Education	\$ 3,400.00
High School Examiner	2,400.00
Additional Clerkhire	2,160.00
Travel Exp.—Director of Secondary Ed.	1,300.00
Exp. Conduct 8th Grade & H. S. Exam.	14,000.00
2 Typewriters & 1 File	200.00
Deficit Printing	1,614.71
Teachers' Meetings	1,000.00
Total	\$ 26,074.71

Subdivision 11d.

DEPT. OF PUBLIC INSTRUCTION—
EQUALIZATION FUND ADM.

Clerkhire:	
Director	\$ 3,600.00
Clerks	4,800.00
Postage	300.00
Furniture & Fixtures	400.00
Printing	1,400.00
Travel Expense	400.00
Total	\$ 10,900.00

Subdivision 11e.

DEPT. OF PUBLIC INSTRUCTION—ST. AID ADM.
(Chap. 202, S. L. 1929)

State Aid:	
County Agric. School, Maddock.....	\$ 10,000.00
County Agric. School, Park River.....	14,000.00
Total	\$ 24,000.00

Subdivision 12a.

DEPT. OF AGRICULTURE AND LABOR

Salary	\$ 4,800.00
Clerkhire:	
Deputy	4,000.00
Clerks & Stenographers	8,000.00
Postage	750.00
Office Supplies	500.00
Furniture & Fixtures	200.00
Printing	1,500.00
Miscellaneous (Workmen's Comp. incl.)	800.00
Travel Expense	1,500.00
Travel Expense—Deputy	1,000.00
Duplicating Machine	500.00
Total	\$ 23,550.00

Subdivision 12b.

AGRIC. & LABOR—CO-OP. DIV.

Research & Education	\$ 2,000.00
Total	\$ 2,000.00

Subdivision 12c.

AGRIC. & LABOR—DAIRY DEPT.

Clerkhire:

Dairy Comm'r. -----	\$ 4,000.00
Ass't Dairy Comm'rs. -----	15,000.00
Clerks, etc. -----	8,520.00
Postage -----	1,500.00
Office Supplies -----	400.00
Furniture & Fixtures -----	200.00
Printing -----	1,200.00
Miscellaneous -----	300.00
Travel Expense -----	15,000.00
Auto Exchange -----	400.00

Total ----- \$ 46,520.00

Subdivision 12d.

AGRIC. & LABOR—BEE DISEASES

Inspection of bee hives -----	\$ 1,000.00
Total -----	\$ 1,000.00

Subdivision 12e.

AGRIC. & LABOR—MINIMUM WAGE DEPT.

Clerkhire:

Inspector (Sec'y.) -----	\$ 3,000.00
Inspector -----	3,000.00
Stenog. (Chief Clerk) -----	1,920.00
Postage -----	300.00
Office Supplies -----	100.00
Printing -----	200.00
Miscellaneous -----	150.00
Travel Expense -----	1,500.00
Hearings -----	500.00

Total ----- \$ 10,670.00

Subdivision 12f.

AGRIC. & LABOR—ATHLETIC COMM.

Clerkhire -----	\$ 1,200.00
Travel & Other Expense -----	300.00
Total -----	\$ 1,500.00

Subdivision 13a.

PUBLIC SERVICE COMMISSION

Salary—3 Comm'rs. -----	\$ 14,400.00
Clerkhire:	
Sec'y. -----	3,580.00
Clerks, Stenos, etc. -----	47,500.00
Postage -----	1,500.00
Office Supplies -----	1,500.00
Furniture & Fixtures -----	500.00
Printing -----	1,500.00
Miscellaneous -----	1,300.00
Travel Expense -----	6,000.00
Expense Handling cases before Interstate Commerce Commission, Federal Communications Commis- sion, Federal Power Commission -----	12,000.00
Nat'l Ass'n of R. R. & Util. Comm. -----	1,000.00
Research Data for Library -----	500.00
 Total -----	 \$ 91,280.00

Subdivision 13b.

PUBLIC SERVICE COMM—ELEVATOR DIV.

Clerkhire:	
Chief Accountant -----	\$ 3,800.00
Clerks, Stenos., etc. -----	7,800.00
Postage -----	500.00
Office Supplies -----	150.00
Furniture & Fixtures -----	150.00
Printing -----	500.00
Miscellaneous -----	250.00
Travel Expense & Car Exchange -----	3,000.00
 Total -----	 \$ 16,150.00

Subdivision 14.

LAND COMMISSIONER

Salary -----	\$ 4,800.00
Clerkhire:	
Deputy -----	4,000.00
Clerks & Stenos., etc. -----	46,464.00
Fieldmen (6) -----	18,000.00
Postage -----	4,500.00
Office Supplies -----	500.00
Furniture & Fixtures -----	500.00
Printing -----	3,000.00
Miscellaneous -----	300.00

Travel -----	26,000.00
Leasing -----	3,000.00
Premium on Bonds -----	700.00
Inspection & Supervision -----	16,000.00
Sales— Collections -----	5,000.00
Surveying Islands -----	1,000.00
Two or three land sales under Chapter 224—Session Laws of 1939 -----	1,000.00
Total -----	\$ 134,764.00

Subdivision 15a.

TAX COMMISSIONER

Salary -----	\$ 5,600.00
Clerkhire:	
Deputy -----	5,400.00
Deputy—Estate Tax -----	5,040.00
Deputy—Income Tax -----	4,200.00
Clerks, Stenos., etc. -----	30,360.00
Field Auditors -----	14,400.00
Postage -----	7,500.00
Office Supplies -----	1,500.00
Furniture & Fixtures -----	2,500.00
Printing -----	10,000.00
Miscellaneous -----	1,950.00
Travel Expense -----	3,000.00
Travel—Income Tax Field Auditors -----	6,000.00
Tax Litigation -----	2,000.00
Total -----	\$ 99,450.00

Subdivision 15b.

TAX COMMISSIONER—SALES TAX, BEER, CIGARETTE
AND SNUFF DIVISION

Clerkhire:	
Deputy -----	\$ 4,800.00
Clerks, Stenos., etc. -----	70,200.00
Field Auditors -----	37,000.00
Postage -----	10,000.00
Office Supplies -----	2,000.00
Furniture & Fixtures -----	3,000.00
Printing -----	4,000.00
Miscellaneous -----	5,200.00
Travel Expense -----	35,000.00
Revenue Stamps -----	12,000.00
Cigarette Revenue Stamps -----	5,000.00
Total -----	\$ 188,200.00

Subdivision 16a.

BOARD OF ADMINISTRATION

Salary -----	\$ 14,400.00
Clerkhire:	
Sec'y & Bldg. Supt. -----	4,000.00
Clerks, Stenos., etc. -----	15,180.00
Postage -----	600.00
Office Supplies -----	450.00
Furniture & Fixtures -----	250.00
Printing -----	1,000.00
Miscellaneous -----	900.00
Travel Expense -----	3,000.00
Emergency Fund for Institutions -----	20,000.00
H. A. Thompson & Sons -----	126.27
 Total -----	 \$ 59,906.27

STATE CAPITOL

Salaries -----	\$ 83,000.00
Fuel -----	16,000.00
Light -----	14,000.00
Water -----	4,000.00
Boiler Room Supplies -----	2,500.00
Janitors' Supplies -----	6,000.00
Carpenter Shop -----	750.00
Yard, Etc. -----	3,000.00
New Truck & Mtce. -----	900.00
Governor's Residence -----	2,500.00
Improvements & Repairs -----	5,000.00
Elevator Mtce. Contract -----	5,280.00
Downtown Rent—Health Department Lab. -----	3,480.00
Miscellaneous -----	8,500.00
Paving Capitol Boulevard -----	1,100.00
 Total -----	 \$ 156,010.00

Subdivision 16c.

STATE SEED DEPARTMENT

Clerkhire:	
Deputy Commissioners -----	\$ 6,000.00
Seed Analyst -----	4,800.00
Travel, Incl. Mtce. of State Cars -----	1,000.00
Postage -----	1,500.00
Printing & Supplies -----	500.00
Furniture & Fixtures -----	320.00
Miscellaneous -----	880.00
 Total -----	 \$ 15,000.00

Subdivision 17.

STATE INDUSTRIAL COMMISSION

Clerkhire -----	\$	840.00
(Sec'y to receive, \$1,800 from Mill & Elev. \$1,- 800.00 from Bank of N. D. \$840.00 from Clerkhire)		
Postage -----		50.00
Office Supplies -----		50.00
Printing -----		150.00
Miscellaneous -----		100.00
Total -----	\$	1,240.00

Subdivision 18.

STATE LIBRARY COMMISSION

Salary -----	\$	3,200.00
Clerkhire:		
Clerks, Stenos., etc. -----		9,700.00
Postage -----		600.00
Office Supplies -----		500.00
Furniture & Fixtures -----		300.00
Printing -----		200.00
Miscellaneous -----		440.00
Travel Expense -----		400.00
Aids to Libraries -----		100.00
Books -----		3,500.00
Preparation -----		200.00
Binding -----		400.00
Total -----	\$	19,540.00

Subdivision 19.

STATE WATER CONSERVATION

Salary State Engineer -----	\$	4,400.00
Hydrographic Survey -----		3,500.00
Total -----	\$	7,940.00

Subdivision 20.

STATE PRINTER.

Salary -----	\$	3,840.00
Clerkhire -----		1,920.00
Postage -----		200.00
Office Supplies -----		100.00
Furniture & Fixtures -----		100.00
Printing -----		350.00
Miscellaneous -----		144.00
Travel Expense -----		180.00
Total -----	\$	6,834.00

Subdivision 21.

ADJUTANT GENERAL

Salary -----	\$ 4,600.00
Clerkhire:	
Ass't Adj. General -----	3,592.00
Clerks, Stenos., etc. -----	6,600.00
Postage -----	250.00
Office Supplies -----	350.00
Furniture & Fixtures -----	150.00
Printing -----	250.00
Miscellaneous -----	350.00
Travel Expense -----	75.00
 Total -----	 \$ 16,167.00

Subdivision 22.

NATIONAL GUARD

Maintenance -----	\$ 70,000.00
Emergency Fund Available on Governor's Approval -----	25,000.00
 Total -----	 \$ 95,000.00

There is also hereby appropriated out of any funds received from the sale of timber, stone or other material taken from the Rock Island Military Reservation and paid into the Treasury the sum of \$2,000.00 to be used in accordance with Section 2432a, Compiled Laws of 1913, for the biennium of 1941-1943.

Subdivision 23.

TWENTY-EIGHTH LEGISLATIVE ASSEMBLY

Mileage & Per Diem Members -----	\$ 57,000.00
Mileage & Per Diem Officers & Employees -----	15,000.00
Printing -----	35,000.00
Miscellaneous -----	6,000.00
 Total -----	 \$ 113,000.00

Subdivision 24.

PARDON BOARD

Secretary -----	\$ 600.00
Members & Expenses -----	900.00
Investigations -----	1,000.00
 Total -----	 \$ 2,500.00

Subdivision 25.

BUDGET BOARD

Per diem and other expenses of every kind incurred by the State Budget Board as prescribed by Sec. 710a1 to 710a6 incl., Supp.

1925, Chapter 93, S. L. 1929 and Chapter 196, S. L. 1933 provided that \$_____ of the amount appropriated for this subdivision shall become available upon the passage and approval

	\$	2,240.00
Total -----	\$	2,240.00

Subdivision 26.

REWARD FOR APPREHENSION OF CRIMINALS

Reward for apprehension of criminals-----	\$	1,000.00
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STATE EXAMINER

Salary -----	\$	6,000.00
Clerkhire: -----		54,000.00
Postage -----		1,425.00
Office Supplies -----		700.00
Furniture & Fixtures -----		300.00
Printing -----		800.00
Miscellaneous -----		1,200.00
Travel Expense -----		22,000.00
Bonds of Examiners -----		750.00
Total -----	\$	87,535.00

Subdivision 27b.

STATE SECURITIES COMMISSION

Salaries and Clerkhire -----	\$	1,200.00
Postage -----		250.00
Office Supplies -----		100.00
Printing -----		150.00
Miscellaneous -----		300.00
Travel Expense -----		400.00
Investigations -----		1,500.00
Total -----	\$	3,900.00

Subdivision 28.

STATE BOARD OF HIGHER EDUCATION

Clerkhire:		
Secretary -----	\$	6,000.00
One Clerk & One Stenog. -----		4,440.00
Auditor -----		3,840.00
Postage -----		600.00
Office Supplies -----		300.00
Furniture and Fixtures -----		400.00
Printing -----		500.00
Miscellaneous -----		550.00

Travel Expense Secretary -----	1,000.00
Travel Expense—Auditor -----	750.00
Members—Per Diem -----	6,000.00
Members—Travel -----	4,000.00
University Law Books -----	
Emergency Fund for Educational Institutions-----	15,000.00
	<hr/>
Total -----	\$ 48,180.00

Subdivision 29.

AGRIC. & LABOR—FEDERATED CO-OP AGR. ASS'N.

Research work in connection with other States-----	\$ 1,250.00
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Total -----	\$ 1,250.00

GRAND TOTAL -----\$1,853,536.89

§ 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court, or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

§ 5. EMERGENCY.] This Act is necessary to the immediate preservation of the public peace, health and safety. The reason for this is that it contains the general appropriation and provides the means of continuing and maintaining the State Government and to enable it to perform its proper functions, among which are the preservation of the public peace, health and safety of the people, and without the means provided for by this Act the functions of the State Government will be suspended. This Act will therefor in its entirety go into instant operation upon its approval by the Governor.

Approved March 22, 1941.

CHAPTER 30

H. B. No. 28—(Committee on Appropriations)

STATE BUDGET BOARD, DEFICIENCY APPROPRIATION

An Act Making an emergency appropriation to the State Budget Board for completing and continuing budget work during the session; and declaring an emergency.

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 \$385.00, or as much as is necessary thereof, to complete and continue budget work during the session, as prescribed by Sec. 710a1 to 710a6, incl., Suppl. 25, Chap. 93, S. L. 1929 and Chap. 106, S. L. 1933, to-wit:

Per Diem	\$260.00
Clerkhire	125.00

Total	\$385.00
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§ 2. 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 February 1, 1941.

CHAPTER 31

S. B. No. 6—(Committee on Appropriations)

COAL MINE INSPECTOR

An Act Making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the Department of Coal Mine Inspection and Coal Mine Safety Work.

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 collected from Coal Mine License fees, not otherwise appropriated, the sum of \$9,585.00, or so much thereof as is necessary to pay salary, clerkhire, per diem and general expenses of the Coal Mine Inspector, as provided for in Section 90, Chapter 168, Session Laws of 1919, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

COAL MINE INSPECTION

Salary -----	\$ 4,200.00
Clerkhire -----	2,160.00
Postage -----	300.00
Office Supplies -----	200.00
Furniture & Fixtures -----	75.00
Printing -----	500.00
Miscellaneous -----	200.00
Travel Expense -----	1,500.00
Examining Board -----	300.00
Auditing Board -----	150.00
	<hr/>
Total -----	\$ 9,585.00

§ 2. APPROPRIATION.] There is also, hereby appropriated from any funds available, in the State Treasury to the credit of Coal Mine Safety Fund, the sum of \$5,000.00 or so much thereof as is necessary for coal mine safety work as provided for in Section 2, Chapter 163, Session Laws of 1939, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

COAL MINE SAFETY FUND

Services -----	\$ 2,000.00
Expenses -----	3,000.00
	<hr/>
Total -----	\$ 5,000.00

Approved March 19, 1941.

CHAPTER 32

S. B. No. 31—(Committee on Appropriations)

CODE REVISION COMMISSION

An Act to continue the Code Revision Commission; requiring a report therefrom; reappropriating moneys heretofore appropriated; making an additional appropriation; providing for disbursements; and declaring an emergency.

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

§ 1. CODE REVISION COMMISSION.] That the Code Commission provided for in Chapter 110, Session Laws of 1939 shall continue, under the supervision and direction of the Supreme Court, to perform the duties required of it under said Chapter 110, Session Laws of 1939.

§ 2. REPORT OF COMMISSION : INCLUSION OF ACTS OF TWENTY-EIGHTH LEGISLATIVE ASSEMBLY.] Such Commission shall make a report to the Twenty-eighth Legislative Assembly of the State of North Dakota embodying the revision of the laws of the State of North Dakota in accordance with the provisions of Chapter 110, Session Laws of 1939. If the proposed revised code is enacted by the Legislative Assembly, the Commission shall continue for the purpose of incorporating into said revised code the laws adopted by the Twenty-eighth Legislative Assembly.

§ 3. REAPPROPRIATION.] That all unexpended moneys remaining in the Code Revision Fund created by Chapter 110, Session Laws of 1939, be, and hereby are, reappropriated to the Code Revision Commission for the purpose of continuing the work of Code revision as provided in this act.

§ 4. ADDITIONAL APPROPRIATION.] That in addition to the amounts reappropriated by Section 3 of this Act, there is hereby appropriated out of the State Treasury, from any moneys not otherwise appropriated, the sum of \$18,380.00 or so much thereof as is necessary, to complete the work of code revision. Such amounts reappropriated and appropriated under this Act shall be placed in the Code Revision Fund created by Chapter 110, Session Laws of 1939 and used for salaries and expenses of the Code Revision Commission as set forth in said Chapter 110, Session Laws of 1939, and shall be available from and after the passage and approval of this Act and until the work of the Code Revision Commission has been finally completed, to-wit :

Code Commissioners' Salaries -----	\$	12,000.00
Law Clerks -----		11,400.00
Stenographers -----		12,120.00
Supplies -----		3,967.00
Postage -----		200.00
Telephone & Telegraph -----		160.00
Machine Rental -----		100.00
Furniture & Fixtures -----		200.00
Travel -----		200.00
Interim Committee—S. C. R. "H" -----		1,500.00

§ 5. DISBURSEMENT OF FUNDS.] That the moneys hereby appropriated and reappropriated to the Code Revision Fund and Commission shall be disbursed upon vouchers approved by the chairman of the Code Revision Commission and the Chief Justice of the Supreme Court.

§ 6. EMERGENCY.] Whereas a question has arisen regarding the disposition and use of the unexpended balance remaining in the Code Revision Fund created by Chapter 110, Session Laws of 1939,

and it is necessary that the functions of the Code Revision Commission shall be uninterrupted, therefor this Act is hereby declared to be an emergency Act and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

CHAPTER 33

S. B. No. 14—(Committee on Appropriations)

STATE CONTINGENCY FUND

An Act Making an appropriation to provide a State Contingency Fund to be placed at the disposal of the State Emergency Commission.

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 \$20,000.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to provide funds for the State Emergency Commission and which fund shall be known as the State Contingency Fund and be for the purposes authorized under Chapters 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 6, 1941.

CHAPTER 34

S. B. No. 26—(Committee on Appropriations)

STATE EMPLOYMENT SERVICE

An Act Making an appropriation for the State Employment Service provided for in Section 13 and Section 14b, Chapter 232, Session Laws of 1937, in cooperation with the Social Security Act of Congress.

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 \$29,030.00, or so much thereof as may be necessary, for the

operation, maintenance, equipment, fixtures and miscellaneous expenses for the State Employment Service, provided for in Section 13 and Section 14b, Chapter 232, Session Laws of 1937; a division of the North Dakota Unemployment Division, which is under the Workmen's Compensation Bureau, in accordance with the Social Security Act of Congress, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Office Supplies -----	\$ 4,000.00
Travel Expense -----	4,260.00
Rent of Premises -----	19,310.00
Light -----	960.00
Miscellaneous -----	500.00
	<hr/>
Total -----	\$29,030.00

Approved March 21, 1941.

CHAPTER 35

H. B. No. 246—(Committee on Education)

STATE EQUALIZATION FUND

An Act Amending and Re-enacting Chapter 29 of the Session Laws of 1939, as amended by the Initiated Act of June 25, 1940 the Same Being an Act Making an Appropriation To Pay for a Portion of the Current Operating Expense of Our Public School System as Provided for in the State Equalization Fund Law, as Provided for by Senate Bill 237 as Passed by the 1939 Session of the Legislature, by Decreasing Item "(5) Teacher Unit Payment" from \$1,770,000.00 as Therein Provided to \$1,670,000.00 and by Increasing Item "(4) Non-resident High School Tuition" from \$1,100,000.00 as Therein Provided to \$1,200,000.00, and Declaring an Emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$4,510,000.00 or so much thereof as may be necessary to make the payments provided for under the State Equalization Fund Law as provided for in Senate Bill No. 237 as passed by the 1939 Session of the Legislature for the biennium beginning July 1, 1939, and ending June 30, 1941 provided, however, that payments authorized for the school year ending on or about June 1, 1941, may be made from this fund up to October 1, 1941, to-wit:

(1) High School correspondence work -----	\$ 100,000.00
(2) Vocational education -----	40,000.00
(3) Emergency fund -----	1,000,000.00

(4)	Non-resident high school tuition.....	1,200,000.00
(5)	Teacher unit payment	1,670,000.00
(6)	Per pupil payment	500,000.00
		\$4,510,000.00

§ 2. Since it now appears that the appropriation of 1939 for non-resident high school tuition was insufficient and that the appropriation of 1939 for Teacher unit payment was for more than actually needed, an emergency is hereby declared to exist and this act is therefore declared to be an emergency measure and the same shall be in full force and effect from and after its passage and approval.

Approved March 22, 1941.

CHAPTER 36

S. B. No. 19—(Committee on Appropriations)

FEEBLE MINDED — STATE AT LARGE

An Act Making an appropriation for the care of feeble minded whose residence cannot be determined and whose care must be borne by the State.

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 \$1,080.00, or so much thereof as may be necessary to care for the feeble minded whose residence cannot be determined, and whose care must be borne by the State, for the biennium beginning July 1st, 1941, and ending June 30th, 1943.

Approved March 6, 1941.

CHAPTER 37

S. B. No. 13—(Committee on Appropriations)

INSURANCE TAX TO FIRE DEPARTMENTS

An Act Making an appropriation for the purpose of paying insurance tax to the various fire departments of the State.

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 \$65,000.00, or so much thereof as may be necessary to comply with the provisions of Sections 3993 to 3998, inclusive, of the Compiled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various fire departments, for the biennium beginning July 1st, 1941, and ending June 30th, 1943.

Approved March 7, 1941.

CHAPTER 38

H. B. No. 4—(Committee on Appropriations)

STATE FIRE AND TORNADO FUND

An Act Making an appropriation for the purpose of operating and maintaining the State Fire and Tornado Fund.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the monies in the State Fire and Tornado Fund the sum of \$217,020.00, or so much thereof as may be necessary to maintain and operate the State Fire and Tornado Fund of the State of North Dakota for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries -----	\$ 26,520.00
Postage -----	2,000.00
Office Supplies -----	800.00
Furniture & Fixtures -----	400.00
Printing -----	1,500.00
Miscellaneous -----	3,500.00
Risk Inspection -----	3,000.00
Excess Re-Insurance—Fire -----	140,000.00
Excess Re-Insurance—Tornado -----	35,000.00
Refunds & Rebates—Fire -----	1,500.00
Refunds & Rebates—Tornado -----	200.00
Rate Service -----	2,000.00
Assistant Attorney General -----	600.00
Total -----	\$ 217,020.00

Approved March 22, 1941.

CHAPTER 39**S. B. No. 30—(Committee on Appropriations)**

NORTH DAKOTA FIREMEN'S ASSOCIATION**An Act Making an appropriation to the North Dakota Firemen's Association.***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 \$3,000.00 or as much as is necessary thereof, to the North Dakota Firemen's Association, for use in promoting regional fire schools, and other activities of such association, as provided for in Chapter 137, Session Laws of 1935, for the biennium beginning July 1st, 1941, and ending June 30th, 1943.

Approved March 21, 1941.

CHAPTER 40**S. B. No. 22—(Committee on Appropriations)**

ARREST AND RETURN OF FUGITIVES FROM JUSTICE**An Act Making an appropriation to provide funds for the arrest and return of fugitives from justice.***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 \$5,000.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to provide funds for the arrest and return of fugitives from justice as provided by Section 11162, Compiled Laws of 1913, as amended and re-enacted by Chapter 160, Laws of 1915, the same being Section 11162 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 6, 1941.

CHAPTER 41

S. B. No. 36—(Committee on Appropriations.)

GAME AND FISH DEPARTMENT

An Act Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department.

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 in the Game and Fish Fund, not otherwise appropriated, the sum of \$173,600.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department, and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the Game and Fish Commissioner, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary—Comm'r, Deputy & Chief Warden.....	\$ 12,800.00
Salary—District Wardens	25,000.00
Clerkhire	8,000.00
Postage	1,500.00
Office Supplies	600.00
Furniture & Fixtures	300.00
Printing	4,000.00
Miscellaneous	3,000.00
Travel Expense	25,000.00
Special Bulletin Printing	2,600.00
Audit & Compensation	3,300.00
Junior Wardens	2,500.00
Match Federal Funds	25,000.00
Propagation	20,000.00
Mtce. Hatcheries & Fish Distribution.....	10,000.00
Mtce. Game Farms	8,000.00
Rewards	2,000.00
Construction of Dams	20,000.00
Total	\$173,600.00

Approved March 14, 1941.

CHAPTER 42

S. B. No. 28—(Committee on Appropriations)

GREAT NORTHERN RAILWAY BRIDGE

An Act Making an appropriation for the purpose of maintaining and operating the bridge across the Yellowstone River in McKenzie County, North Dakota.

March 22, 1941

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

I transmit herewith Senate Bill No. 28, entitled, "An Act Making an Appropriation for the Purpose of Maintaining and Operating the Bridge across the Yellowstone River in McKenzie County, North Dakota," which I have corrected in the following manner:

After the word "Treasury" I have inserted the words, "belonging to the State Highway Commission;" as so corrected, the bill has my approval.

This bill was introduced in the Senate of the Twenty-seventh Legislative Assembly. As introduced, it provided for an appropriation of \$15,000 out of any moneys in the State Treasury. The following facts appear clearly from the Journals of the Twenty-seventh Legislative Assembly:

1. That the bill was amended by the Appropriations Committee of the Senate by inserting immediately after the word "Treasury" the words "belonging to the State Highway Commission." It was passed by the Senate as amended and was transmitted to the House.

2. The bill was recommended for passage by the Appropriations Committee of the House as amended by the Senate, but when the bill came up for final passage in the House, the Senate amendment was stricken out and the bill was passed as so amended in the form in which it was originally introduced in the Senate. It was then returned to the Senate, the Senate refused to concur in the House amendment, and a Conference Committee was appointed.

3. The report of the Conference Committee recommended that the House recede from its amendment and the report was adopted by both houses. On the basis of the Conference Committee report, the House passed the bill and returned it to the Senate. No further action was taken by the Senate for the apparent reason that the bill as finally passed by the House was in the same form as when it was passed by the Senate.

4. From this it appears that the bill was actually passed by both houses containing the Senate amendment referred to above, and that it was the intention of both branches of the Legislature to

make an appropriation out of any moneys in the State Treasury belonging to the State Highway Commission, and not to appropriate out of the General Fund.

Upon this record, and pursuant to the opinion and advice of the Attorney General of this State, I have corrected the bill in the particular hereinbefore set forth and have approved the same as so corrected.

Respectfully submitted,
JOHN MOSES
Governor

JM :S:B

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 *(belonging to the State Highway Commission,) not otherwise appropriated, the sum of \$15,000.00, or so much thereof as may be necessary, to maintain, repair, and operate the bridge across the Yellowstone River in McKenzie County, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943.

Approved March 22, 1941.

*Alteration made by the Governor.

CHAPTER 43

H. B. No. 3—(Committee on Appropriations)

HAIL INSURANCE DEPARTMENT

An Act Making an Appropriation for the Operation and Maintenance of the State Hail Insurance Department.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the State Hail Insurance Fund, in the State Treasury, the sum of \$183,730.00, or so much thereof as may be necessary for the operation and maintenance and expenses of the State Hail Insurance Department of the State of North Dakota for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to wit:

Salary—Manager	\$ 5,600.00
Clerkhire	41,800.00
Salary—Inspectors & Adjusters	21,080.00
Travel—Inspectors & Adjusters	15,000.00
Travel—Office	4,000.00

Office Supplies -----	1,500.00
Listing Fees -----	20,000.00
Postage -----	2,000.00
Printing -----	3,000.00
Annual Audit -----	4,000.00
Advertising -----	750.00
Legal Publication -----	400.00
Legal Service -----	600.00
Assistant Attorney General -----	1,800.00
Furniture & Fixtures -----	500.00
Miscellaneous -----	1,700.00
Emergency Fund -----	60,000.00
 Total -----	 \$183,730.00

Approved March 21, 1941.

CHAPTER 44

S. B. No. 5—(Committee on Appropriations)

PUBLIC HEALTH, PUBLIC HEALTH LABORATORIES AND
DIVISION OF CHILD HYGIENE

An Act Making an appropriation for the operating and maintenance expenses of the Public Health Department, Public Health Laboratories and Division of Child Hygiene.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$143,240.00, or so much thereof as is necessary to pay the salaries, clerkhire and all miscellaneous items and expenses of the Public Health Department and its related agencies, Public Health Laboratories and Division of Child Hygiene, and in collaboration with Federal Funds, as provided for in Article 12, Chapter 5, 25 Supplement, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

PUBLIC HEALTH

Salary—State Health Officer-----	\$ 6,000.00
Clerkhire:	
Epidemiologist -----	6,000.00
Vital Statistician -----	2,880.00
Sanitary Engineer -----	5,000.00

Chief Clerks -----	3,000.00
Stenographers -----	15,000.00
Clerks -----	3,840.00
Postage -----	3,000.00
Office Supplies -----	1,500.00
Furniture & Fixtures -----	800.00
Printing -----	2,800.00
Miscellaneous -----	1,200.00
Travel Expense -----	5,000.00
Card Indexing — tabulating, filing and binding, birth, death & marriage certificates -----	3,000.00
Car Fund -----	500.00
Arsenicals -----	3,000.00
Total -----	\$ 62,520.00

PUBLIC HEALTH LABORATORIES

Clerkhire:

Bismarck Laboratory:

Serologist -----	\$ 5,000.00
Bacteriologist -----	4,800.00
Technician -----	3,000.00
Chemist -----	3,200.00
Stenographer -----	1,920.00
Dishwasher -----	1,200.00

Grand Forks Laboratory:

Serologist -----	5,000.00
Technician -----	3,000.00
Stenographer -----	1,920.00
Dishwasher -----	1,200.00
Postage -----	2,000.00
Office Supplies -----	400.00
Furniture & Fixtures -----	600.00
Printing -----	1,000.00
Miscellaneous -----	1,800.00
Laboratory Supplies -----	4,000.00
Travel Expense -----	400.00
Emergency -----	500.00

Total ----- \$ 40,940.00

DIVISION OF CHILD HYGIENE

Salary—Director ----- \$ 6,000.00

Clerkhire:

Supervisor, Public Health Nurses -----	4,800.00
Ass't Supervisor, Public Health Nurses -----	4,200.00
Consultant, Venereal Disease Nursing -----	4,200.00

Physician Preschool Conferences -----	3,000.00
Stenographers -----	6,480.00
Postage -----	800.00
Office Supplies -----	600.00
Furniture & Fixtures -----	300.00
Printing -----	1,000.00
Miscellaneous -----	400.00
Travel Expense -----	6,000.00
Biologicals -----	2,000.00
 Total -----	 \$ 39,780.00
GRAND TOTAL -----	\$143,240.00

Approved March 21, 1941.

CHAPTER 45

S. B. No. 189—(Delayed Bills Committee)

**HIGHWAY APPROACH TO GREAT NORTHERN RAILWAY
BRIDGE ACROSS THE YELLOWSTONE RIVER**

An Act Making an appropriation to pay for a portion of the cost of constructing a new highway approach to the Great Northern Railway Bridge across the Yellowstone River in McKenzie County, North Dakota, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury belonging to the State Highway Commission, not otherwise appropriated, the sum of \$4,800.00 to pay for a portion of the cost of constructing a new highway approach to the Great Northern Railway Bridge across the Yellowstone River in McKenzie County, North Dakota.

§ 2. EMERGENCY.] An emergency is hereby declared and this act shall take effect from and after its passage and approval.

Approved March 22, 1941.

CHAPTER 46

S. B. No. 34—(Committee on Appropriations.)

STATE HIGHWAY DEPARTMENT

An Act Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the State Highway Department.

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

§ 1. APPROPRIATION FOR ADMINISTRATIVE EXPENSES.] There is hereby appropriated out of any monies in the State Treasury, accruing to the State Highway Department the sum of Six Hundred Thousand and no/100 (\$600,000.00) Dollars, or so much thereof as may be necessary for the purpose of defraying the expenses of administration and operation of the division of the State Highway Department known as the Highway Division, and in carrying out the provisions and purposes of the State Highway Department laws and cooperating with the Federal Government under the Act of Congress known as the "Federal Highway Act" for the biennium period beginning July 1, 1941 and ending June 30th, 1943, to-wit:

Salary, State Highway Commissioner.....	\$ 9,600.00
Salaries, Central Office Engineers.....	80,000.00
Salaries, Division Office Engineers	95,000.00
Salaries, Central Office Clerical	75,000.00
Salaries, Division Office Clerical	42,000.00
Salaries, Central Office Legal and Information.....	10,000.00
Salary, State Highway Engineer.....	9,600.00
Audit Fee, State Bank Examiner	5,000.00
Furniture and Fixtures	7,000.00
Office Equipment Repair	2,000.00
Maps	7,000.00
Office Rental	1,600.00
Postage	10,000.00
Printing	10,000.00
Supplies	18,000.00
Telephone & Telegraph	10,000.00
Travel Expense, Central Office & Laboratory.....	28,000.00
Travel Expense, Division Offices	44,000.00
Workmen's Compensation Premiums	4,000.00
Emergency Fund	132,200.00
Total	\$600,000.00

Less income (proposed) out of the Motor Vehicle Registration Fund to the State Highway Department of 3% of the cost of construction, reconstruction and main-

tenance and all other work undertaken in whole or in part from Federal, County and State Funds-----\$400,000.00

Net amount appropriated out of the Motor Registration Fund, as created by Section 30 of Chapter 179 of the 1927 Session Laws as amended by Chapter 160 of the 1933 Session Laws -----\$200,000.00

§ 2. ADDITIONAL APPROPRIATION FOR ADMINISTRATION EXPENSES.] In addition to the amount hereinbefore appropriated and in addition to the limitation set forth in Section 7 of Chapter 125 of the Session Laws of 1933 there is hereby appropriated out of said Motor Registration Fund, and the Highway Department is hereby authorized on proper requisition to transfer, and to have transferred to the Emergency Fund appropriation herein and above made from the monies allocated to the State Highway Department out of the Motor Vehicle Registration Fund, all sums in excess of Four Hundred Thousand and No/100 (\$400,000.00) Dollars, but not to exceed 3% of the cost of construction, reconstruction, maintenance and all other work undertaken in whole or in part from Federal, County and State Funds to cover additional cost of administration of said Department.

§ 3. ADDITIONAL APPROPRIATION FOR MAINTENANCE AND CONSTRUCTION.] In addition to the above amounts allowed for office and administrative expenses of said department there is hereby appropriated out of any funds available to the State Highway Department not otherwise appropriated such part thereof as may be necessary to expend during said biennium period for the construction, reconstruction and maintenance of public roads, including necessary expenses of labor, equipment and other costs and expenses allowed by statute and required for such construction, reconstruction and maintenance.

Approved March 21, 1941.

CHAPTER 47

S. B. No. 38—(Committee on Appropriations)

DIVISION OF HIGHWAY SAFETY AND POLICE PATROL

An Act Making an appropriation out of the Motor Patrol Fund in the State Treasury, for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the Motor Patrol Branch.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Motor Patrol Fund in the State Treasury, not otherwise appropriated, the sum of \$208,546.09, or so much as is necessary thereof, for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the Motor Patrol Branch of the State Highway Departments, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary:

Superintendent -----	\$ 4,000.00
Assistant Superintendent -----	3,600.00
Patrolmen -----	60,000.00
Clerks -----	7,840.00
Bookkeepers -----	6,000.00
Postage -----	1,620.62
Office Supplies -----	600.00
Furniture and Fixtures -----	725.00
Printing -----	2,608.87
Miscellaneous -----	5,622.86
Travel Expense -----	26,400.00
New Equipment -----	4,823.60
Training School & First Aid -----	674.00
Educational Program -----	800.00
Car Operation, Maintenance, and Replacement based on 3000 miles per month per car -----	63,360.00
New Cars -----	19,371.14
Audit -----	500.00
Total -----	\$208,546.09

Approved March 19, 1941.

CHAPTER 48

H. B. No. 193—(Nystrom, Beede and Twichell)

HIGHWAY DEPARTMENT REPAYMENT TO BANK OF
NORTH DAKOTA

An Act Making an Appropriation to Repay to the Bank of North Dakota out of Revenues of the State Highway Department Accruing to the Funds of that Department monies heretofore Transferred by the Bank of North Dakota to the State Highway Department for the construction, reconstruction, Repair and Maintenance of Public Highways, and Providing for the Payment of the Promissory Notes of the State Highway Department which Evidence such Transfers.

Whereas, the State Highway Department has heretofore received from the Bank of North Dakota certain monies totaling \$600,000.00 for use in the construction, reconstruction, repair and maintenance of the public highways of the State, and

Whereas, the obligation of the State Highway Department to repay said monies, and interest, to the Bank of North Dakota has not been discharged, and

Whereas, the State Highway Department is now obligated to pay to the Bank of North Dakota the sum of \$200,000.00 with interest thereon at the rate of two and one-half per centum (2½) per annum from July 15, 1938, as evidenced by promissory note of that date, and further sum of \$250,000.00 with interest thereon at the rate of two and one-half per centum (2½) per annum from November 17, 1938, as evidenced by promissory note of that date, and the further sum of \$150,000.00 with interest thereon at the rate of two and one-half per centum (2½) per annum from December 20, 1938, as evidenced by promissory note of that date, now therefore

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

§ I. APPROPRIATION.] There is hereby appropriated out of revenues available and to become available to the State Highway Department from gasoline and other motor fuel excise and license taxes and motor vehicle registration and license taxes and other special taxes on motor vehicles and on motor vehicle owners and operators, except drivers' license fees, after deduction of administrative and collection costs and statutory refunds, the sum of \$600,000.00, together with interest on the sum of \$200,000.00 at the rate of two per centum (2%) per annum from July 15, 1938, and interest on the sum of \$250,000.00 at the rate of two per centum (2%) per annum from November 17, 1938, and interest on the sum of \$150,000.00 at the rate of two per centum (2%) per annum from December 20, 1938, for the repayment to the Bank of North Dakota of the amount of three certain promissory notes, and interest thereon, from date thereof until fully paid at the rate of 2% per annum, each of which evidences transfer of funds of said Bank to the State Highway Department, and are described as follows:

One demand note dated July 15, 1938 bearing interest at the rate of two and one-half per centum ($2\frac{1}{2}\%$) per annum from its date for the sum of \$200,000.00.

One note due July 15, 1939, dated November 17, 1938, bearing interest at the rate of two and one-half ($2\frac{1}{2}\%$) per centum per annum from its date for the sum of \$250,000.00.

One demand note dated December 20, 1938 bearing interest at the rate of two and one-half per centum ($2\frac{1}{2}\%$) per annum from its date for the sum of \$150,000.00

§ 2. TIME OF PAYMENT.] That the sum of money appropriated hereby shall be paid out of funds accruing to the State Highway Department in annual installments of not less than Thirty-five Thousand (\$35,000.00) Dollars and accrued interest at 2 per cent per annum thereof on January 1, 1942, and not less than Fifty Thousand (\$50,000.00) Dollars and accrued interest at 2 per cent per annum on each January 1st thereafter until the full obligation is paid.

Approved March 21, 1941.

CHAPTER 49

S. B. No. 4—(Committee on Appropriations)

STATE HISTORICAL SOCIETY

An Act Making an appropriation to the State Historical Society, for salary and general expenses and maintenance of State Parks.

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

§ 1. APPROPRIATIONS.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$34,650.00, or so much thereof as may be necessary, for salary, clerkhire and miscellaneous expenses for the State Historical Society and for maintenance of State Parks, in the sums hereinafter set forth, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

STATE HISTORICAL SOCIETY

A. 12, Chap. 5, 25 Sup.

Salary—Superintendent	\$ 4,000.00
Clerkhire:	
Librarian	2,400.00
Stenög. & Museum Ass't	2,200.00
Museum Ass't	1,500.00
Newspaper Clerk	1,800.00

Postage -----	300.00
Office Supplies -----	300.00
Furniture & Fixtures -----	400.00
Printing -----	1,000.00
Miscellaneous -----	500.00
Travel Expense -----	600.00
Museum -----	900.00
Books and Periodicals -----	400.00
Binding Newspapers -----	400.00
 Total -----	 \$16,700.00

STATE PARKS (Ch. 216, S. L. 1935)
(Fed. Matching)

Technical & Clerical Service -----	\$ 650.00
Office Supplies -----	100.00
Travel -----	500.00
Miscellaneous -----	100.00
Maintenance & Operation of N. Dak. Park Camps:	
Fort Lincoln State Park -----	2,000.00
Light Plant & Pump—Ft. Lincoln State Park -----	900.00
Lake Metigoshe State Park -----	2,000.00
Turtle River State Park -----	2,000.00
De Mores State Park -----	2,000.00
International Peace Garden State Park -----	6,500.00
Development and Mtce. of Historic Sights -----	500.00
Restoration of Ft. Ransom -----	600.00
 Total -----	 \$17,950.00
GRAND TOTAL -----	\$34,650.00

In addition thereto, there is also hereby appropriated from any funds available in the State Treasury, to the credit of the State Park Maintenance Fund the sum of \$7,000.00, or as much as is necessary thereof, for park maintenance as provided for in Sec. 5, Chapter 216, Session Laws of 1935, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Services (estimated) -----	\$ 2,500.00
Miscel. Expense (estimated) -----	4,500.00
 Total -----	 \$ 7,000.00

Provided that the sum of \$2,000.00 appropriated for Fort Union and Fort Buford State Parks, by Chapter 35 of the Session Laws of 1939, which sum is still intact, is hereby re-appropriated to said Fort Union and Fort Buford State Parks for the biennium beginning July 1st, 1941, to be used when and in such manner as the State Historical Society may direct, for the purchase of materials and

supplies necessary in the re-construction of Fort Union and Fort Buford State Parks.

Approved March 21, 1941.

CHAPTER 50

S. B. No. 20—(Committee on Appropriations)

INSANE PATIENTS — STATE AT LARGE

An Act Making an appropriation for the care of insane patients whose residence cannot be determined and whose care must be borne by the State.

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 \$85,000.00, or so much thereof as may be necessary, to care for the insane patients whose residence cannot be determined and whose care must be borne by the State, for the biennium beginning July 1st, 1941, and ending June 30th, 1943.

Approved March 6, 1941.

CHAPTER 51

H. B. No. 106—(Committee on Appropriations)

SCHOOL FOR THE BLIND

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School for the Blind at Bathgate, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$23,000.00 out of the Interest and Income Fund of the institution hereafter named, and the sum of \$39,712.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary, to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School for the Blind at Bathgate, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:
Salaries and Wages:

1. Administration -----	\$ 4,800.00
2. Faculty -----	12,000.00
3. Other Employees -----	9,226.00
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Total Salaries and Wages-----	\$26,026.00

Operating Expense :

1. Fuel (including Freight) -----	\$ 5,000.00
2. Light, Power, Water, Gas -----	1,200.00
3. Telephone, Telegraph, Postage -----	400.00
4. Freight & Express -----	150.00
5. Insurance, Bonds, etc. -----	1,000.00
6. Printing -----	100.00
7. Travel -----	250.00
8. Office Supplies -----	75.00
9. Educational Supplies -----	800.00
10. Power House Supplies -----	350.00
11. Janitor's Supplies -----	150.00
12. Student's Welfare -----	300.00
13. Food (including meats, etc.) -----	9,000.00
14. Clothing -----	200.00
15. Hospital & Medical Service -----	500.00
16. Laundry Cost -----	250.00
17. Farm, Garden & Grounds -----	1,200.00
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Total Maintenance -----	\$46,951.00

Improvements & Repairs :

1. General -----	\$ 1,700.00
2. W. P. A. Project—Emergency -----	3,011.00

Equipment :

1. Kitchen Supplies -----	400.00
2. Furniture Beds & Bedding-----	400.00
3. Books & Musical Instruments -----	150.00
4. Replacements, Plumbing & Steamfitting-----	200.00
5. New 10 Kilowatt Steam Turbine Generator-----	2,850.00
6. New Boiler-Stoker -----	4,000.00
7. New School Bus -----	2,300.00

Miscellaneous Items :

1. Care of Blind Children -----	300.00
2. Auto Cost and Transportation -----	300.00
3. Dairy Cows -----	150.00
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Total ----- \$62,712.00

Approved March 7, 1941.

CHAPTER 52

S. B. No. 8—(Committee on Appropriations)

NORTH DAKOTA CHILDRENS HOME AND AID SOCIETY
OF FARGO

An Act Making an appropriation for the North Dakota Children's Home and Aid Society of Fargo, North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the North Dakota Children's Home and Aid Society in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said North Dakota Children's Home and Aid Society toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said North Dakota Children's Home and Aid Society shall make monthly reports to the State Auditor of the state of North Dakota, duly certified under oath showing the number and classes of inmates in said institution and the State Auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said North Dakota Children's Home and Aid Society shall be subject to the supervision and inspection of the State Board of Administration as provided in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 53

S. B. No. 12—(Committee on Appropriations)

THE CRIPPLED CHILDREN'S SCHOOL

An Act Making an appropriation for the Crippled Children's School at Jamestown, North Dakota, for the care and education of crippled children, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION AND METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the Crippled Children's School at Jamestown, North Dakota, in the following manner, to-wit: The sum of \$10.00 per month shall be paid to the said Crippled Children's School toward the education, support and maintenance of each poor and indigent crippled child while its age or general condition necessitates its remaining as a charge of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said Crippled Children's School shall make monthly reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the number of classes of inmates in its institution for the education and care of crippled children at Jamestown, North Dakota, and the State Auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] The said institution for the education and care of crippled children maintained by the said Crippled Children's School at Jamestown, North Dakota, shall be subject to the supervision and inspection of the State Board of Administration as provided in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 54

S. B. No. 7—(Committee on Appropriations)

FLORENCE CRITTENTON HOME

An Act Making an appropriation for poor and destitute persons, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary to the Children's Welfare Bureau, and by its directors apportioned to the Florence Crittenton Home, a corporation, of Fargo, North Dakota, being a maternity home now licensed in this state, to be paid to the said Florence Crittenton Home in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or physical condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said Florence Crittenton Home shall make monthly reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution and the State Auditor shall thereupon pay the said institution the sum for each inmate as herebefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said Florence Crittenton Home shall be subject to the supervision and inspection of the State Board of Administration as provided for in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 55

S. B. No. 9—(Committee on Appropriations)

NORTH DAKOTA HOUSE OF MERCY

An Act Making an appropriation for poor and destitute persons providing the method of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the North Dakota House of Mercy, of Fargo, North Dakota, being a maternity home now licensed in this State, to be paid to said North Dakota House of Mercy in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or general condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said North Dakota House of Mercy shall make monthly reports to the State Auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution, and the State Auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said North Dakota House of Mercy shall be subject to the supervision and inspection of the State Board of Administration as provided for in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 56

S. B. No. 11—(Committee on Appropriations)

LUTHERAN WELFARE SOCIETY OF NORTH DAKOTA

An Act Making an appropriation for the Lutheran Welfare Society of North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the Lutheran Welfare Society of North Dakota in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said Lutheran Welfare Society of North Dakota toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said Lutheran Welfare Society of North Dakota shall make monthly reports to the State Auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of charges of said society and the State Auditor shall thereupon pay the said society the sum for each charge as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said Lutheran Welfare Society of North Dakota shall be subject to the supervision and inspection of the State Board of Administration as provided in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 57

S. B. No. 10—(Committee on Appropriations)

ST. JOHN'S ORPHANAGE

An Act Making an appropriation for St. John's Orphanage of Fargo, North Dakota, providing the methods of expenditure and audit thereof; supervision and inspection therefor.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the St. John's Orphanage in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said St. John's Orphanage toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges in said Home, as determined by the superintendent or superior in charge.

§ 2. REPORTS AND CERTIFICATES—PAYMENTS.] The superintendent or superior in charge of said St. John's Orphanage shall make monthly reports to the State Auditor, of the State of North Dakota, duly certified under oath, showing the number and classes of inmates in said institution, and the State Auditor shall thereupon pay the said institution the sum for each inmate as hereinbefore provided.

§ 3. SUPERVISION AND INSPECTION.] Said St. John's Orphanage shall be subject to the supervision and inspection of the State Board of Administration as provided for in the Child Welfare Act.

Approved March 6, 1941.

CHAPTER 58

H. B. No. 105—(Committee on Appropriations)

SCHOOL FOR THE DEAF

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous items of the School for the Deaf at Devils Lake, North Dakota.

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

§ I. APPROPRIATION.] There is hereby appropriated the sum of \$22,500.00 out of the Interest and Income Fund of the institution hereafter named and the sum of \$152,233.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the School for the Deaf at Devils Lake, North Dakota for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries & Wages:

1. Administration	\$ 9,951.00
2. Faculty	53,755.00
3. Other Employees	22,645.00

Total Salaries & Wages	\$ 86,351.00
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Operating Expense:

1. Fuel (including freight)	15,000.00
2. Light, Power, Water, Gas	1,700.00
3. Telephone, Telegraph, Postage	1,000.00
4. Trades Bldg. Sup.	1,900.00
5. Insurance, Bonds, etc.	4,257.00
6. Printing	1,550.00
7. Travel	400.00
8. Office Supplies	450.00
9. Educational Supplies	2,000.00
10. Power House Supplies	600.00
11. Janitors' Supplies	2,000.00
12. Students' Welfare	1,200.00
13. Food (including meats, etc.)	22,000.00
14. Laundry Supplies	750.00
15. Hospital & Medical Service	1,500.00
16. Farm & Garden	5,250.00
17. Auto & Bus Upkeep	1,200.00
18. Kitchen Supplies	800.00
19. Bedding, Linen & Dry Goods	1,500.00

Total Maintenance	\$151,408.00
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Improvements & Repairs:

1. Heating & Plumbing -----	\$ 2,500.00
2. Elec. Wiring & Supplies -----	2,000.00
3. Painting -----	1,500.00
4. General Repairs of Bldgs. -----	2,000.00
5. Nursery Stock & Campus -----	500.00
6. Repairing Power House -----	500.00
7. Replace Old Main Walks -----	100.00
8. Repair Farm House & Imp. Shed -----	750.00
9. Add Hospital Sun Porch Compl. -----	1,000.00

Equipment:

1. Library & Text Books -----	1,250.00
2. Furniture -----	4,988.70
3. Laundry Equipment -----	540.00
4. Shops Equipment -----	2,211.30
5. Power House Equipment -----	1,100.00
6. Farm Equipment -----	170.00
7. Playground Equipment -----	350.00
8. Bus and Car (Bus out) -----	1,000.00
9. Campus Equipment -----	500.00

Miscellaneous Items:

1. Student Trust Fund -----	365.00
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Total ----- \$174,733.00

Approved March 21, 1941.

CHAPTER 59

H. B. No. 107—(Appropriations)

GRAFTON STATE SCHOOL

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous items for the Grafton State School at Grafton, North Dakota.

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

§ I. APPROPRIATION.] There is hereby appropriated the sum of \$335,000.00 out of the County Care and Institutional Collections funds of the institution hereafter named and the sum of \$198,306.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the

Grafton State School at Grafton, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries & Wages:

1. Administration -----	\$ 11,440.00
2. Faculty -----	14,160.00
3. Other Employees -----	173,548.00
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Total Salaries & Wages -----	\$199,148.00

Operating Expense:

1. Fuel (including freight) -----	\$ 64,000.00
2. Stoker equipment -----	2,000.00
3. Repairs -----	6,000.00
4. Telephone, Telegraph, Postage -----	2,700.00
5. Incidentals -----	3,000.00
6. Insurance, Bonds, etc. -----	6,000.00
7. Printing -----	1,250.00
8. Travel -----	1,500.00
9. Office Supplies -----	1,500.00
10. Educational Supplies -----	4,000.00
11. Power House Supplies -----	4,000.00
12. Janitors' Supplies -----	5,000.00
13. Patients' Welfare -----	4,000.00
14. Food (including meats, etc.) -----	95,000.00
15. Clothing -----	35,000.00
16. Hospital & Medical Service -----	8,000.00
17. Farm and Garden -----	13,000.00
18. Laundry Supplies -----	6,000.00
19. Kitchen Supplies -----	3,000.00
20. Beds & Bedding -----	7,000.00
21. Furnishings -----	5,000.00
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Total Maintenance -----	\$476,098.00

Improvements & Repairs:

1. Paints & Painting -----	\$ 3,000.00
2. Buildings -----	6,000.00
3. Irrigation -----	1,000.00
4. Farm & Garden -----	3,000.00
5. Materials for Laundry Addition -----	2,500.00
6. Materials for Assembly Hall Vent. -----	1,500.00
7. Materials for Root Cellar -----	3,000.00
9. Material for Kitchen Addition -----	16,000.00

Equipment:

1. Kitchen -----	\$ 3,000.00
2. Laundry -----	3,000.00

3. Hospital -----	3,400.00
4. Janitor -----	2,000.00
5. Coal Truck & Dump Body -----	1,800.00
6. Firehose & Hose Cart -----	700.00
7. New Bakery Oven -----	2,000.00

Miscellaneous Items:

1. Land Rentals -----	\$ 5,308.00
Total -----	\$533,306.00

Approved March 21, 1941.

CHAPTER 60

H. B. No. 336—(Levin and Collette)

**GRAFTON STATE SCHOOL — INSTALLATION WATER
EVAPORATING EQUIPMENT**

An Act Making an Appropriation out of the Board of Administration Emergency Fund for Institutions for the Purchase and Installation of New Water Evaporating Equipment at the Grafton State School; and Waiving the Necessity of Advertising for Bids; and Declaring an Emergency.

Whereas, It appears that the water evaporating equipment at the Grafton State School requires immediate replacement by new equipment in order that the inmates and employees of said institution can be supplied with drinking water; and

Whereas, There is no existing appropriation for the replacement of said evaporating equipment, and

Whereas, It is necessary to safeguard the health and safety of the inmates and employees of said institution by making immediate installation of water evaporating equipment; therefore

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of the Board of Administration Emergency Fund for Institutions the sum of eleven thousand dollars (\$11,000.00) or so much thereof as may be necessary for the purchase and installation of water evaporating equipment in the Grafton State School.

§ 2. That because of the necessity for immediate installation of said equipment the Board of Administration is hereby authorized and empowered to enter into a contract for the purchase and installation of said equipment without being required to advertise for bids as is now required by law.

§ 3. 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 7, 1941.

CHAPTER 61

S. B. No. 1—(Committee on Appropriations)

STATE INSTITUTIONS OF HIGHER LEARNING

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State institutions of higher learning of the State of North Dakota, and providing for offsets for Federal aid granted to said institutions and the subdivisions thereof.

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

§ 1. APPROPRIATIONS FOR THE STATE INSTITUTIONS OF HIGHER LEARNING AND PROVIDING FOR OFFSETS FOR FEDERAL AID GRANTED TO SAID INSTITUTIONS AND THE SUBDIVISIONS THEREOF.] The sums hereafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, for the purpose specified in the following sections of this Act, to each of the institutions hereinafter named, in the sums set forth as follows:

1. State University	\$750,487.00
2. (a) Agricultural College	381,856.00
(b) Agric. College—Expr. Station	132,010.52
(c) Agric. College—Extension Division	60,076.74
3. School of Forestry	81,418.00
4. Ellendale Normal & Industrial School.....	104,680.00
5. School of Science	117,940.00
6. Dickinson Normal	175,093.00
7. Mayville Normal	137,665.00
8. Minot Normal	226,062.95
9. Valley City Normal	238,062.18
10. Geological Survey	11,730.00
11. Vocational Education and Vocational Rehab.....	33,200.00

and out of the institutional interest and income, fees and collections the following sums to each of said institutions as follows:

1. State University	\$319,870.00
2. Agricultural College	511,900.00
3. School of Forestry	19,000.00

4. Ellendale Normal & Industrial School -----	50,000.00
5. School of Science -----	95,000.00
6. Dickinson Normal -----	48,500.00
7. Mayville Normal -----	76,500.00
8. Minot Normal -----	105,000.00
9. Valley City Normal -----	121,500.00

and in addition thereto there is hereby appropriated to each of the institutions hereinafter named, all other incidental income, collections and fees, interest and income that such institutions may collect and receive, and such incidental income, collections and fees, interest and income shall be used by each institution for such miscellaneous purposes as may be necessary for the maintenance and operation of the institution.

§ 2. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury in the Retail Sales Tax Fund to be used and disbursed pursuant to the State Equalization Fund Law, as follows: for

High School Correspondence Course -----\$100,000.00

§ 3. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1941, and ending June 30th, 1943.

§ 4. APPROPRIATIONS.]

STATE UNIVERSITY

I. Educational Service:

a. (1) College of Engineering-----	\$ 93,614.00
(2) St. Wide Service on Natural Resources---	22,872.00
b. College of Science, Literature & Arts-----	222,760.00
c. School of Commerce -----	48,148.00
d. School of Education-----	121,122.00
e. School of Law -----	31,670.00
f. School of Medicine -----	72,130.00
g. Military Training -----	2,000.00
h. Physical Education for Men -----	9,550.00
i. Correspondence Study Course & Emergency---	21,625.00
j. General Education Service -----	7,000.00
k. Dean of Women -----	7,260.00
l. Univ. Placement & Vocational Guidance Bureau	2,000.00

Total Educational Service ----- 661,751.00

2.	Library -----	28,350.00
3.	Administration -----	85,860.00
4.	Buildings & Grounds -----	180,741.00
5.	Summer School -----	18,000.00
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	Total Maintenance -----	\$974,702.00
	Less estimated local income -----	319,870.00
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	Net Maintenance -----	\$664,677.00
6.	Improvements & Repairs -----	9,000.00
7.	Equipment:	
	a. Boiler total amount available July 1, 1941 -----	45,500.00
	b. General -----	12,000.00
8.	Miscellaneous -----	24,155.00
9.	School of Mines—Special -----	2,500.00
10.	School of Mines—Survey of Cement materials -----	2,500.00
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	Total -----	\$750,487.00

AGRICULTURAL COLLEGE

1.	Educational Service:	
	a. Agriculture -----	\$157,000.00
	b. Engineering	
	1. College of Engineering -----	84,124.00
	2. Chemistry -----	31,900.00
	c. Home Economics -----	38,000.00
	d. Science, Literature & Arts	
	1. College of Liberal Arts -----	126,000.00
	2. Education -----	16,000.00
	3. Pharmacy -----	23,000.00
	e. Music & Band -----	5,440.00
	f. Physical Education—Men -----	5,000.00
	g. Physical Education—Women -----	4,000.00
	h. Military Science -----	2,304.00
	i. Extension -----	1,000.00
	j. Dean of Men -----	3,240.00
	k. Dean of Women -----	5,540.00
	l. General Educational Service -----	12,300.00
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	Total Educational Service -----	\$514,848.00
2.	Library -----	20,000.00
3.	Administration -----	62,600.00
4.	Students' Welfare & Health -----	4,200.00
5.	Buildings & Grounds -----	197,308.00
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	Total Maintenance -----	798,956.00

Less estimated Income :	
Interest & Income -----	90,000.00
Institutional Collections -----	241,900.00
Federal Funds -----	180,000.00
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Net Maintenance -----	\$287,056.00
6. Improvements & Repairs -----	26,900.00
7. Equipment -----	29,200.00
8. Insurance and Special Assessments -----	38,700.00
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Total -----	\$381,856.00

AGRICULTURAL COLLEGE—EXPERIMENT STATION

1. Salaries, Wages & Operating Expense -----	\$ 5,905.80
2. Mtce. of Scientific Investigations -----	43,445.72
3. Improvements & Repairs -----	5,000.00
4. Miscellaneous -----	45,159.00
5. Public Service, etc. -----	3,000.00
	<hr/>
Total Main Station -----	\$102,510.52
6. Branch Stations :	
1. Dickinson—Mtce. -----	5,000.00
2. Edgeley—Mtce. -----	6,500.00
3. Hettinger—Mtce. -----	1,000.00
4. Langdon—Mtce. -----	6,500.00
5. Williston—Dry Land Station—Mtce. -----	6,500.00
6. Irrigation Expr. Station—Mtce. -----	4,000.00
	<hr/>
Total Branch Stations -----	29,500.00
Total Main & Branch Stations -----	\$132,010.52

Additional Income :

Federal -----	\$229,351.52
Other Estimations -----	\$ 34,855.46

AGRICULTURAL COLLEGE—EXTENSION DIVISION

Administration -----	\$ 1,098.74
Information & Publications -----	5,280.96
County Agents -----	9,196.44
Home Demonstration -----	2,492.74
Club Work -----	4,630.68
Rural Young People -----	483.00
Field Agents in Agriculture -----	13,353.68
Neighborhood Activities in County Districts -----	2,110.00
Forestry -----	2,940.02
Field Agents in Home Economics -----	4,490.48
Workmen's Compensation Bureau -----	4,000.00

Maintenance -----	10,000.00
Total -----	\$ 60,076.74

Additional Income:

Federal -----	\$485,587.30
County -----	206,260.00
Walsh Co. School -----	1,260.00

SCHOOL OF FORESTRY

1. Educational Service -----	\$ 33,692.00
2. Library -----	1,120.00
3. Administration -----	11,934.00
4. Students' Welfare, Health & Place. Serv.-----	385.00
5. Buildings & Grounds -----	13,495.00
6. Nursery & Greenhouse -----	30,742.00
Total Maintenance -----	\$ 91,368.00
Less estimated Local Income -----	19,000.00
Net Maintenance -----	\$ 72,368.00
7. Improvement & Repairs -----	2,375.00
8. Equipment -----	2,175.00
9. Miscellaneous -----	1,500.00
10. Greenhouse Addition -----	3,000.00
Total -----	\$ 81,418.00

ELLENDALE NORMAL AND INDUSTRIAL SCHOOL

1. Educational Service -----	\$ 75,160.08
2. Library -----	3,900.00
3. Administration -----	15,342.50
4. Students' Welfare, Health & Place. Serv.-----	3,930.00
5. Buildings & Grounds -----	34,945.00
6. Summer School -----	5,000.00
Total Maintenance -----	\$139,673.58
Less estimated Local Income:	
Interest & Income -----	\$ 18,000.00
Institutional Collections -----	27,000.00
Summer School -----	5,000.00
Net Maintenance -----	\$ 88,277.58
7. Improvements & Repairs -----	4,500.00
8. Equipment -----	6,152.00
9. Miscellaneous including unpaid insurance-----	5,750.42
Total -----	\$104,680.00

SCHOOL OF SCIENCE

1. Educational Service -----	\$115,000.00
2. Library -----	5,000.00
3. Administration -----	16,490.00
4. Students' Welfare, Health & Place. Serv.-----	4,700.00
5. Buildings & Grounds -----	50,000.00
<hr/>	
Total Maintenance -----	\$191,190.00
Less estimated Local Income:	
Interest & Income -----	24,000.00
Registration Fees -----	65,000.00
Room Rent -----	6,000.00
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Net Maintenance -----	\$ 96,190.00
6. Improvements & Repairs -----	10,000.00
7. Equipment -----	7,750.00
8. Miscellaneous -----	4,000.00
<hr/>	
Total -----	\$117,940.00

Any federal funds that are now or may hereafter become available to the State School of Science or to the State Supervisor of Trades are hereby specifically appropriated to them and shall be deposited with the State Treasurer and placed to the credit of the State Board for Vocational Education for the purpose of trade training and at all times subject to the orders of the State Board for Vocational Education.

Additional Income:	
Federal -----	\$ 60,000.00

DICKINSON NORMAL

1. Educational Service -----	\$116,947.00
2. Library -----	4,482.00
3. Administration -----	23,734.00
4. Students' Welfare, Health & Placement Service-----	2,000.00
5. Buildings & Grounds -----	50,000.00
6. Summer School -----	10,500.00
<hr/>	
Total Maintenance -----	\$207,663.00
Less estimated Local Income:	
Enroll. fees & Room Rent -----	38,000.00
Summer School Enroll. Fee -----	10,500.00
<hr/>	
Net Maintenance -----	\$159,163.00
7. Improvements & Repairs -----	6,000.00
8. Equipment -----	8,330.00

9. Miscellaneous	1,600.00
Total	<u>\$175,093.00</u>

MAYVILLE NORMAL

1. Educational Service	\$110,168.00
2. Library	9,318.00
3. Administration	21,655.00
4. Students' Welfare, Health & Place. Serv.	2,304.00
5. Buildings & Grounds	50,045.00
6. Summer School	6,500.00

Total Maintenance

\$199,990.00

Less estimated Local Income:

Interest & Income	20,000.00
Institutional Collections	50,000.00
Summer School	6,500.00

Net Maintenance

\$123,490.00

7. Improvements and Repairs	4,800.00
8. Equipment	3,875.00
9. Miscellaneous	5,500.00

Total

\$137,665.00

VALLEY CITY NORMAL

1. Educational Service	\$189,021.00
2. Library	11,700.00
3. Administration	29,430.00
4. Students' Welfare, Health & Place. Serv.	7,030.00
5. Buildings & Grounds	78,940.00
6. Summer Session	16,000.000

Total Maintenance

\$332,121.00

Less estimated Local Income:

Interest & Income	36,000.00
Institutional Collections	85,500.00

Net Maintenance

\$210,621.00

7. Improvements & Repairs	13,000.00
8. Equipment	6,020.00
9. Miscellaneous	8,421.18

Total

\$238,062.18

MINOT NORMAL

1. Educational Service -----	\$188,655.20
2. Library -----	10,226.59
3. Administration -----	23,412.92
4. Students' Welfare, Health & Place. Serv.-----	3,804.54
5. Buildings & Grounds -----	65,713.70
6. Summer School -----	20,000.00
	<hr/>
Total Maintenance -----	\$311,812.95
Less estimated Local Income -----	105,000.00
	<hr/>
Net Maintenance -----	\$206,812.95
7. Improvements & Repairs -----	3,400.00
8. Equipment -----	11,450.00
9. Miscellaneous -----	4,400.00
	<hr/>
Total -----	\$226,062.95

STATE GEOLOGICAL SURVEY

In co-operation of U. S. Geological Survey

Salary -----	\$ 2,500.00
Clerkhire -----	1,080.00
Postage -----	75.00
Office Supplies -----	175.00
Furniture & Fixtures -----	50.00
Printing -----	400.00
Miscellaneous -----	100.00
Travel Expense -----	2,000.00
Apparatus & Equipment for Field & Lab.-----	200.00
Chemical Work -----	150.00
Co-operation with U. S. Geological Survey for Matching Federal Funds for Ground Water Investigation-----	5,000.00
	<hr/>
Total -----	\$ 11,730.00

VOCATIONAL EDUCATION AND REHABILITATION

in co-operation with Smith-Hughes and George-Deen acts, and as provided in Sections 1471b1 to 1471b9 and 1471c1 to 1471c8, 25 Supplement.

Salary -----	\$ 2,000.00
Clerkhire -----	800.00
Postage -----	150.00
Office Supplies -----	100.00
Furniture & Fixtures -----	50.00
Printing -----	350.00
Miscellaneous -----	250.00

Travel Expense -----	1,500.00
Vocational Rehab. of Physically Handicapped Persons--	28,000.00
Total -----	\$ 33,200.00

HIGH SCHOOL CORRESPONDENCE COURSE
as provided for in Chap. 257, S. L. 1935

Salaries -----	\$ 63,786.76
Postage -----	9,567.50
Office Supplies -----	1,606.95
Furniture and Fixtures -----	1,735.72
Printing -----	2,794.36
Miscellaneous -----	514.98
Travel Expense -----	2,147.05
Student Supplies -----	3,392.89
Education Aids -----	950.00
Lessons -----	6,703.49
Contingencies -----	800.00
Rent -----	6,000.00
Total -----	\$100,000.00

§ 5. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved March 22, 1941.

CHAPTER 62

H. B. No. 111—(Committee on Appropriations)

STATE HOSPITAL FOR THE INSANE

An Act Making an appropriation for the general maintenance, and miscellaneous expenses of 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 the sum of \$1,143,450.00 out of the County Care, Institutional Collections and Interest Collections Funds of the institution hereafter named

and the sum of -----out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance and miscellaneous expenses of the State Hospital for the Insane at Jamestown, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries & Wages:

1. Administration -----	\$ 18,000.00
2. Ass't Physicians -----	32,000.00
3. Other Employees -----	382,000.00
	<hr/>
Total Salaries & Wages -----	\$ 432,000.00

Operating Expense:

1. Printing & Office Supplies -----	2,500.00
2. Postage, Telegraph & Telephone -----	8,000.00
3. Travel Expense -----	1,000.00
4. O. T. Expense -----	5,000.00
5. Auto & Truck Supplies -----	8,000.00
6. Water Filtration Plant -----	25,000.00
7. Operation Farm, Garden & Grounds:	
(a) Stock -----	6,000.00
(b) Feed -----	23,000.00
(c) Seeds -----	6,000.00
(d) Leases -----	1,500.00
(e) Repairs -----	5,400.00
(f) Equipment -----	7,000.00
(g) Garden & Grounds -----	2,500.00
8. Oils, Paints, Glass & Misc. -----	8,000.00
9. Electrical Supplies & Repairs -----	9,000.00
10. Engine Room Supplies & Repairs -----	6,000.00
11. Heating & Plumbing Supplies, etc. -----	8,000.00
12. Bldg. Material and tunnels -----	30,000.00
13. Blacksmith & Machine Shop Supplies and Re- pairs -----	7,500.00
14. Fuel Cost Including Freights -----	109,500.00
15. Clothing & Footwear -----	50,000.00
16. Meats, Foods & Tobacco -----	250,000.00
17. Kitchen Supplies, etc. -----	14,000.00
18. Furniture, Furnishings, etc. -----	8,000.00
19. Janitors' Supplies -----	17,500.00
20. Laundry Supplies & Repairs -----	11,000.00
21. Drugs, Medical, X-ray, etc. -----	30,750.00
22. Religious Serv., Patients Welfare & Wage -----	11,000.00
23. Barber & Beautician Supplies -----	3,000.00
24. Insurance, Bonds, etc. -----	12,000.00

25. Extraordinary:		
(a) Fire Equipment, etc. -----	4,000.00	
(b) Mortuary Supplies, etc. -----	2,000.00	
(c) Irrigation Equipment, etc. -----	4,000.00	
26. General Repairs:		
(a) Milk & Pasteurizing Plant -----	5,000.00	
(b) Garden Greenhouse -----	5,500.00	
(c) Hydrotherapeutic Equip. -----	4,800.00	
Total Maintenance -----	\$1,143.450.00	

Approved March 21, 1941.

CHAPTER 63

H. B. No. 109—(Committee on Appropriations)

STATE PENITENTIARY

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Penitentiary.

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

§ I. APPROPRIATION.] There is hereby appropriated the sum of \$8,000.00 out of the Coffin Manufacturing Fund, the sum of \$50,000.00 out of the Miscellaneous Earnings and the sum of \$33,000.00 out of the Institutional Collection Fund of the institution hereafter named and the sum of \$321,090.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Penitentiary, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries & Wages:

1. Administration -----	\$ 13,013.00
2. Faculty -----	840.00
3. Other Employees -----	82,767.00
4. Parole Officer & Travel Expense -----	6,000.00

Total Salaries & Wages ----- \$102,620.00

Operating Expense:

1. Fuel (including freight) -----	\$ 28,000.00
2. Light, Power, Water & Gas -----	10,000.00
3. Telephone, Telegraph & Postage -----	1,700.00

4.	Freight & Express -----	1,000.00
5.	Insurance & Bonds -----	13,000.00
6.	Printing & Office Supplies -----	900.00
7.	Travel -----	300.00
8.	Educational Supplies -----	400.00
9.	Powerhouse & Electric Supplies -----	2,500.00
10.	Janitors' Supplies, etc. -----	7,000.00
11.	Inmates' Welfare -----	2,500.00
12.	Food (including meats), etc. -----	63,000.00
13.	Clothing -----	16,000.00
14.	Hospital & Medical Service -----	12,000.00
15.	Bertillion & Escapes -----	1,000.00
16.	Transportation & Clothing -----	11,000.00
17.	Mtce. Autos & Trucks -----	5,000.00
18.	Inmates' Wages -----	22,000.00
19.	Mtce. Farm & Shops -----	15,000.00
20.	Sundry Mtce. Supplies -----	300.00

Total Maintenance ----- \$315,220.00

Improvements & Repairs:

1.	General -----	\$ 6,500.00
2.	Sewer & Plumbing and Water System -----	11,000.00

Equipment:

1.	Kitchen Equipment -----	1,400.00
2.	Farm -----	1,000.00
3.	Hospital -----	200.00
4.	Shops -----	650.00
5.	Office -----	300.00
6.	Fire Hose -----	1,500.00
7.	Arsenal Equip. -----	500.00
8.	Commissary Truck Trade -----	400.00
9.	Automobile Trade (Olds) -----	800.00

Miscellaneous:

1.	Rent of Land -----	1,500.00
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Total ----- \$340,970.00

State Bureau of Criminal Identification

1.	Officer in Charge -----	\$ 4,000.00
2.	Fingerprint Expert -----	2,620.00
3.	Travel Expense -----	3,000.00
4.	Workmen's Compensation -----	175.00
5.	Radio Serv. & Spec. Bulletins -----	2,050.00
6.	Telephone & Telegraph -----	600.00
7.	Equipment & Supplies -----	375.00

8. Postage & Printing -----	300.00
Total -----	\$354,090.00
Operating Tag & Sign Plant -----	50,000.00
Operating Casket Factory -----	8,000.00
Total -----	\$412,090.00

Approved March 21, 1941.

CHAPTER 64

S. B. No. 21—(Committee on Appropriations)

NORTH DAKOTA SOLDIERS' HOME

An Act Making an appropriation for the North Dakota Soldiers' Home at Lisbon, North Dakota: providing for reports and deductions.

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 \$8,000.00, and such moneys as may come to the Interest and Income and Federal Aid funds or so much thereof as may be necessary not to exceed the sum of \$42,275.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary, for the maintenance and support of the North Dakota Soldiers' Home located at Lisbon, North Dakota, said sum to be paid as follows: one quarter of \$12,568.75 to be payable July 1st, 1941 and each additional quarter to be payable at the end of each succeeding six months thereafter.

§ 2. The Appropriation herein provided for the biennium July 1st, 1941, to June 30th, 1943, shall be used for the following:

Expense and Per Diem for Board -----	\$ 1,400.00
Salaries of Staff -----	7,960.00
Expense and Per Diem of Auditor -----	144.00
Employees and Home Members Employed -----	9,600.00
Maintenance and Operation -----	31,171.00

Total ----- \$ 50,275.00

§ 3. REPORTS AND CERTIFICATES. PAYMENTS.] The superintendent in charge of said home shall make semi-annual reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the amount of money remaining unexpended and estimating the amount of money which shall be required for the suc-

ceeding six months, and, if it shall appear from said report and estimate that the full amount appropriated for the succeeding six months exceeds the amount of the estimate, then the amount to be paid shall be reduced to the amount of said estimate.

Approved March 21, 1941.

CHAPTER 65

H. B. No. 110—(Committee on Appropriations)

STATE TRAINING SCHOOL

An Act Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota.

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

§ I. APPROPRIATION.] There is hereby appropriated the sum of \$15,000.00 out of the Interest, Income and Institutional Collections Fund of the Institution hereafter named and the sum of \$260,952.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943 to-wit: Salaries & Wages

1. Administration -----	\$ 11,808.00
2. Overlapping and Inventory -----	225.00
3. Faculty -----	20,000.00
4. Other Employees -----	46,669.00
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Total Salaries & Wages -----	\$ 78,702.00

Operating Expenses:

1. Fuel (including freight) -----	16,000.00
2. Light, Power, Water, Gas -----	5,000.00
3. Telephone, Telegraph, Postage -----	2,800.00
4. Freight & Express -----	1,000.00
5. Insurance, Bonds, etc. -----	9,000.00
6. Printing -----	800.00
7. Travel -----	2,000.00
8. Office Supplies -----	550.00
9. Educational Supplies -----	2,900.00
10. Power House Supplies -----	4,200.00
11. Janitors' Supplies -----	2,800.00
12. Students' Welfare -----	5,000.00

13.	Food (including meats, etc.)	49,000.00
14.	Clothing	21,000.00
15.	Hospital & Medical Service	12,500.00
16.	Students' Wage	600.00
17.	Farm & Garden Mtce.	8,000.00
18.	Laundry Supplies	1,500.00
19.	Grounds	900.00
20.	Carpenter shop, Plumbing shop, gas, oils and auto repairs	4,500.00
	Total Maintenance	\$228,752.00
Improvements & Repairs:		
1.	Repairs for Dakotah Hall (under supervision of Board of Administration)	\$ 8,000.00
2.	Build. & Equip Dyke	1,000.00
3.	Steam & Water Lines	800.00
4.	Gymnasium Roof	900.00
5.	Fire House and Equipment	800.00
6.	General repairs on buildings under supervision of the Board of Administration	1,500.00
Equipment:		
1.	Trade School	4,500.00
2.	Carpenter Shop	1,000.00
3.	Plumbing Shop	400.00
4.	Library	800.00
5.	Household	2,500.00
6.	School	2,000.00
7.	Tools	1,000.00
8.	Office	400.00
9.	Farm	1,000.00
10.	Hymn Books, etc. Chapel	500.00
11.	Replacement of all Elec. Lines	1,000.00
12.	Irrigation System	1,500.00
Miscellaneous:		
1.	Burial Expense & Rewards	600.00
2.	Land Rental	2,000.00
	Total	\$260,952.00
Approved March 21, 1941.		

CHAPTER 66

H. B. No. 108—(Committee on Appropriations)

STATE TUBERCULOSIS SANATORIUM

An Act Making an appropriation for the general maintenance, improvements and repairs and equipment for the Tuberculosis Sanatorium at San Haven, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$345,000.00 out of the County Care and Institutional Collections Funds of the institution hereafter named and the sum of \$136,536.00 out of the State Treasury, not otherwise appropriated, or so much thereof as may be necessary for paying the general maintenance, improvements and repairs and equipment of the Tuberculosis Sanatorium at San Haven, North Dakota, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries & Wages:

1. Administration -----	\$ 9,400.00
2. Other Employees -----	180,678.00
	\$190,078.00

Operating Expense:

1. Fuel (including freight) -----	38,340.00
2. Auto & Truck Mtc. -----	3,620.00
3. Telephone, Telegraph, Postage -----	1,810.00
4. Freight & Express -----	2,840.00
5. Insurance, Bonds, etc. -----	8,600.00
6. Printing -----	900.00
7. Travel -----	700.00
8. Office Supplies -----	1,000.00
9. Power House Supplies -----	5,500.00
10. Janitors' Supplies -----	5,000.00
11. Patients' Welfare -----	2,200.00
12. Food (including meats, etc.) -----	140,000.00
13. Clothing, Bedding & Linen, etc. -----	7,500.00
14. Hospital & Medical Service -----	30,000.00
15. Farm, Dairy & Poultry Mtce. -----	12,000.00
16. Garden, Greenhouse & Grounds -----	1,000.00
17. Laundry, Water Softening Supplies -----	5,000.00
18. Dishes, Crockery & Utensils -----	3,000.00
19. Refunds -----	900.00
	\$459,988.00

Improvements & Repairs:

1. Gen. Impr. & Repairs: -----	5,000.00
2. Moving Goat Barn by Dairy Barn -----	800.00
3. Adjustable Bearings on Steam Engine -----	250.00
4. Repair old Steam Engine -----	600.00
5. Tunnel to Laundry for Steam Pipes -----	1,500.00
6. 80 acres new land -----	400.00

Equipment:

1. Hospital -----	3,758.00
2. Farm -----	300.00
3. Furniture, Replacements, Rugs, etc. -----	1,000.00
4. Office Equipment -----	790.00
5. Dietary -----	2,000.00
6. Automatic Starting Box X-ray -----	400.00
7. Trucks -----	2,000.00
8. New Well & Pump -----	2,750.00

Total ----- \$481,536.00

Approved March 21, 1941.

CHAPTER 67

H. B. No. 15—(Committee on Appropriations)

STATE TREASURER — LIQUOR CONTROL ACT

An Act Making an appropriation for administration and expenses for the Liquor Control Act.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Liquor Control Fund in the State Treasury, the sum of \$39,205.00, or so much thereof as may be necessary for the administration and general expenses for regulation and control of the Liquor Control Act, as provided for in Chap. 259, S. L. 1939, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire -----	\$ 10,080.00
Postage -----	400.00
Office Supplies -----	350.00
Furniture & Fixtures -----	350.00
Printing -----	750.00
Miscellaneous -----	500.00
Travel -----	1,500.00

Liquor Stamps	25,000.00
Mtce. of Machines.....	275.00
	<hr/>
Total	\$ 39,205.00

Approved March 21, 1941.

CHAPTER 68

S. B. No. 2—(Committee on Appropriations)

LIVESTOCK SANITARY BOARD

An Act Making an appropriation to the Livestock Sanitary Board, for its operating and maintenance expense and for indemnifying owners of animals, to the Glanders and Dourine Fund, to the Bovine Tuberculosis Fund and to the Bangs Disease Fund.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the State Treasury, not otherwise appropriated, the sum of \$105,410.00, or so much as is necessary thereof, to pay the operating and maintenance expenses of the Livestock Sanitary Board, and for expenses and indemnifying owners of animals, to the Glanders and Dourine Fund, to the Bovine Tuberculosis Fund and to the Bangs Disease Fund, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, in the sums hereinafter named only, to-wit:

LIVESTOCK SANITARY BOARD

as provided in Sec. 2681-2698, 25 Sup.

Salary	\$ 4,800.00
Clerkhire	2,160.00
Postage	400.00
Office Supplies	150.00
Furniture & Fixtures.....	200.00
Printing	650.00
Miscellaneous	300.00
Services & Expenses Board's Agents.....	12,000.00
Ins. Workmen's Comp. & Bonds.....	1,200.00
Compensation & Expenses Board Members.....	800.00
	<hr/>
Total	\$ 22,660.00

GLANDERS AND DOURINE

as provided in Sec. 2736a1-2736a6, 25 Sup.

Indemnity	\$ 250.00
	<hr/>
Total	\$ 250.00

BOVINE TUBERCULOSIS

as provided in Sec. 2699-2710, C. L. 13, and amendments thereto
(Federal Matching)

Services	\$ 12,000.00
Clerkhire	1,800.00
Postage	250.00
Printing	250.00
Travel Expense	6,000.00
Indemnity	8,000.00
Total	\$ 28,300.00

BANGS DISEASE

as provided in Ch. 10, S. L. 39 (Federal Matching)

Services	\$ 4,200.00
Indemnity	42,000.00
Indemnity available upon passage and approval	8,000.00
Total	\$ 54,200.00

GRAND TOTAL

	\$105,410.00
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Approved March 21, 1941.

CHAPTER 69

S. B. No. 25—(Committee on Appropriations)

STATE MISCELLANEOUS

An Act Making an appropriation for inquest and burial of penal inmates, headstones for soldiers and sailors, actions to release insane and list of new taxable lands.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$500.00, or so much thereof as may be necessary to pay for the inquest and burial of inmates of penal institutions, erection of headstones for soldiers and sailors, action to release insane patients and list of new taxable lands, for the biennium beginning July 1st, 1941, and ending June 30th, 1943; provided that any charges against the above appropriation must have the approval of the State Auditor and the State Auditing Board.

Approved March 7, 1941.

CHAPTER 70

S. B. No. 33—(Committee on Appropriations)

REGISTRAR OF MOTOR VEHICLES

An Act Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Department of the Registrar of Motor Vehicles.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Motor Registration Fund, not otherwise appropriated, the sum of \$187,900.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Department of the Registrar of Motor Vehicles for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary -----	\$ 4,400.00
Clerkhire -----	66,000.00
Extra Clerkhire -----	5,000.00
Postage -----	38,000.00
Office Supplies -----	2,500.00
Furniture & Fixtures -----	3,000.00
Printing -----	11,000.00
Miscellaneous -----	5,000.00
Travel Expense -----	2,000.00
License Plates -----	45,000.00
Refunds -----	3,000.00
State Board of Auditor's Fund -----	3,000.00
 Total -----	 \$187,900.00

Approved March 21, 1941.

CHAPTER 71

H. B. No. 122—(Trydahl)

NATIONAL GUARD, SPECIAL APPROPRIATION

An Act Making an Appropriation for Payment of an Emergency Expenditure by the North Dakota National Guard in Connection with the Organization of Two Extra Battalions of 155 m. m. by Order of the War Department and Declaring an Emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of Three Thousand (\$3000.00) Dollars for the purpose of paying emergency expenses in connection with the organization and maintenance of the National Guard by reason of the organization of two extra battalions of 155 m.m. in accordance with orders of the War Department issued during the month of August 1940.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1941.

CHAPTER 72

H. B. No. 103—(Fitch)

NORTHERN IMPROVEMENT COMPANY

An Act Appropriating the sum of \$27,845.92 to the State Highway Commissioner out of any funds in the State Treasury available to the State Highway Department for the purpose of paying a Judgment that may be obtained by the Northern Improvement Company, of Fargo, North Dakota.

Whereas, The Northern Improvement Company, of Fargo, North Dakota, entered into a contract with the North Dakota State Highway Department for the construction of an overpass at Minot, North Dakota; and

Whereas, A dispute has arisen whereby the Northern Improvement Company claims an indebtedness from the State Highway Department in the sum of \$27,845.92; and

Whereas, The controversy is now being litigated and is in the Courts of this State;

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

§ 1. There is hereby appropriated the sum of Twenty-seven Thousand Eight Hundred Forty-five and 92/100 (\$27,845.92) Dol-

lars to the State Highway Commissioner out of any funds in the State Treasury available to the State Highway Department, to be available for the payment of any final Judgment that shall be obtained by the Northern Improvement Company, a foreign corporation, against the State Highway Department and/or the State Highway Commissioner. Provided however, that said sum, or any part thereof, shall not be paid to said Northern Improvement Company, nor shall the same be available to the State Highway Commissioner, until final determination be had and final Judgment obtained in favor of said Northern Improvement Company in any and all actions, controversies or appeals now pending in the Courts of this State or to be hereinafter instituted between said Northern Improvement Company, a foreign corporation, and the said State Highway Department and/or the State Highway Commissioner, arising out of said Minot overpass job.

Approved March 22, 1941.

CHAPTER 73

S. B. No. 194—(Troxel)

PENSION MINOR CHILDREN OF JOHN CRITES

An Act Making an appropriation for a pension for Patricia Ann Crites and Dennis Duane Crites, minor children of National Guardsman John E. Crites.

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

There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of five hundred and twenty-eight dollars (\$528.00) or so much thereof as may be found necessary for paying a pension to Patricia Ann Crites and Dennis Duane Crites, minor children of John E. Crites, in accordance with Section 2423 of the Compiled Laws of 1913, and for the reason that Private John E. Crites of the North Dakota National Guard, died from a gunshot wound accidentally received while in the performance of his duties as a National Guardsman, during the month of June, 1935, said appropriation to cover pension of twenty-two dollars (\$22.00) per month from July 1, 1941 to July 1, 1943.

Approved March 7, 1941.

CHAPTER 74

H. B. No. 2—(Committee on Appropriations)

POULTRY IMPROVEMENT BOARD

An Act Making an appropriation for the operation, maintenance and miscellaneous expense of the Poultry Improvement Board.

March 22, 1941

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

Inre: House Bill # 2

I return herewith House Bill # 2, being an act making an appropriation for the operation, maintenance, and miscellaneous expenses of the Poultry Improvement Board, as corrected by me, and with my approval.

I desire to call your attention to the following:

1. That the House fixed the salary of the Executive Secretary in the sum of \$4800.00.
2. That the Senate amended said item by reducing it from \$4800.00 to \$3600.00.
3. That the House refused to concur in the said amendment.
4. That the Conference Committee recommended that the Senate recede from its amendment which resolution was adopted.
5. That the bill was, in fact, passed by both houses fixing the salary of the Executive Secretary in the sum of \$4800.00.

Upon this record, and upon the advice of the Attorney General of this state, I have corrected this bill so as to reflect the actual action taken by the Legislature, and have signed the bill as corrected.

Sincerely yours,
JOHN MOSES
Governor

JM:HH

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

§ 1. APPROPRIATION.] There is hereby appropriation (appropriated) out of any monies in the State Treasury, in the Poultry Improvement Board Fund, the sum of \$38,800.00 *(\$40,000.00) or so much as is necessary, for the purpose of defraying any and all expenses for the operation, maintenance and miscellaneous expenses incidental to carrying out the provisions and purposes, as provided by Chapter 7, Session Laws of 1939, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary—Exec. Sec y	*(\$4,800.00)	\$ 3,600.00
Clerkhire:		
Deputy		2,000.00
Stenographers		2,000.00
Stenographers & Clerkhire.....		1,000.00
Fieldmen:		
8 (Licensed) Bloodtesting Agents.....	\$4,000.00	
8 (Licensed) Selecting Agents.....	3,000.00	
6 (Licensed) Turkey Branding Agents.....	2,000.00	
20 (Licensed) Dressed-turkey Graders	5,000.00	
		14,000.00
Postage		1,260.00
Supplies		1,000.00
Furniture & Fixtures		1,000.00
Miscellaneous		1,750.00
Travel		3,000.00
Compensation & Expenses of Board Members.....		1,300.00
Tags, Bands and Antigen.....		1,000.00
Bureau of Agricultural Economics.....		400.00
Emergency Fund.....		5,000.00
Expense Incurred in Promoting Poultry Shows.....		450.00
		<hr/>
Total	*(\$40,000.00)	\$ 38,800.00

*Alterations made by the Governor.

Approved March 22, 1941.

CHAPTER 75

H. B. No. 151—(Committee on Appropriations)

PUBLIC SCHOOLS

An Act Making an Appropriation to pay for a Portion of the Current Operating Expense of our Public School system as Provided in the State Equalization Fund Law.

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 State Treasury belonging to The Retail Sales Tax Fund to be paid under and pursuant to the State Equalization Fund Law, the sum of \$3,600,000.00 for the biennium, to-wit:

Vocational Education in Agriculture and Home Economics	\$ 36,000.00
Occupational Information and Guidance.....	4,000.00
Emergency Fund	500,000.00

Distribution on Per Pupil Basis.....	960,000.00
High School Tuition	1,200,000.00
Payment on Teacher-unit Basis.....	900,000.00
	\$3,600,000.00

§ 2. APPROPRIATION.] Should the money coming into the 7/12 share of The Retail Sales Tax Fund to be expended under and pursuant to the Equalization Fund Law exceed the appropriation above made plus the appropriation for High School Correspondence Work, either because of increased sales tax revenue or because of the full amount of the other items of the appropriation not being necessary for the full payment thereof, such additional money or so much thereof as may be necessary to make full teacher unit payment is appropriated to the Payment on Teacher-unit Basis.

§ 3. The above appropriations are made for the biennium beginning July 1, 1941 and ending June 30, 1943, provided, however, that payments authorized hereby may be made up to October 1, 1943.

Approved March 20, 1941.

CHAPTER 76

H. B. No. 18—(Committee on Appropriations)

DEPARTMENT OF PUBLIC INSTRUCTION — CERTIFICATION DIVISION

An Act Making an appropriation for the salaries and expenses of the Certification Division.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Certification Fund in the State Treasury, the sum of \$11,220.00, or so much thereof as may be necessary for salaries and expenses for the Certification Division, as provided for in Sec. 1377, C. L. 1913, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire:	
Director	\$ 3,600.00
Clerks, Stenos., etc.	4,520.00
Postage	800.00
Printing	800.00
Travel Expense	500.00
Expense correcting Teachers' Exam papers.....	1,000.00
	\$ 11,220.00

Approved March 22, 1941.

CHAPTER 77

H. B. No. 19—(Committee on Appropriations)

PUBLIC SERVICE COMMISSION — AUTO TRANSPORTATION DIVISION

An Act Making an appropriation for operation and maintenance of the Auto Transportation Division.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Auto Transportation Fund, in the State Treasury, the sum of \$65,110.00, or so much thereof as may be necessary for defraying expenses in operating and maintaining the Auto Transportation Division as provided for in Sec. 1(s), Chap. 188, S. L. 1931 and amendments thereto, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire:

Director -----	\$ 4,160.00
Inspectors -----	15,000.00
Clerks, Stenos., Etc. -----	17,000.00
Postage -----	500.00
Office Supplies -----	1,000.00
Furniture & Fixtures -----	750.00
Printing -----	1,500.00
Miscellaneous -----	1,200.00
Travel Expense, including Bd. Hearings -----	23,000.00
Refunds -----	1,000.00
Total -----	\$ 65,110.00

Approved March 22, 1941.

CHAPTER 78

H. B. No. 21—(Committee on Appropriations)

PUBLIC SERVICE COMMISSION — LIVESTOCK DIV.

An Act Making an Appropriation for salaries and expenses of the Livestock Division (Dealers).

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Livestock Dealers Fund, in the State Treasury the sum of \$8,225.00, or so much thereof as may be necessary for salaries and

expenses of the Livestock Dealers Division as provided for in Sec. 5, Chap. 3, S. L. 1937, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire:

Clerk -----	\$ 2,400.00
Inspector -----	2,400.00
Postage -----	200.00
Office Supplies -----	100.00
Furniture & Fixtures -----	150.00
Printing -----	250.00
Miscellaneous -----	125.00
Travel Expense -----	2,500.00
Refunds -----	100.00
Total -----	\$ 8,225.00

Approved March 21, 1941.

CHAPTER 79

H. B. No. 22—(Committee on Appropriations)

PUBLIC SERVICE COMMISSION — PUBLIC UTILITY DIV.

An Act Making an appropriation for services and expenses for the Public Utility Division.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the Public Utility Valuation Fund (a revolving fund), in the State Treasury, a sum not to exceed \$60,000.00, or so much thereof as may be necessary for services and expenses for the Public Utility Division, as provided for in Chap. 203, S. L. 1937, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Services and Expenses -----	\$ 60,000.00
Total -----	\$ 60,000.00

Approved March 21, 1941.

CHAPTER 80

H. B. No. 20—(Committee on Appropriations)

PUBLIC SERVICE COMM—SCALE INSPECTION DIV.
An Act Making an appropriation for salaries and expenses of the Scale Inspection Division.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the Scale Inspection Fund in the State Treasury, the sum of \$48,899.00, or so much thereof as may be necessary for the salaries and expenses of the Scale Inspection Division as provided for in Sec. 10, Chap. 269, S. L. 1933, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Clerkhire:	
Chief Inspector-----	\$ 3,600.00
2 Foremen-----	6,480.00
3 Inspectors-----	9,000.00
Clerks & Stenos-----	3,654.00
Postage-----	500.00
Office Supplies-----	200.00
Furniture & Fixtures-----	150.00
Printing-----	300.00
Miscellaneous-----	400.00
Travel Expense-----	14,000.00
License Plates, Seals, Etc.-----	1,400.00
Field Testing Equip. available upon passage and approval	3,940.00
Refunds-----	125.00
Trucks & Mtce. Available upon passage and approval---	5,150.00
 Total-----	 \$ 48,899.00

Approved March 21, 1941.

CHAPTER 81**S. B. No. 204—(Nelson and Bridston)**

MAX RABINOVICH

An Act to make an Appropriation to Pay Expense Resulting from the Death of Honorable Max Rabinovich, Member of the State Board of Pardons, while away from his home in the Performance of his Official Duties; and Declaring an Emergency.

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

§ 1. WHEREAS the Honorable Max Rabinovich died on December 30th, 1938 while away from home attending a meeting of the State Board of Pardons of which he was then a member and as a result of his death away from home additional expense was incurred incident to emergency care and bringing his body to his home at Grand Forks for burial.

NOW, THEREFORE, there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of One Hundred Dollars (\$100.00) to be paid to Pearl Rabinovich, the surviving widow of said Max Rabinovich for the additional expense incident to the emergency care and transporting the body of said Max Rabinovich back to his home in Grand Forks for burial.

§ 2. 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 14, 1941.

CHAPTER 82**S. B. No. 17—(Committee on Appropriations)**

MISCELLANEOUS REFUNDS

An Act Making an appropriation for the purpose of refunding money erroneously paid into or credited to the General Fund.

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 \$2,000.00, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, or so much thereof as may be necessary for the purpose of making certain refunds out of the General Fund and which is known as the Miscellaneous Refund Account, used for the

purpose of refunding money erroneously paid into or credited to the General Fund.

Approved March 6, 1941.

CHAPTER 83

H. B. No. 147—(Committee on Appropriations)

GENERAL RELIEF

An Act Making an appropriation for relief to destitute and necessitous persons for the biennium beginning July 1, 1941, and ending June 30, 1943, defining the powers and duties of the Public Welfare Board in relation thereto, and in providing for allocation of funds to counties for relief purposes and for other specified relief expenditures and costs of administration.

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

§ 1. APPROPRIATION.] There is hereby appropriated for the biennium beginning July 1, 1941, and ending June 30, 1943, out of any moneys in the State Treasury not otherwise appropriated, the sum of \$1,157,550.00, or so much thereof as may be necessary for the purpose of carrying out and effectuating the purposes of this act.

§ 2. PURPOSES.] Disbursements under this act are made for the purpose of relieving the distress of destitute and necessitous persons and their families and dependents by furnishing them with means of support compatible with decency and health, and also in carrying out the provisions of Chapter 221 of the Session Laws of 1935.

The Public Welfare Board is hereby authorized to make distribution from the amount herein appropriated for relief to destitute and necessitous persons among the county governments of North Dakota from month to month, after taking into consideration the number of relief cases to be cared for, the ability of each county to finance the costs of necessary relief, and other facts which, in the opinion of the Public Welfare Board, should be taken into account in order to do justice and equity among the counties, also to pay for institutional care for indigent unmarried mothers and for the care of transients having state but not county residence; sponsorship of a statewide surplus commodity distribution project including the operation of the Stamp Plan for the distribution of surplus commodities and including the establishment of a revolving fund of not to exceed \$250,000.00 or so much thereof as may be necessary for the operation of the Stamp Plan on a statewide basis; and sponsorship of statewide work relief projects producing commodities for distribution to relief clients.

§ 3. ADMINISTRATION.] Of the sum of \$1,157,550.00 hereby appropriated, the sum of \$61,150.00 or so much thereof as may be necessary, may be used by the Public Welfare Board for the costs of administration which shall include the cost of supervision of the referral, certification, and selection of persons to the Works Projects Administration, Farm Security Administration, National Youth Administration, and Civilian Conservation Corp which are now, except for referral, certification, and selection, entirely financed by Federal funds; and in the Supervision of any other relief program which may hereafter be devised by the Federal Government and which may be entirely financed by Federal funds; as herein itemized, viz:

Personal Service	\$ 40,400.00
Travel	5,940.00
Telephone and Telegraph	500.00
Postage	1,240.00
Printing	9,600.00
Office Supplies	1,050.00
Rental of Equipment	350.00
Repair and Maintenance of Equipment.....	400.00
Purchase of Equipment	400.00
Other Operating Expense	400.00
Board Member Expense	870.00
Total	\$ 61,150.00

Approved March 21, 1941.

CHAPTER 84

H. B. No. 150—(Committee on Appropriations)

DEFICIENCY APPROPRIATION FOR NEEDY AGED

An Act Making a deficiency appropriation for assistance to the needy aged for the balance of the biennial period ending June 30th, 1941, and declaring an emergency.

Whereas, the Twenty-sixth Legislative Assembly appropriated for the biennium beginning July 1, 1939, and ending June 30, 1941, the sum of \$1,414,700.00 which was the amount which the Public Welfare Board estimated would be required to provide assistance for the needy aged if the State paid fifty (50) percent of the cost of such assistance in excess of the amount provided by the Federal Government, and,

Whereas, the Twenty-sixth Legislative Assembly passed House Concurrent Resolution No. 412 as follows:

“ . . . *Be It Resolved*, that the Public Welfare Board use the sum of \$1,414,700.00 appropriated by this Legislative Assembly in providing for old age assistance; that the Public Welfare Board is authorized and directed to expend such funds each month as it is necessary to use in excess of the amount contributed by the Fed-

eral Government to continue paying old age assistance grants to needy old age assistance clients on the basis of need, providing, however, that not to exceed 75% of the appropriation so made may be expended during the first eighteen months of the biennium.

"It Is Further Resolved, that in the event that the courts should hold that it is necessary for the state to pay 85% of the amount of old age assistance in excess of that contributed by the Federal Government and that the counties shall only be required to furnish 15% of the amount in excess of that contributed by the Federal Government and the Public Welfare Board finds that the amount appropriated by the 1939 Legislative Assembly is not sufficient to provide for old age assistance on the basis of need that the Governor of the State of North Dakota is hereby requested, if in his judgment it is necessary, to call the Legislative Assembly into special session for the purpose of providing such additional funds as may be necessary to provide for old age assistance to the needy aged of this state and for such other purposes as in the judgment of the Governor of this state may be necessary," and,

Whereas, the Attorney General rendered an opinion to the Public Welfare Board to the effect that the counties under the North Dakota law could not be required to pay in excess of fifteen (15) percent of the amount expended for old age assistance in excess of that contributed by the Federal Government, and that it would be necessary for the Public Welfare Board to pay eighty-five (85) percent of the amount expended for old age assistance in excess of that contributed by the Federal Government, and,

Whereas, by restricting and reducing old age assistance grants, and by using all Federal grants for administration in the state office rather than distributing a pro rata proportion among the counties, and through the sale of county warrants held by the Public Welfare Board in the amount of \$75,000.00 to the Bank of North Dakota, the Public Welfare Board was able to meet restricted old age assistance payments during the first eighteen months of the biennium with three-fourths of the 1939 appropriations, and,

Whereas, the twenty-five percent of the appropriation remaining after January 1, 1941, is insufficient to provide old age assistance payments on the basis of need for the remainder of the biennium ending June 30, 1941, and the Public Welfare Board has requested a deficiency appropriation of \$69,445.00 to meet old age assistance payments for the remainder of the biennium, *Therefore*,

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 \$69,445.00 or so much thereof as may be necessary for the purpose of meeting a deficiency in the appropriation for the needy aged. (Chapter 83, Laws of 1939), for the biennial period ending June 30, 1941.

§ 2. 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 14, 1941.

CHAPTER 85

H. B. No. 149—(Committee on Appropriations)

NEEDY AGED

An Act Making an appropriation for the biennium beginning July 1, 1941, and ending June 30, 1943, to be expended by the Public Welfare Board in providing assistance to the needy aged and for necessary costs of administration.

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

§ 1. APPROPRIATION.] There is hereby appropriated, for the biennium beginning July 1, 1941, and ending June 30, 1943, out of any moneys in the State Treasury not otherwise appropriated, the sum of \$2,174,025.00 and the net proceeds after deducting cost of administration of all revenues realized should House Bill No. 308 be enacted into law, or so much thereof as may be necessary to be expended by the Public Welfare Board in providing assistance for the needy aged as provided in Chapter 211 of the Session Laws of 1937.

§ 2. ADMINISTRATION.] Of the \$2,174,025.00 hereby appropriated, the sum of \$134,025.00 or so much thereof as may be necessary for efficient administration, may be used by the Public Welfare Board for the costs of administration of the Old Age Assistance Act as herein itemized, viz:

Personal Services	\$ 38,000.00
Travel	5,650.00
Telephone and Telegraph	450.00
Postage	
(a) Mailing Assistance Checks.....	3,600.00
(b) Other Postage Expense	1,200.00
Printing	2,850.00
Office Supplies	1,000.00
Rental of Equipment	350.00
Repair and Maintenance of Equipment.....	375.00
Purchase of Equipment.....	375.00
Other Operating Expense	375.00
Board Members Expense	850.00
Merit System Expense	3,950.00
Revolving Fund	75,000.00
Total	\$134,025.00

Approved March 21, 1941.

CHAPTER 86

H. B. No. 148—(Committee on Appropriations)

APPROPRIATION FOR AID TO THE NEEDY BLIND, AID TO
DEPENDENT CHILDREN, SERVICES FOR CRIPPLED
CHILDREN, AND CHILD WELFARE SERVICES

An Act Making an appropriation for the biennium beginning July 1, 1941, and ending June 30, 1943, for disbursement by the Public Welfare Board in providing public assistance to the needy blind and to dependent children, and providing child welfare services and services to crippled children and for necessary costs of administration.

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

§ 1. APPROPRIATION.] There is hereby appropriated for the biennium beginning July 1, 1941, and ending June 30, 1943, out of any moneys in the State Treasury not otherwise appropriated, the sum of \$959,625.00, or so much thereof as may be necessary, to be expended by the Public Welfare Board in providing public assistance for the needy blind and for dependent children as provided by Chapters 209 and 210 of the Session Laws of 1937, and for child welfare services and services to crippled children as provided by Chapter 221 of the Session Laws of 1935, in carrying out and effectuating such programs in coordination with and supplementary to funds made available for like purposes in North Dakota by the Federal Government, and in payment of the costs of administration of each of these programs.

§ 2. AID TO DEPENDENT CHILDREN.] Of the amount so appropriated, the sum of \$800,055.00 or so much thereof as may be necessary, may be disbursed for the purpose of providing aid to dependent children as provided by Chapter 209 of the Session Laws of 1937.

§ 3. AID TO NEEDY BLIND.] Of the amount so appropriated, the sum of \$52,755.00 or so much thereof as may be necessary, may be disbursed for the purpose of providing aid to the needy blind as provided by Chapter 210 of the Session Laws of 1937.

§ 4. CHILD WELFARE SERVICES.] Of the amount so appropriated, the sum of \$26,815.00 or so much thereof as may be necessary may be disbursed for the purpose of providing for child welfare services as provided by Chapter 221 of the Session Laws of 1935.

§ 5. SERVICES TO CRIPPLED CHILDREN.] Of the amount so appropriated, the sum of \$80,000.00 or so much thereof as may be necessary, may be disbursed for the purpose of providing services to crippled children as provided by Chapter 221 of the Session Laws of 1935.

§ 6. ADMINISTRATION.] Of the total sum of \$959,625.00, hereby appropriated to provide for the four programs above named, the sum of \$135,305.00 or so much thereof as may be necessary for efficient administration, may be used by the Public Welfare Board for the costs of administration of such four programs, as herein itemized, viz:

Salaries	\$ 41,470.00
Travel	5,525.00
Telephone and Telegraph	695.00
Postage	
(a) Direct Mailing of Assistance Checks.....	1,040.00
(b) Other Postage Expense	1,250.00
Printing	2,300.00
Office Supplies	1,105.00
Rental of Equipment.....	295.00
Repair and Maintenance of Equipment.....	310.00
Purchase of Equipment	585.00
Other Operating Expense	980.00
Board Member Expense	980.00
Merit System Expense	4,185.00
Revolving Fund.....	75,000.00
Total	\$135,305.00

Approved March 21, 1941.

CHAPTER 87

H. B. No. 331—(Rohde and Fitch)

EDWARD RIEKER, FUNERAL EXPENSES

An Act Making an appropriation of \$312.95 for the purpose of paying the funeral expenses of Representative Edward Rieker of Kidder County; and declaring an Emergency.

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 Three Hundred Twelve Dollars and Ninety-five Cents (\$312.95) to pay the funeral expenses of Representative Edward Rieker of Kidder County, North Dakota.

§ 2. 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 7, 1941.

CHAPTER 88

H. B. No. 23—(Committee on Appropriations)

BOARD OF ADMINISTRATION — STATE SEED DEPT.

An Act Making an appropriation for salaries and expenses for the State Seed Department.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the Seed Department Fund the sum of \$190,910.00, or so much thereof as may be necessary for salaries and expenses for the State Seed Department as provided for in Sec. 22-23, Chap. 258, S. L. 1931, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary—Comm'r	\$ 8,000.00
Clerkhire:	
Deputy Comm'rs	15,800.00
Clerks, Stenos., etc.	12,840.00
Field Supervising Inspectors.....	8,400.00
Inspectors	62,955.00
Postage	1,055.00
Furniture & Fixtures	3,280.00
Printing & Supplies.....	4,710.00
Miscellaneous (Incl. Emergency & Adv.).....	19,790.00
Travel Expense (mtce. of State cars.).....	26,495.00
Automobiles	1,800.00
Test Plots	5,600.00
Agricultural Marketing Serv.	5,360.00
Rent to Agricultural College.....	5,000.00
Tags & Seals.....	9,825.00
 Total	 \$190,910.00

Approved March 14, 1941.

CHAPTER 89

S. B. No. 29—(Committee on Appropriations)

SOIL CONSERVATION COMMITTEE

An Act making an appropriation for the financing of the operations of the State Soil Conservation Committee or the activities of the State Soil Conservation Districts.

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 \$2,850.00, or so much as may be necessary for the purpose of financing the operations of the office of the State Soil Conservation Committee or the activities of the State Soil Conservation Districts, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Office Supplies & Postage -----	\$ 250.00
Printing & Stationery -----	400.00
Publication Fees -----	350.00
Election Expense -----	300.00
Labor Expense -----	250.00
Travel Expense -----	1,300.00
Total -----	\$2,850.00

Approved March 21, 1941.

CHAPTER 90

S. B. No. 27—(Committee on Appropriations)

STATE LABORATORIES DEPARTMENT

An Act Making an appropriation for salaries, operation, maintenance, general and miscellaneous expenses for the State Laboratories Department.

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 \$220,006.00, or so much thereof as may be necessary to pay salaries, operation, maintenance, improvements and repairs, fixtures and equipment, travel expense and miscellaneous expenses for the State Laboratories Department, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary — Director	\$ 4,800.00
Food Commissioner and Chemist	4,800.00
Bookkeeper & Cashier (1 person)	3,360.00
Stenog. and Typists and Clerks (6)	13,440.00
Laboratory Salaries	103,200.00
9 Inspectors—(1 Drugs ½ time, 2 oil, 6 Food and Sanitation)	32,400.00
Postage	5,000.00
Furniture & Fixtures	9,000.00
Printing	7,000.00
Miscellaneous	1,800.00
Travel Expense	28,000.00
Purchase of Samples	1,100.00
Rent	3,636.00
Telephone & Telegraph	900.00
Ice, Gas & Electricity	1,800.00
Freight, Dray & Express	6,000.00
Library	520.00
Workmen's Compensation Premium	750.00
Cost of Auditing	1,500.00
 Total	 \$229,006.00

Approved March 21, 1941.

CHAPTER 91

H. B. No. 8—(Committee on Appropriations)

STATE MILL AND ELEVATOR

An Act Making an appropriation for the purpose of defraying the expense of the maintenance and operation of the State of North Dakota doing business as the North Dakota Mill and Elevator Association.

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 in the North Dakota Mill and Elevator Association Fund the sum of \$1,182,150.00, or so much thereof as may be necessary to pay the general maintenance, repairs, salaries, operating expenses, equipment and miscellaneous items, of the North Dakota Mill and Elevator Association for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

1. Manufacturing Expense	\$ 557,200.00
2. Selling & Delivery Expense	156,100.00
3. Administration Expense	72,000.00

4. General Expense -----	120,000.00
5. Advertising & Home Economics Service -----	50,000.00
6. Elevator Department -----	75,700.00
7. Feed Mill Department -----	55,025.00
8. State Local Elevator -----	11,125.00
9. Audit Fees -----	10,000.00
10. Emergency Fund -----	75,000.00
Total -----	\$1,182,150.00

Approved March 8, 1941.

CHAPTER 92

S. B. No. 37—(Committee on Appropriations)

TEACHERS INSURANCE AND RETIREMENT FUND

An Act Making an appropriation out of the Teachers Insurance and Retirement Fund in the State Treasury for operation and maintenance, equipment, supplies, travel and miscellaneous expenses for the Teachers Insurance and Retirement Fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the Teachers Insurance and Retirement Fund in the State Treasury, not otherwise appropriated, the sum of \$8,105.00, or so much thereof as is necessary for the purpose of operation, maintenance, equipment, supplies, travel and miscellaneous expenses of the Teachers Insurance and Retirement Fund beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary—Secretary -----	\$2,400.00
Clerk & Steno. work (part time) -----	1,760.00
Postage -----	550.00
Printing & Stationery -----	550.00
Express & Freight -----	10.00
Telegraph & Telephone -----	35.00
Office Supplies -----	300.00
Audit -----	800.00
Travel Expense -----	900.00
Miscellaneous -----	800.00
Total -----	\$8,105.00

Approved March 19, 1941.

CHAPTER 93

H. B. No. 7—(Committee on Appropriations)

TWINE AND CORDAGE PLANT

An Act Making an appropriation for the general maintenance and operation of the North Dakota Twine and Cordage Plant at the State Penitentiary.

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 in the Twine Plant Operating Fund, the sum of \$1,392,390.75, or so much thereof as may be necessary to pay the general maintenance, improvements, repairs, salaries, operating expenses, equipment and miscellaneous items of the North Dakota Twine and Cordage Plant, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salaries and Wages:

1. Foremen -----	\$ 42,220.00
2. Office -----	8,652.00
3. Salesmen -----	3,000.00

Operating Expense:

1. Unmanufactured Hemp -----	600,000.00
2. Stores -----	90,000.00
3. Mtce. Repairs, Sundry Supplies -----	9,500.00
4. Inmates' Labor -----	21,000.00
5. Fuel, Light, Water -----	12,000.00
6. Unearned Insurance -----	15,000.00
7. Officers' & Inmates' Mtce. -----	50,000.00
8. Misc. Mfg. Expense -----	100.00
9. Misc. Office Expense -----	100.00
10. Telephone, Telegraph, Postage -----	500.00
11. Stationery & Office Supplies -----	350.00
12. Twine Allowance -----	300.00
13. Freight Expense -----	200.00
14. Misc. Selling Expense -----	400.00
15. Advertising -----	500.00
16. Traveling Expense -----	3,400.00
17. Quantity Discount -----	1,000.00
18. Interest Expense -----	20,000.00
19. Truck Expense -----	600.00
20. Sales -----	500.00
21. Commissions -----	15,000.00
22. Sales Tax -----	2,000.00
23. Prepaid Freight -----	10,000.00
24. Emergency Fund -----	150,000.00

25. Bank Loans -----	300,000.00
26. Accounts Payable -----	23,718.75
	<hr/>
Total Maintenance -----	\$1,380,040.75
Improvements and Repairs:	
1. Buildings -----	750.00
Equipment:	
1. Machinery & Equipment -----	10,200.00
2. Office Furniture & Fixtures -----	400.00
3. Truck Equipment -----	1,000.00
	<hr/>
Total -----	\$1,392,390.75

Approved March 19, 1941.

CHAPTER 94

S. B. No. 18—(Committee on Appropriations)

VETERANS' SERVICE COMMISSIONER

An Act Providing an appropriation for the paying of salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and as amended by Chapter 254 of the Session Laws of 1937.

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 \$12,660.00, or so much thereof as may be necessary for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to pay salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and as amended by Chapter 254 of the Session Laws of 1937:

Salary -----	\$ 4,800.00
Clerkhire -----	3,160.00
Postage -----	600.00
Office Supplies -----	150.00
Furniture & Fixtures -----	200.00
Printing -----	150.00
Miscellaneous -----	200.00
Travel Expense -----	1,600.00
Rent -----	300.00

Emergency	1,500.00
Total	\$12,660.00

Approved March 21, 1941.

CHAPTER 95

S. B. No. 16—(Committee on Appropriations)

VETERINARY MEDICAL EXAMINERS

An Act Making an appropriation to pay the expenses of the State Board of Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of North Dakota for the year 1913.

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

§ I. APPROPRIATION.] There is hereby appropriated out of the moneys in the Veterinarians fund as set up by Section 2715 of Compiled Laws of 1913 in the State Treasury, not otherwise appropriated, the sum of \$640.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and miscellaneous expenses of the State Board of Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of 1913, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary	\$240.00
Clerkhire	20.00
Postage	20.00
Printing	60.00
Travel Expense	300.00
Total	\$640.00

Approved March 6, 1941.

CHAPTER 96

S. B. No. 111—(O'Brien and Morgan of Walsh)

WALSH COUNTY, SPECIAL BRIDGE FUND

An Act appropriating the sum of \$16,291.58 out of the special bridge fund of the State to Walsh County, North Dakota, and the State Highway Fund, and apportioning such appropriation and declaring an emergency.

Whereas, Chapter 19 of the 1929 Session Laws of North Dakota as amended by Chapter 16 of the 1931 Session Laws of North Dakota appropriated the sum of \$35,000.00 for the purpose of constructing an interstate bridge in Walsh County, North Dakota, across the Red River, which bridge is commonly known as the Grafton Bridge; and,

Whereas, said sum was appropriated out of the State Highway Fund; and,

Whereas, said bridge has been constructed and completed and the necessary highway and approach thereto has been built, which said highway and approach and the right of way therefor have been built and acquired through funds supplied by Walsh County, North Dakota, and the State Highway Fund; and,

Whereas, Walsh County, North Dakota, has contributed a sum in excess of \$6,946.68 toward the completion of said bridge and the acquisition of right of way and the building of a highway and approach to said bridge; and

Whereas, there remains unexpended of said appropriation the sum of \$16,291.58,

Therefore,

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

§ 1. There is hereby appropriated out of the special bridge appropriation and Fund made and created under and by the provisions of Chapter 19 of the 1929 Session Laws of North Dakota as amended and re-enacted by Chapter 16 of the 1931 Session Laws of North Dakota, the sum of Sixteen Thousand Two Hundred Ninety-one and $\frac{58}{100}$ (\$16,291.58) Dollars to Walsh County, North Dakota, and the State Highway Fund; said sum of \$16,291.58 to be apportioned as follows: To Walsh County, North Dakota, the sum of Six Thousand Nine Hundred Forty-six and $\frac{67}{100}$ (\$6,946.67) Dollars, and to the State Highway Fund the sum of Nine Thousand Three Hundred Forty-four and $\frac{90}{100}$ (\$9,344.90) Dollars.

§ 2. 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 21, 1941.

CHAPTER 97

S. B. No. 24—(Committee on Appropriations)

STATE WATER CONSERVATION COMMISSION

An Act Making an appropriation into the Administrative Fund for general administrative and operative expenses of the Water Conservation Commission, according to Chapter 255, Session Laws of 1937 and Section 31 thereof, providing for reimbursement and providing for validity.

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

§ 1. APPROPRIATION.] There is hereby appropriated into the Administrative Fund out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$94,400.00; provided, however, that such appropriation shall be deemed and held valid notwithstanding the provisions of the Budget Act. All general administrative expenses of the commission, the compensation and expenses of its employees, and the cost of investigations, planning, surveying, as authorized by this Act, shall be paid from the Administrative Fund and, also, the cost of all preliminary work on any project and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the Administrative Fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission, its employees and of the cost of investigation as shall be properly chargeable, in the opinion of the commission to such projects, shall be reimbursed to the Administrative fund upon the receipt of the proceeds of revenue bonds issued and sold pursuant to this Act. No liability or obligation shall be incurred under the provisions of this Act beyond the extent to which money shall have been provided under its authority. The commission shall have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value, to be held, used, and applied for the purposes in this Act provided, to-wit:

1. Commissioners per Diem.....	\$ 3,000.00
2. Administration	25,000.00
3. Construction Bond Guarantee Fund	40,000.00
4. Maintenance existing dams in co-operation with other Agencies	4,000.00
5. Engineering & Soils Surveys.....	1,000.00
6. Little Missouri, Grand, Cannonball, Heart & Knife Rivers—Conservation, Investigations & Reports..	700.00
7. Pembina, Tongue, Park, Forest & Goose Rivers Conservation, Investigations & Reports	250.00
8. James, Wildrice Rivers—Lake Traverse Div. & Irrig. Investigations & Reports	150.00

9.	Investigations, Surveys, Designs & Reports of Diversion Routes including Diversion from Fort Peck Reservoir & pumping from Missouri River-----	2,000.00
10.	Evaluation Economic Benefits -----	300.00
11.	Reports & attendance at Conferences with War Dept. Congressional Committees & other Agencies-----	1,500.00
12.	Tri-State Waters—Red River Basin Program N. Dak. portion of Administrative Expenses Tri-State Water Conferences -----	7,500.00
13.	Independent Inv. & Reports-----	1,000.00
14.	International & Interstate Stream Compacts-----	1,500.00
15.	Topographic Mapping (Cooperation with U. S. Geological Survey on a 50-50 basis-----	3,000.00
16.	Cooperation in obtaining Water Facilities & Great Plains Program projects -----	3,000.00
17.	Designs, Reports & Conferences to obtain CCC Camps on projects -----	500.00
	Total -----	\$94,400.00

Approved March 21, 1941.

CHAPTER 98

S. B. No. 3—(Committee on Appropriations)

WOLF, COYOTE AND MAGPIE BOUNTY

An Act Making an appropriation for the purpose of paying a bounty on wolves, coyotes and magpies; and declaring an emergency.

March 22, 1941.

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

Inre: Senate Bill #3

I transmit herewith Senate Bill No. 3 which has been corrected by me so as to appropriate the sum of \$27,500.00 instead of the sum of \$40,000.00, as appearing in the bill as transmitted by the Legislature, and, as so corrected, the bill has my approval.

The following appears clearly from the Journals of both Houses:

1. That the Senate amended the bill as originally introduced and reduced the amount sought to be appropriated from \$60,000.00 to \$20,000.00.

2. That the House increased the amount from \$20,000.00 to \$30,000.00.

3. That conference committees were appointed who agreed

to reduce the amount appropriated from \$30,000.00 to \$27,500.00; that the reports of the conference committees were adopted.

4. That the bill was, in fact, passed by both houses appropriating \$27,500.00 for the purpose of this act.

Upon this record and pursuant to the opinion and advice of the Attorney General of this state I have approved the appropriation in the sum of \$27,500.00, as hereinbefore appears.

Sincerely yours,
JOHN MOSES

JM:hh

Governor.

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 \$40,000.00 *(\$27,500.00) or so much thereof as may be necessary for the purpose of paying the bounty on wolves and coyotes as prescribed under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 283, Session Laws of 1927, and as amended by Chapter 9, Session Laws of 1933, and as amended by Chapter 7, Session Laws of 1935, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota.

§ 2. 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 22, 1941.

*Alteration made by the Governor.

CHAPTER 99

S. B. No. 35—(Committee on Appropriations)

WORKMEN'S COMPENSATION BUREAU

An Act Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Workmen's Compensation Bureau.

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 in the Workmen's Compensation Fund, not otherwise appropriated, the sum of \$170,640.00, or so

much thereof as may be necessary for the payment of salaries of the members of the bureau, of the secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers, and other assistants, and all other expenses of the bureau authorized in the Workmen's Compensation Acts, and the premium on the bond of the State Treasurer, for the biennium beginning July 1st, 1941, and ending June 30th, 1943, to-wit:

Salary -----	\$ 13,440.00
Clerkhire -----	79,680.00
3 Clerks & Stenographers -----	6,120.00
1 Field Auditor -----	3,600.00
Postage -----	10,000.00
Office Supplies -----	4,000.00
Furniture & Fixtures -----	2,000.00
Printing -----	4,800.00
Miscellaneous -----	5,000.00
Travel Expense -----	6,000.00
Automobile Equip. & Mtce. -----	3,000.00
Safety Work -----	8,000.00
Legal Expense -----	14,000.00
Actuary -----	5,000.00
Medical Director -----	3,000.00
Department Audit -----	3,000.00
	<hr/>
Total -----	\$170,640.00

Approved March 21, 1941.

BANKS AND BANKING

CHAPTER 100

H. B. No. 288—(Bergesen, Shure)

AUTHORIZING CERTAIN INVESTMENTS BY FIDUCIARIES, TRUSTS, INSURANCE COMPANIES AND BANKS

An Act to Amend and Re-enact Subdivision "c" of Division 15 of Section 7 of Chapter 7 of Chapter 94, Session Laws of 1931; Section 14 of Chapter 94, Session Laws of 1931, as amended by Chapter 101, Session Laws of 1939; and Section 23 of Chapter 94, Session Laws of 1931, providing for Investments by Building and Loan Associations; Investment in Shares of Building and Loan Associations by Fiduciaries, Trusts, Insurance Companies, Banks, Eleemosynary, Educational, Public and Municipal Corporations and Public Officials; and Pertaining to Bonds of Directors, Officers, Agents and Employees.

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

§ 1. AMENDMENT.] That Subdivision "c" of Division 15 of Section 7 of Chapter 94, Session Laws of 1931, be and the same is hereby amended and re-enacted to read as follows:

(c) In the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment:

Such railroad corporation shall have paid the matured principal and interest of all its mortgage indebtedness.

§ 2. AMENDMENT.] That Section 14 of Chapter 94, Session Laws of 1931, as amended by Chapter 101, Session Laws of 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 14. TRUSTS, FIDUCIARIES, INSURANCE COMPANIES AND BANKS.] (a) Whenever any shares shall be purchased in any building and loan association by any person in trust for another, and no other further notice of the existence and terms of a legal and valid trust shall have been given in writing to the association in the event of the death of the trustee, the same or any part thereof, together with the interest or dividends thereon, may be paid to the person for whom said shares were purchased.

(b) Administrators, Executors, Guardians, Trustees, and other fiduciaries of every kind and nature, insurance companies, banks and other financial institutions, charitable, educational, eleemosynary and public corporations and organizations, and municipalities and other public corporations and bodies, and public officials, are author-

ized to invest funds held by them, without any order of any Court, in shares, certificates of deposit and investment certificates of savings and building and loan associations which are under State supervision, and shares of Federal Savings and Loan Associations organized under the laws of the United States and under Federal supervision, and such investment shall be deemed and held to be legal investments for such funds. Whenever under the laws of this State or otherwise, a deposit of securities is required, for any purpose, the securities made legal investments by this section shall be acceptable for such deposits, and whenever, under the laws of this State or otherwise, a bond is required with security, such bond may be furnished and the securities made legal investments by this section in the amount of such bond, when deposited therewith, shall be acceptable as security without other security. The provisions of this section are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations and officials referred to in this section and the laws relating to the deposit of securities and the making and filing of bonds for any purposes.

Approved March 20, 1941.

CHAPTER 101

S. B. No. 67—(Morgan of Walsh)

PUBLIC DEPOSITS, SECURITIES

An Act to amend and re-enact Section 714a7 of the Supplement to the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 102 of the Session Laws of North Dakota for the year 1939 relating to pledging securities for public deposits.

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

§ 1. AMENDMENT.] Section 714a7 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 102 of the Session Laws of North Dakota for the year 1939, is hereby amended and re-enacted to read as follows:

§ 714a7. SUPP. BOND OF DEPOSITORY; APPROVAL OR DISAPPROVAL.] Except as provided in Chapter 99 of the Session Laws of North Dakota for the year 1937, before any deposit shall be made in any depository, except the Bank of North Dakota, by or in behalf of any public corporation, such depository shall furnish a bond payable to the public corporation making such deposit in an amount that shall at least equal the largest deposit that may at any time be in such depository; said bond shall be approved as to form by the state's attorney and as to amount and sufficiency by the board. If

the board fails or refuses to approve any such bond the same may be presented to the judge of the district court, upon three days notice to the clerk of the board of the public corporation to which such bond was submitted, and in case of cities involving deposits of municipal funds, the city auditor, respectively, and the judge shall forthwith proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond the said bank shall be declared a depository of the funds of such public corporation. The sureties on all bonds required by public corporations according to the provisions of this law shall justify as required by law in arrest and bail proceedings; provided, however, that in lieu of such personal bond, the board of public corporation involved may require such bank designated as a depository to file a surety bond for a sum equal to the amount of funds such bank may receive according to the provisions of this act. Such bond, when approved, shall be deposited with the county auditor. Such bond shall be continuing bond and shall continue binding until the proper board of the public corporation shall require a new or different bond, but in no case involving the deposit of funds of public corporations shall such bond be continued without a renewal thereof for a longer period than four years.

Provided, however, that the board of any public corporation, may accept from any banking corporation, as security for repayment of such deposits, a pledge of securities in lieu of a personal or surety bond.

Provided, however, that when securities are so pledged to the board of any public corporation, such board shall require security in the amount of one hundred ten dollars for every one hundred dollars of such public deposits. Securities that shall be eligible for such pledge or pledges, shall be notes or bonds issued by the United States Government, its agencies, or instrumentalities, all bonds and notes guaranteed by the United States Government; Federal Land Bank bonds; bonds issued by any State of the United States, or bonds issued by the corporation making such deposit.

Provided, further, that such securities may be delivered to and held for safe keeping by any bank or trust company, other than the depository, which the depository and the public corporation may agree upon, and which bank or trust company prior thereto has been approved as a custodian for such purpose by the State Examiner. Whenever any such securities are so deposited for safe keeping with any custodian, such custodian shall issue a receipt therefor jointly to the depository and the public corporation.

Provided, further, that all interest that becomes due and is paid on such securities, shall be paid over to the depository bank until such time as it shall default in the repayment of the funds of the public corporation deposited as provided herein. After 30 days from such default, upon demand in writing made by the public corporation involved, the trustee shall sell said securities in the usual

manner, delivering to the said public corporation to the amount due to it under said pledge, if the net proceeds of the sale of the securities be sufficient, and to pay to the depository banking corporation the residue of the net proceeds of said securities.

It shall be the duty of the board of the public corporation, upon the acceptance of any of the within described securities as a pledge for repayment of deposits, to make a complete and detailed record of such acceptance and approval and preserve the same with their other records, and such securities shall be reapproved by the board at least semi-annually.

Whenever any depository banking corporation desires to terminate the liability for any deposits of any public corporation, for which such depository has given a bond and/or pledged assets for the repayment, it shall notify the board of the public corporation affected of such desire. Thereupon such public corporation shall immediately withdraw such funds from such depository and upon withdrawal, shall immediately release and surrender to such depository banking corporation, the bonds and/or securities which are pledged for the repayment of such deposit.

Approved March 13, 1941.

CHAPTER 102

S. B. No. 126—(Banks & Banking)

BANK RESERVE FUND REQUIREMENTS

An Act Amending and re-enacting Section 30, of Chapter 96 of the Session Laws for the State of North Dakota, as amended by Chapter 96 of the Session Laws of North Dakota for the year 1937, relating to Reserve Fund Requirements for State Banking Associations.

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

§ 1. AMENDMENT.] Section 30 of Chapter 96 of the Session Laws of North Dakota for the year 1931, as amended and re-enacted by Chapter 96 of the Session Laws of North Dakota for the year 1937, is hereby amended and re-enacted to read as follows:

§ 30. RESERVE FUNDS.] Each banking association shall at all times have on hand in available funds an amount which shall equal ten per cent of its demand deposits and five per cent of its time deposits, which reserve funds may consist of cash on hand or of balances due to the association from the Bank of North Dakota, or good solvent state or national banks or trust companies approved by the state banking board for such purposes, and located in such commercial centers as will facilitate the purposes of banking ex-

changes; provided, however, that the state banking board may at any time it deems it necessary or expedient so to do require such banking associations on fifteen days notice in writing to increase such reserve requirements to not exceeding twenty per cent of its demand deposits and not to exceed ten per cent of its time deposits.

Cash items shall not be included in computing reserve, and no association shall carry as cash, or cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or next succeeding day. Provided, however, that any state banking association, with the permission of the state banking board, may carry not to exceed one-fourth of its legal reserve in United States Certificates of Indebtedness, United States bonds, North Dakota land series bonds, Bank of North Dakota bonds, and North Dakota Mill and Elevator bonds. Whenever the available funds, within the meaning of this section, shall be below the requirements hereinbefore stated, such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange, payable at sight, or make any dividend of its profits until the required proportion between the aggregate amount of its deposits and its lawful money reserve has been restored, and the state banking board must notify any association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve and if such association shall fail to do so for a period of thirty days after such notice the state banking board may impose a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which shall be collected in the same manner as other penalties prescribed in this Act.

Approved March 14, 1941.

CHAPTER 103

S. B. No. 127—(Banks and Banking)

BANK SHAREHOLDERS LIABILITY

An Act to amend and re-enact Section 22 of Chapter 96 of the Session Laws of the State of North Dakota for the year 1931, as amended by Chapter 95 of the Sessions Laws of North Dakota for the year 1937, relating to the responsibility of shareholders of state bank stock.

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

§ 1. AMENDMENT.] Section 22 of Chapter 96 of the Session Laws of the State of North Dakota for the year 1931, as amended by Chapter 95 of the Session Laws of North Dakota for the year 1937, is hereby amended and re-enacted to read as follows:

§ 22. SHAREHOLDERS LIABILITY: LIMITATION: PUBLICATION OF NOTICE.] The additional liability imposed upon shareholders in state banking associations organized under Section 22 of Chapter 96 of the Session Laws of 1931, shall not apply with respect to shares in any such association issued after July 1, 1939. Any association which was engaged in the business of banking on July 1, 1939 may terminate such additional liability as to shares in such association theretofore issued by publishing notice of intention to terminate liability once each week for four successive weeks in a newspaper published in the county in which the association is located, and such additional liability shall be terminated as of the date six months subsequent to the final publication of the notice herein described.

Approved March 13, 1941.

BEVERAGES

CHAPTER 104

S. B. No. 70—(Brant)

BEER LAW AMENDMENT

An Act to amend and re-enact Sections 5 and 11 of that certain Initiated Law adopted by the voters of the State of North Dakota at a special election held September 22, 1933 and as amended and re-enacted by Chapter 97 of the Session Laws for the year 1935, relating to the manufacture, sale, and distribution of beer.

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

§ 1. AMENDMENT.] Section 5 of the Initiated Measure for the manufacture, sale, and distribution of beer, enacted and approved September 22, 1933, as amended, is hereby amended and re-enacted to read as follows:

§ 5. FEES FOR LICENSE.] In order to effect the changing of the licensing period to a calendar year basis all state retail licenses expiring October 22, 1941, which are renewed and all new licenses issued for the period from October 23, 1941, to January 1, 1943, shall be in the sum of \$59.50 for each place in rural districts or in towns, villages, or cities of less than 500 population and in the sum of \$119.00 for each place in towns, villages or cities over 500 population. Effective January 1, 1943, and thereafter on the first day of each succeeding year the license fees for the retailing of beer in the State of North Dakota shall be as follows:

Each place in rural districts or in towns, villages, or cities
of less than 500 population -----\$ 50.00

Each place in towns, villages or cities over 500 population_ 100.00

Such retail licenses issued after March 1 of any year shall be issued to cover the balance of the current year and the fee shall be prorated from the first of the month in which said license is issued.

§ 2. AMENDMENT.] Section 11 of the Initiated Measure for the manufacture, sale, and distribution of beer, enacted and approved September 22, 1933, as amended, is hereby amended and re-enacted to read as follows:

§ 11. WHOLESALERS AND DISTRIBUTORS AUTHORIZED TO DISTRIBUTE BEER. LICENSE AND RESTRICTIONS.] Any person, firm, corporation, partnership, or association regularly engaged in legitimate wholesale business within the State may be licensed to distribute beer by wholesale. They shall be licensed for that purpose by the State Tax Commissioner upon submitting to said Commissioner an application in writing, on such forms as the Commissioner shall require, showing such information as shall be required to bring them under the provisions of this Act. No distributor, licensed to do business in this State, shall ever be licensed to retail the sale of beer within the State, in quantities less than a case. No applicant for wholesaler's or distributor's license shall be eligible therefor, unless the applicant has established both a warehouse for handling the beer under such license and a bona fide office in which is kept a complete set of records, correspondence, and files relative to all beer transactions, within the State of North Dakota.

No wholesale license shall be issued until the applicant therefor shall file a bond, to be approved by the State Tax Commissioner, which bond shall be payable to the State of North Dakota and shall be in an amount of not less than \$1,000.00 and conditioned upon the faithful observance of all the provisions of this Act, including the payment of all taxes, fines, penalties, and costs herein provided for. Said bond shall be signed by the obligor as principal, and by a surety company authorized to do business in this state. In order to effect the changing of the licensing period to a calendar year basis all wholesale licenses expiring on October 22, 1941, which are renewed and all new licenses issued for the period from October 23, 1941, to January 1, 1943, shall be in the sum of \$238.00 and thereafter on the first day of January of each succeeding year the State wholesale license shall be in the sum of \$200.00.

Approved February 15, 1941.

CHAPTER 105

S. B. No. 188—(Committee on Delayed Bills)

LIQUOR CONTROL ACT, AMENDMENT

An Act to amend and re-enact Section 9 of Chapter 259 of the Session Laws of 1937; being an act to authorize, regulate, and control the transportation, importation, handling, possession, purchase, sale and dispensing of alcohol, and alcoholic beverage in the State of North Dakota; defining alcoholic beverages, providing the method of taxing and licensing the same, providing the manner of expending and distributing the revenues from such licenses and taxes; providing penalties for violations of the provisions of said Act, providing for a saving clause as to the constitutionality of any part of the Act; and repealing all Acts and parts of Acts in conflict therewith.

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

§ 1. AMENDMENT.] That Section 9 of Chapter 259 of the Session Laws of 1937 be and the same is hereby amended to read as follows:

§ 9. The stamps herein provided for shall be prepared and printed by the State Treasurer in such form and denominations as may be necessary for the carrying out of the provisions of this Act, and shall be issued to and sold to all wholesale dealers upon requisition thereof from time to time; and it is hereby made the duty of such wholesaler under this Act to attach to or cause to be attached to each package or container in the proper amounts such stamps as are provided for in this Act before the same are delivered, shipped to, or consigned to any retail dealer, and to keep a record thereof, designating the County, City and/or Village to which the same are shipped, and report to the State Tax Commissioner the location of the retailer, to whom said sale, delivery, or consignment is made.

For the purpose of reimbursing the State for the expenses of carrying out the provisions of this Act, the State Treasurer is hereby authorized and directed to credit to the General Fund of the State on the 1st day of July of each year, the sum of \$19,637.50 from the monies received from the sale of such stamps. The remainder thereof shall be placed in three special funds to be known respectively as The Institutional Support Fund, Insane; The Institutional Support Fund, Grafton State School; The Institutional Support Fund, Tubercular; said funds to be established in the offices of the State Treasurer and State Auditor as special revolving funds in the manner herein provided and expenditures therefrom to be made by State Auditor's warrant by similar authority and in the same manner as expenditures from other institutional funds.

The distribution of the funds from the sale of said stamps, among the various counties, shall be in proportion to the total amount of Institutional Care charged against each county for the care and

treatment of patients in said three institutions during the preceding quarter year. The allocation of said funds to the three institutions shall be made and determined by the Board of Administration.

On September 1, December 1, March 1, and June 1, each year after the effective date of this act, the State Treasurer shall certify to the Board of Administration the amount available on such date for distribution to the Institutional Support Funds and deliver a copy of such certificate to the State Auditor. The Board of Administration shall on or before September 30, December 31, March 31, and June 30, of each year certify to the State Treasurer, State Auditor, and to each of said three Institutions the amount to be placed to the credit of the fund for the care of Insane, Feebleminded, and Tubercular respectively, in proportion to the amount certified as due from the counties to each Institution for the said preceding quarter.

The amount certified to each institution by the Board of Administration shall be credited by each institution to the several counties in the state in proportion to the number of patients each county has in said institution.

Approved March 17, 1941.

BONDS

CHAPTER 106

H. B. No. 1—(Fitzharris and Coghlan)

VALIDATING CERTAIN COUNTY BOND ISSUE PROCEEDINGS

An Act to validate certain proceedings heretofore taken to fund or refund county indebtedness and bonds issued thereunder, and declaring an emergency.

Whereas, certain counties have outstanding warrant indebtedness incurred after January 1, 1939, which could not be paid out of current tax levies because of tax delinquency; and

Whereas, due to the present low interest rates upon municipal bonds it is possible for said counties to fund or refund the existing indebtedness and effect a considerable interest saving; and

Whereas, the boards of county commissioners of said counties have initiated proceedings to fund and refund the county indebtedness subject to the passage of authorizing or validating legislation; and

Whereas, it is necessary that said bonds be issued at once because of the possibility of higher interest rates in the near future;

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

§ 1. All proceedings heretofore taken in connection with the issuance and sale of bonds by counties to fund or refund outstanding indebtedness which purport to have been taken pursuant to Chapter 195, Session Laws of North Dakota for 1935, as amended, and where the bonds are sold to bear interest at three and one-half per cent per annum or less, the total indebtedness of the county does not exceed the constitutional limitation of county indebtedness, and all constitutional requirements have been met, are hereby validated. Said bonds when issued and delivered upon receipt by the county auditor of the purchase price shall constitute valid and binding obligations of the county, notwithstanding any defect or want of authority in their issue, or any defect or want of authority in the issuance of the warrants so funded.

§ 2. 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 7, 1941.

CHAPTER 107**H. B. No. 140—(Fitch and Myers)**

BONDING OF DEPUTY COUNTY OFFICIALS**An Act Providing for the Bonding of Deputy County Officials and Declaring an Emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. BONDING OF DEPUTY COUNTY OFFICIALS.] Any County Official may require his deputy or deputies to be bonded for the faithful performance of his duties, in an amount to be fixed by the Board of County Commissioners.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 7, 1941.

CHAPTER 108**H. B. No. 206—(Joint Committee on Refinancing State Indebtedness)**

ISSUANCE OF NORTH DAKOTA BONDS, MILL AND ELEVATOR REFUNDING SERIES**An Act Authorizing the Issuance of Bonds of North Dakota, Mill and Elevator Refunding Series, for the Purpose of Refunding Outstanding Bonds of North Dakota, Mill and Elevator Series; Prescribing the Terms and Conditions thereof; Providing a Tax Levy for the Payment Thereof; Providing for the Extension of Maturing Bonds, and Making an Appropriation to Carry Out the Provisions of this Act, and Declaring an Emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. It is hereby found and declared that:

(a) The State of North Dakota has presently outstanding bonds of North Dakota, Mill and Elevator Series, in the aggregate principal amount of \$2,500,000.00, of which \$500,000.00 bear interest at 5½% per annum and mature January 1, 1942; \$700,000.00 bear interest at 6% per annum and mature January 1, 1942; \$700,000.00 bear interest at 6% per annum and mature January 1, 1947, and \$600,000.00 bear interest at 5½% per annum and mature January 1, 1947.

(b) All of said bonds were issued pursuant to Section 182 of the Constitution of North Dakota and Chapter 153 of the Session

Laws of North Dakota for the year 1919, and said bonds constitute general obligations of the State payable from unlimited ad valorem taxes and for the payment of the principal and interest of which the State of North Dakota has pledged its full faith and credit; and said bonds are further secured by a first mortgage lien on the properties of the North Dakota Mill and Elevator Association, made, delivered and recorded in accordance with said Chapter 153, Laws of 1919.

(c) There will not be moneys in the Mill and Elevator Bond Payment Fund on January 1, 1942, sufficient to pay the \$1,200,000.00 principal amount of bonds maturing on that date and the interest then payable.

(d) It is necessary that provision be made by law for the refunding of that portion of the bonds maturing January 1, 1942, for which funds will be insufficient, or that other arrangements be made so that the credit of the State will not be impaired by reason of non-payment thereof.

(e) The State of North Dakota also has outstanding bonds of North Dakota, Real Estate Series, in the aggregate principal amount of \$19,143,000.00, bearing interest at various rates from 4% per annum to 6% per annum, and maturing in varying amounts during the years 1941 to 1960, all of which bonds are likewise general obligations of the State payable from unlimited ad valorem taxes and for the payment of the principal and interest of which the full faith and credit of the State of North Dakota has been pledged.

(f) Some amounts of money may become available for the payment of principal and interest on said bonds of North Dakota, Mill and Elevator Series, from earnings derived from the operation of the North Dakota Mill and Elevator Association, but such earnings will be inadequate with the moneys otherwise available and to become available for the payment of the principal and interest on such bonds without the levy and collection of substantial amounts of ad valorem taxes, and, similarly, it will become necessary that substantial levies and collections of general taxes be made or funds otherwise produced in order to meet the State's obligations respecting such bonds of the North Dakota Real Estate Series.

(g) It is necessary, advisable and expedient that the State refund as much of said bonds of North Dakota, Mill and Elevator Series, maturing January 1, 1942, as shall be in excess of moneys then on hand available to be used in the Mill and Elevator Bond Payment Fund, and it is necessary, advisable and expedient that arrangements be made, if possible, so that the \$1,300,000.00 of such bonds maturing January 1, 1947, be refunded prior to said maturity date to the end that the maturity dates of all such bonds of North Dakota, Mill and Elevator Series, be re-arranged so that the tax burdens necessary for the payment of the various bonds above de-

scribed shall be equalized as between different tax years and shall be kept as low as possible in the aggregate.

§ 2. The issuance of bonds of the State of North Dakota to be known as "Bonds of North Dakota, Mill and Elevator Refunding Series" is hereby authorized and directed under the conditions and in the manner and for the purposes hereinafter set forth.

§ 3. (A) The Industrial Commission shall, by resolution adopted and approved in the manner provided by law, take such action conformably with this Act as shall be necessary to provide for the payment or refunding of the \$1,200,000.00 bonds of North Dakota, Mill and Elevator Series, maturing January 1, 1942, or otherwise arrange in accordance with this Act so that the credit of the State will not be impaired by the nonpayment thereof. The Industrial Commission is hereby authorized, by similar resolution or resolutions from time to time adopted, to take such action as may be found expedient and advisable in conformity with this Act for the refunding of all or any part of the \$1,300,000.00 of said bonds of North Dakota, Mill and Elevator Series, which mature January 1, 1947. In carrying out the foregoing powers and duties the Industrial Commission may authorize and direct the issuance of refunding bonds which shall constitute general obligations of the State for the payment of the principal and interest of which the full faith and credit and unlimited taxing powers of the State shall be pledged. Refunding bonds so issued shall bear interest at a rate or rates as prescribed by the Industrial Commission, but none of such bonds shall bear interest at a rate exceeding three per cent per annum payable semi-annually. Such refunding bonds shall mature as determined by the aforesaid resolutions, and may all mature at one time or may be made to mature serially in various amounts during various years as the Industrial Commission shall find most expedient, taking into consideration the amounts and dates of payment of principal and interest on the existing bonded debt of the State and the possible refunding of all or various portions of such presently existing bonded debt, but in no event shall any of such bonds of North Dakota, Mill and Elevator Refunding Series, be made to mature later than January 1, 1971. Refunding bonds may be made to mature at specified dates without option of prior payment or may be made redeemable prior to the stated maturities with or without payment of a premium upon such redemption, as determined by such resolutions. The aggregate principal amount of such refunding bonds at any time issued plus the principal amount of any bonds of North Dakota, Mill and Elevator Series, then outstanding plus the principal amount of any bonds of the North Dakota, Mill and Elevator Refunding Series, theretofore issued and then outstanding shall never exceed the value of all the state-owned Mill and Elevator properties, real and personal, comprising the utility, enterprise or industry known as the North Dakota Mill and Elevator Association on account of

which the presently outstanding bonds of North Dakota, Mill and Elevator series, were issued, which value shall be determined by the Industrial Commission and stated in the resolution or resolutions authorizing and directing the issuance of the refunding bonds. The principal and interest on the refunding bonds shall be payable at a place or places specified in such resolutions, and may be at the office of the State Treasurer in Bismarck or at The Bank of North Dakota or at any suitable bank or trust company in Minneapolis, St. Paul, Chicago or New York, or at the option of the holder of the refunding bond, at any one of two or more of such places. Refunding bonds shall bear such dates of issue and be of such denominations, serial numbers and forms as shall be prescribed by such resolutions conformably with this Act.

(b) Refunding bonds issued hereunder may be made to mature at dates later than the respective bonds refunded thereby and may bear interest at the rate borne by the bonds refunded to the date of maturity of the bond refunded and at a lower interest rate thereafter.

(C) Refunding bonds issued hereunder may also be issued in a principal amount exceeding the principal amount of the bonds refunded thereby and maturing at dates later than the bonds refunded thereby, but bearing an annual interest rate, payable semi-annually, throughout the term of the refunding bonds lower than the rate borne by the bonds refunded. The aggregate market value of refunding bonds of the type described in this paragraph (c) issued for the purpose of refunding outstanding bonds prior to their maturity shall not exceed the aggregate market value of the bonds refunded thereby, except that bonds may be issued in excess of such limit to the extent necessary to pay the actual expenses of such refunding, including bond printing, attorneys' fees, fiscal agents' fees, exchange agency charges and similar items. "Market Value," as used herein, shall be determined as of the date or dates of actual issuance of such refunding bonds, and according to standard tables of bond values used by insurance companies, banks and other institutional investors and recognized as standard in the United States of America.

(d) Refunding bonds may also be issued according to any plan respecting maturities, amounts and rates of interest which conforms with the provisions of this Act but involves bonds of a type different from either of the two types mentioned in paragraphs (b) and (c) of this Section. The bonds of North Dakota, Mill and Elevator Refunding Series, issued pursuant hereto may be issued as part of a plan for a consolidated refunding plan for all bonded indebtedness of the State, but only if there shall then be laws in force and effect, additional to this Act, authorizing such consolidated refunding. It is the intention of the Legislature to confer upon the Industrial Commission the power, subject to the limitations of this Act, to adopt such refunding plan, method or procedure as shall

serve the best interests of the State, with particular reference to the element of the ultimate cost to the State and the equalization of the burden of tax levies required for all State bonded debt services.

§ 4. A certified copy of any resolution adopted by the Industrial Commission pursuant to Section 3 of this Act shall be delivered to the State Treasurer, and it shall be the duty of the State Treasurer, immediately upon receipt of each such certified copy to prepare for issue negotiable bonds in the form and amount prescribed by such resolution. Said bonds shall be signed in behalf of the State of North Dakota by the Governor and the State Treasurer and shall be attested by the Secretary of State under the Great Seal of the State. The Auditor and Secretary of State shall endorse and sign on each such bond when issued a certificate showing that it has been issued pursuant to law and is within the debt limit. The provisions of Sections 151 and 152, Compiled Laws of 1913 and of Chapter 103, Session Laws of 1927 are hereby declared to be applicable to any refunding bonds issued pursuant to this Act. Such bonds may have coupons attached representing the interest to accrue thereon to the respective maturity dates, which coupons may be executed with the printed, engraved or lithographed facsimile signatures of the Governor and State Treasurer. Every bond and coupon issued pursuant to this Act must be presented for payment at the office of the State Treasurer or other place of payment specified in said bond within six years from the date of its maturity, and no such bond or coupon shall bear interest after maturity unless payment thereof shall not be made upon due presentation for payment.

§ 5. (a) It is hereby made the duty of the Governor and the State Treasurer, after the issue, execution, sealing and attestation of such bonds to deliver them to the Industrial Commission at such times and in such amount as may be required by the Commission within the limitations herein stated. The Industrial Commission is empowered, authorized and directed, in connection with and in addition to its other powers and duties, to act as the agent of the State for the negotiation, sale or exchange and delivery of said bonds. If any of said bonds are sold the Commission shall sell them for cash at not less than par value, in such manner and at such times as in its sound discretion it shall deem most advantageous to the interests of the State. The Commission is hereby authorized to receive all moneys paid by buyers of said bonds upon the sale thereof, and upon receipt of the purchase price to deliver to each purchaser the bonds by him purchased.

(b) The Commission is empowered and authorized to exchange refunding bonds issued pursuant to this Act for outstanding bonds of North Dakota, Mill and Elevator Series, authorized or directed to be refunded by a resolution or resolutions adopted pursuant to Section 3 hereof. If the refunding bonds are of the type described in paragraph (b) of Section 3, the par value of the refunding bonds

shall not exceed the par value of the bonds of North Dakota, Mill and Elevator Series, refunded thereby and for which the refunding bonds are exchanged. If the refunding bonds are of the type described in paragraph (c) of Section 3, the market value of the refunding bonds exchanged for any bonds of North Dakota, Mill and Elevator Series, shall not exceed the market value of the bonds for which they are exchanged, and for the purpose of any such exchange, market values shall be determined in accordance with standard tables of bond values used by insurance companies, banks and other institutional investors and recognized as standard in the United States of America. If the refunding bonds are of a type other than either those described in paragraph (b) or paragraph (c) of Section 3 and exchanges are made pursuant to the resolution of the Industrial Commission, then and in those cases such exchanges may be made on any basis which the Industrial Commission shall determine to be most advantageous to the State.

(c) In event exchanges of refunding bonds be made for bonds of North Dakota, Mill and Elevator Series, prior to the maturity date of the latter, the Industrial Commission may direct the State Treasurer to transfer moneys on hand or thereafter accruing in the Mill and Elevator Bond Payment Fund to the Mill and Elevator Refunding Bond Payment Fund pro rata to the extent of such exchanges.

(d) Upon delivery of refunding bonds, either pursuant to such sale for cash or upon such exchange, the faith and credit of the State of North Dakota is pledged for the payment thereof, both principal and interest, to the lawful holder and owner thereof upon presentation for payment according to law. Money derived and received from a sale of said bonds shall be placed by the Industrial Commission in the fund from which the bonds to be refunded are payable, and shall be used for no other purpose than to pay such bonds, except that any premium above par received upon such sale may be used to the extent needed to pay the expenses of such refunding.

(e) Refunding bonds issued pursuant to this Act may be purchased by The Bank of North Dakota or any other State board, department or agency. The Bank of North Dakota and each other State board, department and agency owning or holding any bonds of North Dakota, Mill and Elevator Series, authorized to be refunded may exchange the same for any refunding bonds issued pursuant to this Act; provided that upon any such exchange there shall be no profit, commission of fees of any kind to any party or parties other than the State and its boards, departments and agencies.

(f) No refunding bonds shall be issued pursuant to this Act more than one year after the date of issue stated therein. The Industrial Commission shall cause to be cancelled any bonds and appurtenant coupons prepared (prepared) for issue and not actually issued within one year of the date of issue stated therein.

§ 6. (a) A direct annual ad valorem tax is hereby levied upon all the taxable property of the State in an aggregate amount sufficient to pay the full principal and interest on all refunding bonds issued pursuant to this Act, to be included with the State levies for the years and in the respective amounts to be determined as herein prescribed. Each resolution of the Industrial Commission adopted pursuant to Section 3 hereof which authorizes or directs the issuance of refunding bonds shall set forth in tabulated form the dates and amounts of payments of principal and interest to fall due on the refunding bonds thereby authorized or directed to be issued, which dates and amounts shall conform with the limitations thereon prescribed by this Act. Such resolution shall also show the amounts of any moneys actually on hand available for payment of principal and interest on such bonds. A certified copy of such resolution shall be delivered to the secretary of the State Board of Equalization immediately after its adoption, and in any event prior to the actual issuance of any of the refunding bonds therein authorized or directed to be issued. The secretary shall forthwith call a meeting of the State Board of Equalization to be held at the first convenient date. At such meeting, the State Board of Equalization shall determine from the information contained in such resolution of the Industrial Commission the years and amounts in which the taxes will be included in order to produce in the Mill and Elevator Refunding Bond Payment Fund moneys adequate to pay such principal and interest as the same become due, and shall adopt an irrevocable resolution fixing the years and amounts in which such taxes are to be included in the state levies, which resolution shall be made a permanent record of the State Board of Equalization. A certified copy of such resolution of the State Board of Equalization shall be delivered by the secretary to the Industrial Commission prior to the actual issuance of any refunding bonds for the payment of which such taxes are so provided. Thereafter, at each annual meeting of the State Board of Equalization it shall be its duty to include in the aggregate of the State tax levy for such year the amounts so previously determined to be included, except as provided below with respect to reductions thereof. The proceeds of such taxes are hereby irrevocably appropriated for the payment of the principal and interest of such bonds. During each annual meeting of the State Board of Equalization thereafter held the Industrial Commission shall certify to it the amount and maturities of any such bonds which have not theretofore been actually issued and which the Industrial Commission has determined are not to be actually issued, if there be any such. The Industrial Commission shall in like manner annually certify the amount of money then on hand in the Mill and Elevator Refunding Bond Payment Fund applicable to the payment of the principal and interest for which such levies have theretofore been fixed and the sources from which such moneys have been derived. Upon receipt of a certificate of the Industrial Commission showing

that all or any portion of an authorized issue of refunding bonds have been determined not to be issued the State Board of Equalization shall cancel or reduce that portion of the levies fixed by its prior resolution which equals the portion of the authorized issue which are determined not to be issued. If it appears from such certificates that there is money on hand or included in previous levies then in process of collection, which money on hand and the proceeds of which taxes in process of collection will be available to pay the installments of principal and interest for which that year's levy would otherwise be used, the State Board of Equalization shall reduce the amount of the levy for that year by a sum equal to the sum of such available money on hand and in process of collection. The provisions made by this section and by proceedings pursuant hereto prior to the actual issuance and delivery of any refunding bonds shall constitute an irrepealable portion of the contract represented by the refunding bonds so issued, and any bondholder or any taxpayer may compel the performance of such obligation by proceedings in mandamus.

(b) In addition to the foregoing levies, the State Board of Equalization shall include in each annual levy an additional amount, stated separately from the levy made pursuant to paragraph (a) hereof, in such sum as the State Board of Equalization deems necessary to offset any anticipated delinquencies in the collection of the amounts of such levies; and in estimating the amount of such delinquencies the Board of Equalization shall take into consideration the percentage of tax collections and tax delinquencies during each of the three preceding years.

(c) If the refunding bonds for the payment of which such levies are made shall have been issued under a plan which provides for the creation and utilization of a reserve in the refunding bond sinking fund, levies may be made, either separately from the levies above mentioned or as a part thereof for the purpose of creating and maintaining such reserve in the appropriate amounts.

(d) The foregoing provisions shall not be construed to limit the power or duty of the state to levy taxes in such amounts as may be found necessary to pay the full principal and interest on refunding bonds issued pursuant to this Act.

§ 7. (a) To identify and distinguish the funds provided and available for the payment of bonds issued pursuant to this Act there is hereby created and established, as a part of the moneys of the State received and kept by the State Treasurer, a fund to be designated as the "Mill and Elevator Refunding Bond Payment Fund." All moneys received by the State Treasurer, whether from the proceeds of taxes or from payments made by the Industrial Commission or from legislative appropriations or otherwise, which shall be by law or by other authoritative designation made applicable to the payment of said bonds or interest thereon, shall be by him kept in such fund

distinct from all other moneys and shall be disbursed by him only for the particular purpose or purposes for which such moneys shall be delivered to him, and no other appropriations shall ever be made of the moneys in said fund until said bonds shall be fully paid. But this Act shall not be construed as preventing the State Treasurer from depositing said funds in The Bank of North Dakota.

(b) The State Treasurer shall cause to be paid and disbursed out of said Mill and Elevator Refunding Bond Payment Fund the principal and interest on refunding bonds issued pursuant to this Act as such principal and interest respectively become due, all such payments being made without auditor's warrant. All moneys in said fund, or as much thereof as may be necessary, are hereby appropriated for the payment of the interest and principal of refunding bonds issued pursuant to this Act, and this appropriation shall not be repealed, and no provision made in this Act for the payment of said bonds and interest shall be discontinued until the debt evidenced by said bonds, both principal and interest, shall have been paid.

§ 8. There is hereby appropriated all of the moneys provided in Section 6 above to be raised by taxes and all moneys paid to the State Treasurer by the Industrial Commission as specified in paragraph (a) of Section 7, or so much thereof as may be from time to time necessary to pay the interest and principal upon refunding bonds issued pursuant hereto as payments thereon shall become due.

§ 9. (a) The mortgage referred to in paragraph (b) of Section 1 hereof and any other mortgages now in force which secure presently outstanding bonds of North Dakota, Mill and Elevator Series, are hereby continued and extended to the extent that they shall constitute security for any refunding bonds issued pursuant to this Act, pro rata with any bonds of North Dakota, Mill and Elevator Series, remaining outstanding. In the event the Industrial Commission shall acquire any of the presently outstanding bonds of North Dakota, Mill and Elevator Series, in exchange for refunding bonds issued pursuant to this Act, the bonds so acquired shall not be cancelled or deemed to have been paid and discharged, but in lieu thereof shall be endorsed with a statement showing the same to have been refunded. The refunded bonds and the refunding bonds shall constitute evidence of a single indebtedness of which the refunding bond represents the terms of payment and the refunded bond represents the mortgage security therefor. Such refunded bonds shall be held in the Mill and Elevator Refunding Bond Payment Fund as security for payment of the refunding bonds for which they were exchanged, and any realization upon the mortgages or other security originally given for the bonds of North Dakota, Mill and Elevator Series, so acquired, shall inure to and constitute security for the bonds of North Dakota, Mill and Elevator Refunding Series, for which they were exchanged.

(b) Each such mortgage is hereby extended as to its due date

to the extent that the debt originally secured thereby shall be extended by the issuance of any such refunding bonds. The mortgages above referred to are hereby declared to include all mortgages covering any property, real or personal, owned or acquired for the State of North Dakota, doing business as the North Dakota Mill and Elevator Association, and dedicated to or acquired for the use thereof by the Industrial Commission, including specifically the mortgage heretofore made and executed to secure Milling Bonds of the State of North Dakota issued pursuant to the Laws of 1923, Chapter 291.

§ 10. All bonds issued pursuant to this Act and interest paid thereon shall be exempt from state, county and municipal taxes of any and all kinds.

§ 11. In case any bonds of North Dakota, Mill and Elevator Series, are not paid or refunded on or before the maturity thereof, The Bank of North Dakota may, when directed by the Industrial Commission, purchase and acquire such matured bonds and unpaid attached interest coupons, if any, and any such bonds so purchased and acquired by The Bank of North Dakota shall continue as an obligation of the State until paid or exchanged in the manner provided by law. Any bonds so purchased and acquired by The Bank of North Dakota, together with the attached interest coupons, if any, shall draw interest at the rate of two per cent per annum from the date of maturity until paid, and may be called for payment by the Industrial Commission at any time. Bonds and attached interest coupons purchased and acquired by The Bank of North Dakota pursuant to this provision, may be transferred to any State board, department or agency authorized to invest its funds or funds under its control in State bonds. Any such bonds and attached interest coupons, if any, shall be eligible for the investment of any funds belonging to or under the control of any such State board, department or agency.

§ 12. The Industrial Commission is hereby authorized to expend so much of the funds of the North Dakota Mill and Elevator Association, not otherwise appropriated, as may be necessary to carry out the provisions of this Act.

§ 13. If any provision of this Act is declared unconstitutional it is, nevertheless, the intention of the Legislature that the other provisions of the Act shall remain in full force and effect and as to other provisions and duties shall be carried out.

§ 14. No refunding bonds authorized by the provisions of this Act shall be issued, sold or exchanged after December 31, 1942, without further legislative authority.

§ 15. 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 21, 1941.

CHAPTER 109

H. B. No. 46—(Anderson and Beede)

**REQUIRING POLITICAL SUBDIVISIONS TO ADVISE CERTAIN
STATE AGENCIES OF SALE OF BONDS**

An Act Requiring all counties, townships, school districts, cities, villages, park districts and other municipal corporations with the State which are now or may hereafter be authorized to sell and use bonds for any purpose whatsoever, to advise the State and all State Agencies or Departments which have trust funds to invest in such bonds, that said bonds will be offered for sale at public vendue; forbidding the purchase of such bonds from private purchasers, except under certain conditions, and providing a penalty for non-compliance herewith.

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

§ 1. NOTICE TO STATE OR STATE DEPARTMENTS.] At least 30 days before any county, township, school district, city, village, park district, or other municipal corporation within the State of North Dakota, which is now or may hereafter be authorized by law to issue and sell bonds for any purpose whatever shall sell and deliver such bonds, the governing board shall notify, by registered mail, the Board of University and School Lands and the Industrial Commission of the State of North Dakota, that such bonds will be offered at public vendue, giving in said notice complete and detailed information relating to said bond issue and the time and place that such bonds will be offered for sale.

§ 2. Should the said Board or any of said agencies or departments fail to submit an offer or bid for such bonds, or should said Board or any of said agencies or departments offer or bid for such bonds but not be the successful purchaser or bidder, it shall not within five years after the sale of said bonds, purchase said bonds or any part thereof, except at a price no greater than that paid by the successful bidder for the same.

Filed March 26, 1941.

CHAPTER 110

H. B. No. 328—(Johnson of Richland, Johnson of Cass and Trydahl)

STATE BONDING FUND, AMENDMENT

An Act to amend and re-enact Section 200b12 and Section 200b14 of the 1925 Supplement to the Compiled Laws of North Dakota; Providing for the Cancellation of Liability of the State Bonding Fund for Acts of Employees and Furnishing of other Bonds; Repealing all Acts and parts of Acts in Conflict herewith; and Declaring an Emergency.

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

§ 1. AMENDMENT.] Section 200b12 of the 1925 Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 200b12. CANCELLATION OF LIABILITY FOR ACTS OF EMPLOYEES.] The Commissioner may, after due investigation, if in his judgment the interests of the State Bonding Fund require such action, cancel the liability of the Bonding Fund for the Acts of any public employee, to take effect thirty days after written notice of such cancellation. In such case the officer whose insurance is cancelled may, at his own cost, secure an official bond executed by a duly authorized Surety Company.

§ 2. AMENDMENT.] Section 200b14 of the 1925 Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 200b14. RIGHT TO FURNISH OTHER BONDS.] Any person elected or appointed to office may furnish in lieu of such insurance provided for in this Act, a bond by a duly authorized Surety Company, but no officer or board of the State or of any County, City, Town, Village, School District or Township shall have the right to pay for any such bond or bonds out of any public funds except to cover the excess of the amount carried in the State Bonding Fund.

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

§ 4. EMERGENCY.] This Act is hereby declared to be an Emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 17, 1941.

BOUNTIES

CHAPTER 111

H. B. No. 95—(Panko, Starck, Myers, Larson)

BOUNTY FOR RATTLESNAKES

An Act to Encourage the Destruction of Rattlesnakes, and Providing a Bounty to be Paid by the State of North Dakota for Each Rattlesnake Killed, and Providing for the Disposition of the Rattlesnake Tails. Penalty. Appropriation.

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

§ 1. STATE BOUNTY FOR RATTLESNAKES.] For the purposes of encouraging the destruction of rattlesnakes, a bounty of ten cents shall be paid by the State of North Dakota for each rattlesnake killed.

§ 2. TAILS TO BE DEPOSITED.] Any person killing a rattlesnake, to obtain the bounty thereon, shall within six months from the date of the killing, deposit or cause to be deposited the tail of the said reptile, which must include in addition to other rattles, the black rattle (commonly known as the "black button"), in the office of the County Auditor in the county in which said reptile was killed, and shall at the same time file with the auditor an affidavit setting forth that he killed or caused to be killed the reptile or reptiles from which the tails as herein specified were taken; that the same were killed within the bounds of the county to whose auditor the same are presented.

§ 3. VERIFICATION.] The County Auditor shall on being satisfied that to the best of his knowledge and belief the reptile, or reptiles, from which said tail or tails were taken, were killed within the limits of the county, issue, make out and deliver to the said person forthwith a certificate showing the number of rattlesnakes killed, the name of the person presenting, and the fact of the filing of the affidavit herein provided for, said certificate to be duly signed by him in his official capacity; the holders of the certificates so issued shall deposit the same with the County Auditor, who shall on the first business day of each month forward all such certificates in his possession to the state auditor for registration and payment as herein provided. All services rendered by officials under this article to be without fee.

§ 4. DISPOSITION OF TAILS BY COUNTY AUDITOR.] The County Auditor shall twice a year during the month of January and the month of July, mail any and all rattlesnake tails received under the provisions of this Act to the Board of Administration of the State of North Dakota.

§ 5. The Board of Administration shall place the rattlesnake tails so received from the various County Auditors on display in a suitable place either in the Capitol or in the Liberty Memorial Building, for sale purposes. Any money received from such sales shall be deposited to the credit of the Rattlesnake Bounty Fund, during the month of January of each and every year. The Board of Administration shall keep a record of all tails received, and all sales made, and money received from such sales. The said rattlesnake tails shall be sold at a reasonable price, but not less than twenty-five cents each.

§ 6. DUTY OF STATE AUDITOR.] It shall be the duty of the State Auditor upon the written order of the County Auditor to give the person presenting said order, a warrant upon the State Rattlesnake Bounty Fund, hereinafter provided for, in the amount required to compensate at the bounty prices by this article provided, for the number of rattlesnakes mentioned in the order, taking the receipt on the back of the order of the person presenting, for the full amount received; and the State Auditor and the State Treasurer shall keep an account of all warrants so issued and paid and list them in their annual report to the governor.

§ 7. SECRETARY OF STATE TO SUPPLY BLANKS.] The Secretary of State shall provide each County Auditor with the necessary blanks for the purpose of carrying into effect the provisions of this article.

§ 8. PENALTY.] Any person who shall present any tails with the intent to defraud the state, or any officer who shall intentionally evade the provisions of this Act, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than One Hundred Dollars, or by imprisonment in the county jail for a period of not exceeding one month, or by both such fine and imprisonment.

§ 9. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$3,000.00 or so much thereof as may be necessary for the purpose of paying the bounty on rattlesnakes as prescribed herein.

Approved March 7, 1941.

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 112

Senate Concurrent Resolution No. 2—(Brant)

CLASSIFICATION AND EXEMPTION OF PERSONAL PROPERTY FROM TAXATION

A Concurrent Resolution providing for the amendment of Section 176 of Article 29 of the Constitution of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to Section 176 of Article 29 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the State of North Dakota for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended:

§ I. AMENDMENT.] That Section 176 of Article 29 of the Constitution of North Dakota is hereby re-enacted to read as follows:

Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. The Legislature may by law exempt any or all classes of personal property from taxation and within the meaning of this section, fixtures, buildings and improvements of every character, whatsoever, upon land shall be deemed personal property. The property of the United States, and property of the State, county and municipal corporations and property used exclusively for schools, religious, cemetery, charitable or other public purposes, shall be exempt from taxation; provided, however, that all state owned lands acquired under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919, and Chapter 292 of the Session Laws of North Dakota for 1923 and acts amendatory thereof may be taxed by the local taxing districts for county, township, and school purposes, in such manner as the legislature may provide. Except as restricted by this Article, the legislature may provide for raising revenue and fixing the sites of all property for the purpose of taxation. Provided, that all taxes and exemptions in force when this amendment is adopted shall remain in force until otherwise provided by statute.

Filed March 7, 1941.

CHAPTER 113**House Concurrent Resolution No. 63—(Aker, Fuglestad, Moe and Sharpe)****LEGISLATIVE POWER—CONSTITUTIONAL AMENDMENTS****A Resolution Providing for the Amendment of Section 202 of Article 15 of the Constitution of North Dakota as Amended by Articles 16 and 28 of the Amendments thereto, Relating to Future Amendments.***Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following proposed amendment to Section 202 of Article 15 of the Constitution of North Dakota as amended by Articles 16 and 28 of the Amendments thereto, is agreed to and that the same be submitted to the qualified electors of the State for approval or rejection.

§ I. AMENDMENT.] That Section 202 of Article 15 of the Constitution of North Dakota as amended by Articles 16 and 28 of the Amendments thereto, is hereby amended and re-enacted to read as follows:

§ 202. Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this Constitution.

Amendments to the Constitution of the state may also be proposed by initiative petition of the electors; such petition shall be signed by thirty thousand of the electors at large and shall be filed with the secretary of state at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment or amendments so proposed shall be submitted to the electors and shall become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition and on referendum petition, shall apply to the submission and adoption of amendments to the Constitution of the state.

Filed March 22, 1941.

CHAPTER 114

House Concurrent Resolution No. 64—(Aker, Fuglestad, Moe and Sharpe)

LEGISLATIVE POWER, INITIATIVE AND REFERENDUM

A concurrent Resolution Providing for the Amending of Section 25 of Article 2 of the Constitution of the State of North Dakota as amended by Articles 15 and 26 of the Amendments thereto, Relating to the Legislative Power of the State, and the Initiative and Referendum:

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the following proposed amendment to Section 25 of Article 2 of the Constitution of the State of North Dakota as amended by Articles 15 and 26 of the Amendments thereto, is agreed to and that the same be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ I. AMENDMENT.] That Section 25 of Article 2 of the Constitution of the State of North Dakota as amended by Articles 15 and 26 of the Amendments thereto, is hereby amended and re-enacted to read as follows:

§ 25. That the legislative power of this state shall be vested in a Legislature consisting of a Senate and a House of Representatives. The people, however, reserve the power, first to propose measures and to enact or reject the same at the polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by this Legislature.

The first power reserved is the initiative. Twenty thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the Secretary of State not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Thirty thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the Legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petitions shall be filed with the Secretary of State not later than ninety days after the adjournment of the session of the Legislature at which such measure was enacted. No initiative or referendum petition shall be circulated or filed during a regular or special session of the Legislature.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the Secretary of State and shall be voted upon at any state-wide

election designated in the petition, or at any special election called by the Governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

Any measure, except an emergency measure submitted to the electors of the state shall become a law when approved by a majority of the votes cast thereon. Such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency measure, such measure shall be a law until voted upon by the electors, and if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure shall be submitted to the electors at a special election so ordered by the Governor or if the referendum petition filed against it shall be signed by forty thousand electors at large, such special election shall be called by the Governor and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the Legislature.

The Secretary of State shall pass upon each petition, and if he finds it insufficient he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the Secretary of State in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the Secretary of State shall place the measure on the ballot, and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If the proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petition, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title which shall fairly represent the subject matter of the measure and the names of at least five electors who shall constitute the "committee for petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors, shall be: "Be it enacted by the people of the State of North Dakota." In submitting measures to the electors, the Secretary of State, and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the ones receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or

amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the Legislature, except upon a ye and nay vote upon roll call of two-thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict, or impair the exercise of the rights herein reserved to the people.

Filed March 22, 1941.

CORPORATIONS

CHAPTER 115

H. B. No. 61—(Haugen & Sandness)

RESTRICTION OF WORD CO-OPERATIVE

An Act Restricting the Use of the Word "Co-operative" or an abbreviation thereof to Co-operative; Providing a Penalty; and Injunctive Relief.

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

§ 1. It shall be unlawful for any person, firm or corporation organized or doing business in this State, to use or embody the word "co-operative", "co-op" or other abbreviation thereof, as part of its corporate or other business name or title, when said person, firm or corporation is not in fact a co-operative association or corporation, or which is not organized under the co-operative laws of the State.

§ 2. Violation of the provisions of this act constitutes a misdemeanor, and may also be enjoined by any co-operative corporation or association or any member thereof.

§ 3. Sections 4609a18 and 4609b21 of the 1925 Supplement are hereby repealed.

Approved February 21, 1941.

CHAPTER 116

H. B. No. 190—(Drovdal and Anderson)

COOPERATIVE GRAZING ASSOCIATION ACT, AMENDMENT

An Act to Amend and Re-enact Sub-section (e) of Section 6 of Chapter 106 of the 1935 Session Laws, as amended by Sub-section (e) of Section 3 of Chapter 112 of the 1937 Session Laws, and to Amend and Re-enact Section 11 of Chapter 106 of the 1935 Session Laws, Relating to the Cooperative Grazing Association Act.

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

§ 1. AMENDMENT.] Sub-section (e) of Section 6 of Chapter 106 of the 1935 Session Laws, as amended by Sub-section (e) of Section 3 of Chapter 112 of the 1937 Session Laws, is hereby amended and re-enacted to read as follows:

(e) One director to be elected from each congressional township in the district by the majority vote of the members eligible to vote in such township, providing that for the purposes of the small acreage group that all directors may be elected from any one or more townships,

§ 2. AMENDMENT.] Section 11 of Chapter 106 of the 1935 Session Laws, is hereby amended and re-enacted to read as follows:

§ 11. No member shall be permitted to graze more than five hundred animal units during a full twelve-month period in each year, or a correspondingly larger number for a shorter grazing period during each year.

For the purposes of this act an animal unit shall mean a cow, a bull or a steer, or five sheep over six months of age on the first day of May of the year in which the age is being determined. Two horses shall be equivalent to three animal units. Animals not more than six months old on the first day of May of the year in which the age is being determined, which are natural increase of the permitted livestock, shall not be counted.

Approved March 4, 1941.

CHAPTER 117**S. B. No. 115—(Thatcher and Tweten)**

CO-OPERATIVE MARKETING ASSOCIATION, AMENDMENT

An Act to amend and re-enact Subdivision (f) of Section 4609b8 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913; relating to articles of incorporation of co-operative marketing associations.

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

§ 1. That Subdivision (f) of Section 4609b8 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913 is hereby amended and re-enacted to read as follows:

(f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.

This provision of the Articles of Incorporation may be altered, amended, or repealed and provisions under Subdivision (g) hereof substituted therefor by a resolution approved by two-thirds of the directors and then adopted by a vote representing a majority of the members of the association voting upon the proposal.

Approved February 20, 1941.

CHAPTER 118**S. B. No. 45—(Committee on Judiciary)**

RENEWAL OF CORPORATE EXISTENCE

An Act to re-enact Chapter 110 of the Session Laws of North Dakota for the year of 1935, authorizing the renewal of the period of corporate existence of certain corporations whose period of duration has expired without the renewal thereof, and legalizing acts and contracts of such corporations made or done and performed subsequent to the expiration of the original period of existence of such corporations.

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

That Chapter 110 of the Session Laws of North Dakota for the year 1935 be re-enacted as follows:

§ 1. RENEWAL OF CORPORATE EXISTENCE.] Any corporation heretofore organized under the laws of this state, whose period of duration has expired and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding twenty (20) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the State Treasury twenty-five dollars in addition to the fees as now provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of its period of duration.

§ 2. TWO YEAR LIMITATION.] Such proceedings to obtain such extension shall be taken within two (2) years after the taking effect of this act.

§ 3. ORIGINAL ACTS DECLARED VALID.] When such steps are taken within such period, or have been heretofore taken, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act, any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

§ 4. APPLICATION.] This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any corporation as to which there is any action or proceedings pending in any of the courts in this state for the forfeiture of its charter, nor to any corporation whose directors have acted as trustees under the provisions of Section 4567, Compiled Laws of 1913.

Approved March 7, 1941.

CHAPTER 119

S. B. No. 165—(Kehoe and Bridston)

ISSUE STOCK WITHOUT PAR VALUE

An Act Providing for the issue of stock without par value with such qualifications, limitations, restrictions, and such special and relative rights and value as shall be stated in the Articles of Incorporation, or in the By-Laws of the Corporation.

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

§ 1. Every Corporation shall have the power to issue stock without par value with such qualifications, preferences, limitations, restrictions, and such special and relative rights and value as shall be stated in the articles of incorporation or in the by-laws of the corporation.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1941.

CHAPTER 120

H. B. No. 168—(Committee on Drainage and Irrigation by Request)

ORGANIZATION OF CORPORATIONS FOR IRRIGATION PURPOSES

An Act Providing for the Organization of Corporations for the Purpose of Acquiring Water Rights, Establishing, Owning, Operating and Maintaining Irrigation Systems and Selling, Distributing, Supplying and Delivering Water for Irrigation Purposes, or for Domestic Use, to its Members or Stockholders, Providing that the Shares of Stock in such Corporations may be Appurtenant to Certain Lands, Prescribing the Rights and Powers of such Corporations; Providing for the Transferability of Stock therein and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

§ 1. Corporations may be formed under the general laws of this state or under Chapter 109 of the Session Laws of 1935 and acts amendatory thereof, for the purpose of acquiring water rights and for the purpose of establishing, owning, leasing, operating and maintaining irrigation systems and selling, distributing, supplying and delivering water for irrigation purposes, or for domestic use, to its members or stockholders.

§ 2. Corporations organized under this act shall have the power:

1. To engage in any corporative activity not otherwise prohibited by law and not inconsistent with the purposes mentioned in section one hereof.

2. To acquire water rights, easements, sites and all means, property, machinery and equipment necessary or required in connection with the operation and maintenance of an irrigation system and to establish, construct, maintain and operate pumping plants, canals and ditches and all necessary facilities required for the operation and maintenance of an irrigation system.

3. To borrow money to an amount (whether in excess of the amount of its capital stock or not) necessary to enable it to carry out the intent and purposes for which it is organized and as security for the payment of such loan, to pledge or mortgage real or personal property acquired by the proceeds of such loan, or otherwise, including future earnings or income of the corporation.

4. To acquire, purchase, or lease the water rights, franchises, canals, ditches, pumping plants and irrigation facilities or any part thereof from any person, firm, corporation, or irrigation district and from any state or federal agency.

5. To furnish water for irrigation, or domestic use, to its members or stockholders and to furnish and sell water to any person, firm or corporation.

6. To adopt by-laws and rules and regulations for the furnishing of water, and for charges to be made therefor.

7. To levy assessments against its members or stockholders necessary for the maintenance and operation of the irrigation system.

8. To fix rates of tolls and charges for water, to collect the same, to require that charges for water be paid in advance of the irrigation season, to suspend the delivery of water to any land for the irrigation of which the charges and tolls have not been paid, and to provide for the suspension of water delivery to any land to which assessments, apportioned and levied, remain unpaid for one year after having become due and payable.

9. To enter into contracts with any person, firm, association, corporation, irrigation district, the state of North Dakota or any department or agency thereof, or the United States of America, or with any department or agency of the United States of America, for supplying water for the irrigation of the lands of its members or stockholders, and such supply of water may be either the entire supply of water necessary to irrigate said lands or to supplement waters supplied or controlled by the corporation organized under the provisions of this act.

10. To do each and everything necessary, suitable or proper

for the accomplishment of any one of the purposes, or the attainment of any one or more of the objects herein enumerated, and to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the corporation is organized, or to the activities in which it is engaged; and in addition, any other rights, powers and privileges, not inconsistent with the purposes of this act, granted by this state to ordinary corporations or to mutual aid corporations organized under the provisions of Chapter 109 of the Session Laws of 1935 and acts amendatory thereof.

§ 3. Any corporation organized under the provisions of this act may provide in its articles of incorporation, or by-laws, that water shall be sold, distributed, supplied or delivered only to owners of its shares of stock and that such shares shall be appurtenant to the lands described in the certificate issued and evidencing such shares of stock, and when such certificate, and a copy of such articles of incorporation, or by-laws, are recorded in the office of the register of deeds of the county in which such lands are situated such shares of stock shall become appurtenant to said lands and shall only be transferred with the sale or transfer of such lands, except in the event of sale or forfeiture of such shares of stock for delinquent assessments thereon as provided in Section 4 of this act. Notwithstanding, however, such provision in its articles of incorporation or by-laws, any corporation organized hereunder may sell water to an irrigation district, the State of North Dakota, or any department or agency thereof, and to the United States of America, or any department or agency thereof, at the same rates as to holders of shares of such corporation. In the event lands, to which any such stock is appurtenant, are acquired by the state, the United States, or any department or agency thereof, such stock shall be cancelled by the corporation, but shall be reissued to any person subsequently acquiring title to such land.

§ 4. Any corporation, organized under the provisions of this act, unless otherwise provided in its articles of incorporation or by-laws, may levy assessments upon its capital stock whether or not such stock is fully paid. If any shares of stock of any such corporation, which have been made appurtenant to any land as provided in Section 3 hereof, become delinquent in payment of assessments, the right to receive water thereunder or through dividends on such stock, may be denied and such shares may be forfeited to the corporation.

§ 5. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 17, 1941.

CHAPTER 121

S. B. No. 100—(Bridston)

CORPORATIONS, SALE AND REORGANIZATION

An Act to permit Sales of total assets and reorganizations of corporations when authorized by a two-thirds vote of stockholders or members, to validate past sales and reorganizations where such two-thirds vote has authorized same and to declare an emergency.

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

§ 1.] A private corporation organized under the laws of this state may sell, lease, exchange or otherwise dispose of all or substantially all of its property and assets including its good will, upon such terms and conditions and for such considerations, which may be money, stocks, bonds, or other instruments for the payment of money or other property, or considerations, as its Board of Directors deems expedient, when and as authorized by a two-thirds affirmative vote of the issued and outstanding stock, both preferred and common as separate classes, or its members, given at a regular or special meeting of such stockholders or members called for that purpose. The authority granted hereby shall be construed to include the transfer or conveyance of such property or assets to carry out any plan for the reorganization of the corporation, whether such reorganization contemplates the organization of a new corporation or contemplates a merger or consolidation with an existing corporation or corporations.

§ 2.] Any such proceedings heretofore had or authorized by such two-thirds vote shall be in all things deemed legal and binding upon all stockholders or members unless within ninety days after this Act takes effect, non-assenting stockholders or members shall by action to enjoin or by other appropriate judicial process question the legality of the sale or authorization.

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

Approved March 7, 1941.

CHAPTER 122

H. B. No. 306—(Collette, Saumur & Halvorson)

ELECTRIC COOPERATIVE CORPORATIONS, 1941 AMENDMENT

An Act to amend and re-enact sub-section (1) of Section 2, sub-section (4) of Section 4, Section 5, Sub-section (1) of Section 6, and Sections 7, 11, 17, 19, 26, 31 and 33 of Chapter 115 of the Session Laws of 1937, relating to electric cooperative corporations, their powers, incorporation, corporate names, amendment of by-laws and articles of incorporation, quorum and voting requirements, qualifications of directors, exemptions from certain statutory requirements; and providing for the extension of Chapter 115 of the Session Laws of 1937 to certain foreign corporations, repealing all Acts or parts of Acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] That sub-section (1) of Section 2 of Chapter 115 of the Session Laws of 1937 be and the same is hereby amended and re-enacted as follows:

(1) "Corporation" means a corporation organized pursuant to the provisions of this Act or which becomes subject to this Act in the manner hereinafter provided.

§ 2. AMENDMENT.] That sub-section (4) of Section 4 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted to read as follows:

(4) To generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish and dispose of such electric energy to its members only, and to construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, electric cold storage and processing plants, and transmission and distribution lines or systems necessary, convenient or useful.

§ 3. AMENDMENT.] That Section 5 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 5. INCORPORATORS.] Any three or more natural persons of the age of twenty-one years or more, residents of this State, or any two or more corporations, may act as incorporators of a corporation to be organized under this Act by executing articles of incorporation as hereinafter provided in this Act.

§ 4. AMENDMENT.] That sub-section (1) of Section 6 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted to read as follows:

(1) The name of the corporation, which name shall include the words "Electric Cooperative" and the word "Corporation," "Incorporated," "Inc.," or "Company", unless, in an affidavit made by the persons executing the articles of incorporation, and filed in the office of the Secretary of State, it shall appear that the corporation desires to do business in another State and is or would be precluded therefrom by reason of the inclusion of such words or any of them in its name. The name of the corporation shall be such as to distinguish it from any other corporation organized under the laws of, or authorized to do business in this State.

§ 5. AMENDMENT.] That Section 7 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 7. PROHIBITION ON USE OF WORDS "ELECTRIC COOPERATIVE."] The words "Electric Cooperative" shall not be used in the corporate name of corporations organized under the laws of this State or authorized to do business herein, other than those organized pursuant to the provisions of this Act, or those authorized to do business in this State under this Act.

§ 6. AMENDMENT.] That Section 11 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 11. BY-LAWS.] The power to make, alter, amend, or repeal the by-laws of the corporation shall be vested in the Board of Directors; provided, however, that the articles of incorporation may reserve to the members of the corporation the power to alter, amend or repeal by-laws. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

§ 7. AMENDMENT.] That Section 17 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 17. QUORUM OF MEMBERS.] Unless otherwise provided in the articles of incorporation or in the by-laws, a majority of the members, present in person or represented by proxy, shall constitute a quorum for the transaction of business at a meeting of members, but if voting by mail is provided for in the by-laws, members so voting shall be counted as if present.

§ 8. AMENDMENT.] That Section 19 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 19. ELECTION, QUALIFICATION AND COMPENSATION OF DIRECTORS.] The directors, other than those named in the certificate of incorporation to serve until the first annual meeting of members,

shall be elected annually or as otherwise provided in the by-laws, by the members. The directors shall be members of the corporation or of another corporation which is a member thereof and shall be entitled to such compensation and reimbursement for expenses actually and necessarily incurred by them as may be provided in the by-laws.

§ 9. AMENDMENT.] That Section 26 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 26. AMENDMENT OF ARTICLES OF INCORPORATION.]

(a) A corporation may amend its articles of incorporation by an affirmative vote of a majority of the members voting thereon at any regular meeting, or at any special meeting, of its members called for that purpose. The power to amend shall include the power to accomplish any desired change in the provisions of its articles of incorporation and to include any purpose, power or provision which would be authorized to be included in original articles of incorporation if executed at the time the amendment is made. Articles of amendment signed by the president or vice-president, and attested by the secretary certifying to such amendment and its lawful adoption shall be executed, acknowledged, filed and recorded in the same manner as the original articles of incorporation of a corporation organized under this Act; and as soon as the Secretary of State shall have accepted the articles of amendment for filing and recording, and issued a certificate of amendment, the amendment or amendments shall be in effect.

(b) A corporation may, upon authorization of its Board of Directors or its members, change the location of its principal office by filing a certificate reciting such change of principal office, executed and acknowledged by its president or vice-president under its seal attested by its secretary, in the office of the Secretary of State.

§ 10. AMENDMENT.] That Section 31 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 31. EXEMPTIONS.] (a) Whenever any corporation organized under this Act shall have received an allotment of funds or borrowed money from any Federal agency, the obligations issued to secure the payment of such money or the issuance of membership certificates shall be exempt from the provisions of the Securities Act (Chapter 182, Laws of North Dakota, 1923, as amended), nor shall the provisions of said Act apply to the issuance of membership certificates.

§ 11. AMENDMENT.] That Section 33 of Chapter 115 of the Session Laws of 1937, be and the same is hereby amended and re-enacted as follows:

§ 33. ACT EXTENDED TO EXISTING CORPORATIONS AND TO CERTAIN FOREIGN CORPORATIONS.] (a) Any existing cooperative or non-profit corporation or association, organized under any other law of this State, for the purpose of engaging in rural electrification, may, by the affirmative vote of not less than two-thirds of the members voting thereon, at a meeting called for that purpose, amend its articles of incorporation so as to comply with this Act.

(b) Any foreign non-profit or cooperative corporation supplying or authorized to supply electric energy and owning or operating electric transmission or distribution lines in an adjacent State may construct or acquire extensions of such lines in this State and operate such extensions without complying with any statute of this State pertaining to the qualifications of foreign corporations for the doing of business in this State. Any such corporation shall, before constructing or operating such extensions, or by instrument executed and acknowledged on its behalf by its president or vice-president, under its seal attested by its secretary, and filed in the office of the Secretary of State, designate the Secretary of State its agent to accept service of process on its behalf. Thereafter, such corporation shall have all the rights, powers, privileges, and immunities of a corporation organized under this Act. In the event any process shall be served upon the Secretary of State, he shall forthwith forward the same by registered mail to such corporation at the address thereof specified in the aforesaid instrument.

§ 12. REPEAL.] All acts and parts of Acts in conflict herewith are hereby repealed.

§ 13. 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 17, 1941.

CHAPTER 123

S. B. No. 149—(Gronvold)

MUTUAL AID CORPORATIONS, AMENDMENT

An Act to amend and re-enact Sections 1 and 10 of Chapter 109 of the Session Laws of North Dakota for the year 1935 relating to Mutual Aid Corporations and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 109 of the Session Laws of North Dakota for the year 1935 is hereby amended and re-enacted so as to read as follows:

§ 1. Non-profit corporations, with or without capital stock, may be organized for the purpose of effectuating any plan or program for rural rehabilitation, subsistence farming, housing, or for the purpose of effectuating any plan or program of any state or federal department or agency, or any other agency, or corporation, for giving assistance, financial or otherwise, in such endeavors, or cooperative endeavors of any nature or description, or engaging in such endeavors with or without such assistance. Such corporations may be organized on a cooperative plan. A corporation organized under this Act shall be known as a "Mutual Aid Corporation," which three words shall form a part of the name of each corporation so organized.

§ 2. AMENDMENT.] That Section 10 of Chapter 109 of the Session Laws of North Dakota for the year 1935 is hereby amended and re-enacted so as to read as follows:

§ 10. Such corporation may provide, in its articles of incorporation or in its by-laws, for qualifications and limitations of stock ownership or of membership in the corporation, and may provide that no member or stockholder shall be entitled to more than one vote regardless of the amount of his interest in the corporation or the number of shares of stock held by him.

§ 3. 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 14, 1941.

CHAPTER 124

H. B. No. 200—(Committee on Corporations other than Municipal)

MEMBERSHIP DUES AND ASSESSMENTS—NON-STOCK CORPORATIONS

An Act to provide for the levying of dues or assessments upon members in non-stock corporations, and Declaring an Emergency.

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

§ 1. Non-stock corporations may levy dues or assessments, or both, upon their members, if such authority is conferred either by the articles of incorporation or by their by-laws, and subject to any limitation therein contained. Such dues or assessments, or both, may be levied upon all classes of membership alike, or in different amounts or proportions, or upon a different basis upon different or various classes of membership, and memberships of one

or more classes may be made exempt from either dues or assessments or both, in the manner and to the extent provided either in the articles of incorporation or by the by-laws.

The amount of the levy and method of collection of such dues or assessments, or both, may be fixed in the articles of incorporation or by-laws, or the articles of incorporation, or the by-laws, may authorize the board of directors to fix the amount thereof from time to time and make them payable at such times or intervals, and upon such notice and by such methods of collecting as the directors may prescribe and may be made enforceable by action or by forfeiture of membership, or both, upon such notice as the articles of incorporation or by-laws may prescribe.

§ 2. 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 17, 1941.

COUNTIES

CHAPTER 125

H. B. No. 117—(Tuff and Allen by Request)

DUTIES OF CORONER

An Act to Amend and Re-enact Section 3406 of the Compiled Laws of the State of North Dakota for the year 1913, Relating to the Duties of the Coroner; Repealing all Acts or Parts of Acts in Conflict Herewith; Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 3406 of the Compiled Laws of the State of North Dakota for the year 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 3406. The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means, except as otherwise specifically provided. When he has notice of the dead body of a person supposed to have died by unlawful means found or being in his county he shall summon the sheriff or a police officer or the states attorney to accompany him, and he shall be required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors,

having the qualifications of jurors of the county, to appear before the coroner at the time and place named in the warrant.

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

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

Approved March 7, 1941.

CHAPTER 126

H. B. No. 89—(Mollet, Rohde, Olson of Barnes and Olson of Bowman)

PERMIT BOARD OF COUNTY COMMISSIONERS TO EXCHANGE LANDS

An Act to Permit the Board of County Commissioners of any County to Exchange its Lands Acquired by Tax Deed for Other Lands in the Same County when Deemed to be for the Best Interests of the County.

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

§ 1. BOARD OF COUNTY COMMISSIONERS PERMITTED TO EXCHANGE LANDS.] That the Board of County Commissioners of any County in this State be, and they are hereby authorized to exchange any lands, the title to which has been acquired by tax deed proceedings, for any other lands in the same county, when it is deemed advisable or for the best interests of the county that such exchange be made, upon publication by the Board of County Commissioners of notices of the proposed exchange, to be published six, four and two weeks prior to the date of the proposed exchange, in the official newspaper of the county in which the lands are located, which said notice shall give the legal description of the lands to be exchanged, and the names of the owners thereof of the respective lands, and the decision of the said Board to exchange said lands may be appealed from as now provided by law; provided, however, that the Board of County Commissioners shall not be authorized or permitted to acquire title to any land through exchange for it of other property, unless the county shall receive full value in such exchange, and unless the land so acquired shall be free and clear of all liens and encumbrances, and provided further that in making an exchange for other lands, the Board of County Commissioners shall not be permitted to pay out or expend any funds or money belonging to the County, except the expenses incurred in the publications as herein provided.

§ 2. TRANSFER BY DEED.] That upon the making of an exchange of said lands, for other lands in the county, the Board of County Commissioners and County Auditor are hereby authorized to give a deed in the usual form, transferring all the right, title and interest of the county in or to such lands held through tax deed proceedings, to the party or parties from whom they receive other lands in exchange therefor, and they are hereby authorized to receive a deed from such other parties to their county, conveying to the county the title to such lands as they acquire through such exchange.

§ 3. This Act shall become effective January 1, 1942.

Approved February 21, 1941.

CHAPTER 127

H. B. No. 91—(Semerad, Mollett)

COUNTY COMMISSIONERS MAY ACT AS LEASING AND COLLECTING AGENTS

An Act to Amend and Re-enact Section 3 of Chapter 237, Laws of 1939 and Providing that County Commissioners may Act as Leasing and Collection Agents for the County.

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

§ 1. Section 3, Chapter 237, Laws 1939 is hereby amended and re-enacted to read as follows:

§ 3. Said County Commissioners shall not expend more than ten per cent (10%) of the total revenue collected from all such leases to defray any and all costs in connection with the supervision and collection of rentals. Provided the County Commissioners may authorize one or more members of that board to attend to the leasing, handling or collection of rentals in connection with such lands in the whole or part of their county, or the board of county commissioners may employ a competent and experienced person to manage, lease and collect rentals for all lands owned by the county, who shall be known as the County Land Agent and shall be bonded by the State Bonding Fund in such amount as the Board of County Commissioners shall determine to secure the faithful discharge of his official duties; that such agent shall deposit all rentals and fees collected by him with the County Treasurer and take his receipt therefor. The County Commissioners shall fix the compensation and limit the expense which such agent may incur in managing, leasing and collecting such rentals and which compensation and expenses shall not exceed 10% of the total revenue collected by such agent and shall be paid out of the revenue derived from the rentals of county

lands. Provided that any County Commissioner doing any such work shall receive a per diem of not to exceed three dollars (\$3.00) per day and mileage not to exceed five cents (5c) per mile for each mile necessarily traveled in connection therewith. And that any County Commissioner shall not receive such per diem and mileage as leasing agent during any day in which he makes a charge as County Commissioner and that services rendered as such leasing agent shall be considered entirely separate and apart from his duties or services as county commissioner.

Approved March 13, 1941.

CHAPTER 128

H. B. No. 223—(Twichell, Saumur, Blair & Crockett)

DESTRUCTION OF OLD COUNTY RECORDS

An Act Authorizing and directing County Auditors to destroy certain old, no longer of use, and obsolete books, blanks, forms, and Records of their Offices and Repealing all Acts or Parts of Acts in Conflict Therewith and Declaring an Emergency.

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

§ 1. That the County Auditors of their respective counties be, and they are hereby authorized and directed to destroy by burning, all election poll books, election registration books, petitions of candidates and all other election forms, blanks, books and records of every kind and description except abstract of votes; also all assessment slips, crop statistic books, hail insurance books, hail insurance applications and withdrawals, collection sheets for writing up tax collections, tax certificates that have been paid or redeemed, tax levy blanks of school districts, townships, villages and cities, tax receipts and township and village board of review records and school district posting books, provided, that none of the record books, forms or blanks above referred to, shall be destroyed until they are ten years old. Authorization and direction is also hereby given for the destruction of all tax certificates that have been paid or redeemed prior to the year 1929.

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

§ 3. EMERGENCY.] Whereas the vaults of County Auditors in many counties are inadequate now to care for the current records and these old records, and many of the County Auditors are facing the necessity of purchasing new filing equipment and arranging for new storage space, the above and foregoing act is hereby declared

to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 17, 1941.

CHAPTER 129

S. B. No. 109—(Wog and Raschko)

COUNTIES, DISORGANIZATION OF BY PETITION AND ELECTION

An Act to Authorize the disorganization of counties by petition and election; and for the elimination of county officers and the termination of their terms of office; and for the attachment to an organized county for judicial and administrative purposes; and providing for the duties of the officers of the organized county to which attached, including the powers and limitations to tax; to maintain separate records, to act as trustee, collect the revenue and to disburse the expenses for the operation of the unorganized county; and for the repeal of acts in conflict herewith.

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

§ 1. Whenever twenty per cent (20%) of the electors of any county of this State, having a population of less than four thousand (4,000) according to the last preceding official State or Federal census or thereafter, as determined by the vote cast for the office of Governor at the last preceding election of State officers, shall so petition the Board of County Commissioners of such county, it shall be the duty of said board to submit to the electors of the county the question of the disorganization of such county. If the said board is so petitioned more than ninety (90) days prior to the next State-wide election, it shall submit the question at such State-wide election; otherwise it shall be submitted at the State-wide election next following.

§ 2. Such petition shall be filed with the county auditor of such county, who shall then note thereon the date of filing, and shall forthwith and not later than ten (10) days thereafter, send a written notice thereof by registered mail to the State Examiner.

§ 3. Within thirty (30) days of the receipt of registered notice as provided in Section 2, the State Examiner shall make and complete an audit for the finances of the petitioning county and file an original and duplicate copy thereof with the county auditor of said county. Such audit shall contain: (1) a statement of the taxable value of all taxable property in the county as of the last annual assessment, as equalized by the State Board of Equalization; (2) a statement as of the date of the filing of the petition showing all the

assets and the liabilities of the county, and any assets available for the retirement of any of said liabilities; and (3) a statement for the last preceding completed fiscal year, showing the budget adopted, the amount of tax levied, the amount and source of revenue receipts derived, the expenditures made and obligations incurred, for each fund and purpose; and (4) a statement containing such additional information as in his judgment is necessary to an understanding of the true financial condition of the said county.

§ 4. Notice of the election shall be given as is provided by law, and in addition thereto, it shall state that the proposition to be voted upon will be: "Shall the county (name of county) be disorganized and become an unorganized county?" Such notice shall also state that the State Examiner's audit is on file in the county auditor's office.

§ 5. The ballots in such election shall be in substantially the following form, to-wit:

Shall the county of (naming the county) be disorganized and become an unorganized county?

Yes-----
No -----

§ 6. The votes polled upon the question of disorganizing the county shall be canvassed and returned in the manner provided by law for other votes polled at the same election. Within ten (10) days after the filing of the findings and certificates of the canvassing board on the question of disorganization, the county auditor shall send a correct and duly certified abstract of the votes polled to the Secretary of State, and if 55% or more of all the legal votes cast in the county is in favor of disorganization, the Secretary of State shall forthwith notify the Governor and the Governor shall without delay issue his proclamation announcing and declaring the result of the election, and on and after January first after the date of such proclamation, the county shall be an unorganized county.

§ 7. After the result of such election is proclaimed, but not before December 15 nor later than December 31, following, the Governor, by proclamation, shall designate an adjoining organized county to which the unorganized county shall be attached for the purposes hereinafter stated and which shall become effective on January 1 following. Provided, however, that if before such December 15, the county commissioners of the unorganized county shall, by resolution, designate the organized county to which the unorganized county desires to be attached, and if such organized county shall also before such date, by resolution, agree to such attachment, the Governor, shall, by proclamation, declare that the unorganized county is attached to such organized county, effective January 1, following.

§ 8. Whenever a county becomes an unorganized county, it

shall be attached to an adjoining organized county, pursuant to the aforesaid Governor's proclamations for all judicial, record, and taxing purposes, and for all purposes, of, or connected with, county government; and to that end, the officers and employees of said adjoining organized county, including the board of county commissioners, the judge of the county court, the county superintendent of schools, and all other officers and employees, shall possess the same powers and jurisdiction with respect to, and within such unorganized county, as they possess with respect to, and within their own county, except as such powers are limited by this act. Provided, however, that each elected officer of the organized county shall, for the services so to be rendered, receive from the unorganized county the sum of \$30 per annum for each one thousand (1,000) in population, or major fraction thereof, of the unorganized county. The unorganized county shall be in the same judicial district as the organized county to which it is attached.

§ 9. All appointive positions in the service of the county, and the offices of justice of the peace, judge of the county court, and county superintendent of schools and other elected county officers shall be deemed to be county officers for the purposes of this section. All county offices of organized counties shall be deemed to be, and are hereby declared to be, abolished when such counties become unorganized counties; provided that payments equivalent to the salaries and other compensations customarily paid to the holders of such offices shall be paid to them until such time as their successors would, except for the abolition of the offices, have qualified and succeeded to their duties. Anyone re-elected to any office shall also be deemed a successor to such office. If any such officeholders possess an indefinite term of office, such payments shall not continue beyond one month after such county becomes an unorganized county. In the event that any person is duly elected to a county office that is abolished before the commencement of the term of office for which he was elected, he shall receive a payment equivalent in amount to one month's salary of the office to which he was elected.

§ 10. Within fifteen (15) days following the Governor's proclamation provided in Section 7 herein as aforesaid, the county officers of the county to be disorganized, including the judge of the county court, justices of the peace, and the county superintendent of schools, shall remove all files, records, books, papers, equipment, fixtures, furniture, and other personal property, to the courthouse of the adjoining organized county designated in the aforesaid Governor's proclamation; provided that if the absence of any of such items from the courthouse of said adjoining organized county would not inconvenience the public, such items shall be disposed of by the said county officers as directed by the board of county commissioners of such adjoining organized county. During the said fifteen day period, all moneys and property of whatsoever nature shall be de-

livered to the custody of the proper officers of said adjoining organized county. Title to all files, records, books, papers, equipment, fixtures, furniture, other personal property, moneys, and other property possessed by the unorganized county upon the date of its disorganization, or thereafter acquired by it, or in its name, shall be vested in the said adjoining organized county as trustee for the said unorganized county, with the right to use the same for the benefit of the unorganized county in the same manner provided by law for organized counties. Separate accounts and books shall be maintained for the moneys and properties held in trust, and for the moneys and properties of the said adjoining organized county.

§ 11. All actions or suits of every nature that have been filed or are pending in any of the courts of the unorganized county on January first following the Governor's proclamation, aforesaid, or that may thereafter arise or be instituted, shall be transferred, brought and tried in the courts of the adjoining organized county to which the unorganized county is attached. Any actions pending in any county justice court in the unorganized county shall be transferred to and tried before the justice of the peace in such adjoining organized county whose office is located nearest to the courthouse of said unorganized county. All official and judicial notices relating to matters within such unorganized county shall be posted, according to law for organized counties, within such unorganized county, and published notices shall be published in a newspaper within the unorganized county, if there be one, otherwise to be published in the official newspaper of the organized county to which the unorganized county is attached.

§ 12. The adjoining organized county to which the unorganized county is attached shall levy sufficient taxes within such unorganized county in the same manner provided by law for the levy of taxes in organized counties and subject to the limitations therein imposed, to pay the unorganized county's debt, and the cost of such public services as shall be necessary to supply in such unorganized county. Nothing in this act shall be construed to impose any financial obligations or burden upon an organized county by reason of the attachment of an unorganized county to it, but all expenses incidental thereto shall be charged to such unorganized county. All moneys, funds, revenues, property and all benefits that shall accrue from any source whatever to the unorganized county before or after disorganization shall be held by such organized county as trustee, as aforesaid, and expended only for the benefit of the unorganized county. And all funds of the disorganized county shall be kept separate and apart from any funds of the organized county to which it is attached. The officers and employees of the organized county to which the disorganized county is attached shall be automatically bonded in the State Bonding Fund as provided by law, for the benefit of the disorganized county in an amount for which the corresponding officers

of the disorganized county would be required by law to be bonded if the county were not disorganized. The premium for such bonds shall be charged against the disorganized county. The condition of such bond shall be that such officer or employee as principal shall faithfully and impartially discharge and perform the duties of his said office or employment relating to said disorganized county, including such duties as are or may be imposed upon him by law, and shall render a true account of all moneys and property of every kind that shall come into his hands as such officer or employee and pay over and deliver the same according to law.

§ 13. The unorganized county shall continue and remain in the same legislative district it is in at the time of disorganization and shall have the same representation.

§ 14. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 15. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1941.

CHAPTER 130

S. B. No. 206—(Delayed Bills Committee)

COUNTY CONSOLIDATED OFFICE FORM OF GOVERNMENT

An Act Providing for an Optional Form of County Government to be known as the "County Consolidated Office Form", prescribing the procedure for the adoption thereof, and defining the powers and duties of the County Officers provided for thereunder.

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

§ 1. Any county in the state is hereby authorized to adopt a form of government as herein defined and in accordance with the procedure herein set forth, which shall be known as the "County Consolidated Office Form."

§ 2. (a) Upon a petition filed with the County Auditor, signed by qualified electors of the county equal to forty per cent of the total number of votes cast for Governor at the last general election in said county, asking that an election be held on the question of adoption of the County Consolidated Office Form of government, it shall be the duty of the Board of County Commissioners to submit the question at the next regular primary or general election. The

question submitted shall be worded in the following form "Shall the County Consolidated Office Form of Government be adopted by ----- County"?

(b) It shall be the duty of the County Auditor to publish a notice once each week for four successive weeks, prior to the election at which said question is submitted, which notice shall be published in the official County paper and shall contain the question to be voted upon and the statement that such question will be submitted to the electors at the election designated therein, for approval or rejection by the electors. In all other respects the election upon such question shall be held and conducted, and the votes thereon canvassed and returned in manner provided by law for the election of county officers at a general election.

(c) If 55 per cent of the votes cast on the question at the election at which such question was submitted to the electors, shall be in favor of the County Consolidated Office Form of government, it shall go into effect on the first day of January next succeeding such election; provided, that no elected officer then in office whose office will no longer be elective, shall be retired prior to the expiration of the term of his office.

§ 3. Each county which has adopted the County Consolidated Office Form of government, shall have, in addition to a Board of County Commissioners now provided for by law, the following officers: one county auditor who shall be ex-officio county judge, ex-officio register of deeds and ex-officio clerk of the district court; one state's attorney, one sheriff, one county treasurer, one county superintendent of schools, one coroner, four justices of the peace and four constables. Each of such county officers, except the Board of County Commissioners, shall be appointed by the Board of County Commissioners at the time and in the manner herein provided, and shall hold office for a term of four years, except as herein otherwise provided, and until their successors are duly appointed and qualified; provided, that the sheriff and treasurer shall not hold office for more than four years in succession; and provided, further, that the Board of County Commissioners may, in their discretion, appoint the sheriff, the state's attorney and the county superintendent of schools, or any one or more of such officers, of any adjoining county, as the sheriff, state's attorney, and county superintendent of schools of such county. Any officer of an adjoining county who serves in an office to which he has been appointed pursuant to the provisions of this Act, shall serve for a term of two years and until his successor is duly appointed and qualified. Any sheriff, state's attorney or county superintendent of schools so appointed, shall be eligible to serve in such dual capacity, and shall receive the additional compensation therefor as provided in this Act. The County Commissioners shall be elected in the manner prescribed in Section 3257, Compiled Laws for 1913. Any county officer appointed hereunder shall be liable to

suspension and removal by the Governor or by judicial proceedings in the manner provided by law. The offices of Public Administrator and County Surveyor are abolished under this form of government.

§ 4. On or before the 15th day of January in the year in which such County Consolidated Office Form of government goes into effect, the Board of County Commissioners shall appoint a sheriff, state's attorney, county superintendent of schools, a coroner, four justices of the peace and four constables, who shall qualify within ten days thereafter; and not less than ten days prior to April 1, such board shall appoint a county auditor who shall qualify within ten days thereafter; and, not less than ten days prior to May 1 of such year, such board shall appoint a county treasurer who shall qualify within ten days thereafter, and such appointments shall thereafter be made each four years within ten days prior to the expiration of the term of such officers, provided that the failure of the board to make any such appointment within the time prescribed herein, shall not impair its power to subsequently make such appointment to be effective for the remainder of the term of the officer appointed. The incumbent County Judge, Register of Deeds and Clerk of the District Court shall continue in office until succeeded by the county auditor appointed pursuant to the provisions of this Act. Any vacancy resulting from any cause shall be filled by the Board of County Commissioners.

§ 5. Each county officer appointed pursuant to the provisions of this Act shall receive, as compensation for his services, the salary prescribed by law for such officer, except that the county auditor shall receive a salary not exceeding \$3000.00 per annum, to be fixed by the Board of County Commissioners, and the county treasurer shall receive a salary not exceeding the amount provided by law for the office of county treasurer, to be fixed by the Board of County Commissioners. In case the sheriff, state's attorney or county superintendent of schools of an adjoining county is appointed and such officer qualifies and serves in a dual capacity, he shall receive, in addition to his salary as an officer of the county of his residence, a sum not exceeding one-half of such salary, to be fixed by the Board of County Commissioner(s), which additional salary shall be paid by the county in the same manner as other county officers are paid.

§ 6. The county auditor shall, in addition to the duties and powers conferred by law on the auditor, perform the duties and functions and exercise the powers conferred by law on the register of deeds, clerk of the district court and county judge, respectively. He shall be the chief administrative officer of the county. He shall have the power, subject to the approval of the County Commissioners, to appoint a deputy auditor, a deputy register of deeds, a deputy clerk of the district court and a clerk of the county court, whose compensation shall be fixed by the Board of County Commissioners; provided, that the same person may be appointed to serve

as such deputy in two or more of such offices. He may also, subject to the approval of the Board of County Commissioners, employ such clerks, stenographers and other county employees as may be required to properly perform the duties of the several offices under his direction, whose compensation shall be fixed by the Board of County Commissioners. Any deputy appointed or person employed pursuant to this Act shall serve at the pleasure of the county auditor and may be appointed or employed to serve on a part time basis.

§ 7. The sheriff, state's attorney, county superintendent of schools, coroner, justices of the peace and constables appointed pursuant to the provisions of this Act, shall perform the duties and exercise the powers conferred by law upon such officials.

§ 8. The Board of County Commissioners shall exercise such powers and perform such duties as provided by law, except as otherwise specifically modified or enlarged by this Act; and, in addition, it shall have the power to delegate to the county auditor such duties of an administrative or executive nature as are not specifically conferred by law upon other officers, which delegated duties shall be exercised by the county auditor under the supervision of the Board of County Commissioners.

Approved March 15, 1941.

CHAPTER 131

H. B. No. 218—(Committee on State Affairs)

COUNTY MANAGER FORM OF GOVERNMENT

An Act Providing for an Optional Form of County Government to be known as the County Manager Form, and declaring an emergency.

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

§ 1. PLAN OPTIONAL.] Any county in the state is hereby authorized to adopt a form of government, as herein defined, and in accordance with the procedure herein specified, which shall be known as the County Manager Form.

§ 2. METHOD OF ADOPTION.] (a) Upon a petition, filed with the county auditor, signed by not less than 35% of the total number of voters of the county who voted for Governor at the last general election, asking that a referendum be held on the question of adopting the County Manager Form of government, it shall be the duty of the election officials to submit the question at the next primary or general election. The question submitted shall be worded: "Shall the County Manager Form of government be adopted in -----"

County?" In lieu of the petition, a resolution may be passed by a majority vote of the full board of county commissioners and filed with the county auditor asking for a referendum, in which case the election official shall proceed as in the case of a petition.

(b) It shall be the duty of the county auditor to publish a notice of the referendum once each week for four consecutive weeks, in the official county paper.

(c) If 55% of the votes cast on the question at the election shall be in favor of the County Manager Form of government, it shall go into effect at a date designated in the petition or resolution; provided, however, such date shall not be less than thirty days after the date of the election. Provided, that no elected official then in office, whose position will no longer be filled by popular election, shall be retired prior to the expiration of his term of office.

§ 3. The powers of a county as a body politic and corporate shall be vested in a board of county commissioners and exercised in the manner provided in this act.

§ 4. POWERS AND DUTIES OF THE COUNTY BOARD.] (a) The board of county commissioners (hereinafter called the county board) shall be the policy-determining body of the county, and except as otherwise provided by law, shall be vested with all the powers of the county, including power to levy taxes and to appropriate funds.

(b) The county board is vested with full power to inquire into the official conduct of any officer or office under its control and to investigate the accounts, disbursements, bills and receipts of any county officer, and for these purposes may subpoena witnesses, administer oath, and require the production of books, papers and other evidence; and in case any witness fails or refuses to obey any such lawful order of the county board, he shall be deemed guilty of a misdemeanor.

(c) The county board shall have the power to preserve order in its sessions and for this purpose may enforce obedience by fines not exceeding five dollars, or by imprisonment in the county jail for a period not exceeding twenty-four hours.

(d) All officers of the county shall be on a salary basis and require all fees to be accounted for and paid into the county treasury.

(e) Whenever in any county adopting this act it is not clear what officer provided for thereby or under the authority thereof shall exercise any power or perform any duty conferred upon or required of the county, or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer of the county designated by ordinance or resolution of the county board.

§ 5. COUNTY BOARD NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS.] Neither the county board nor any of its committees or

members shall direct or request the appointment of any person to, or his removal from, office by the county manager of any of his subordinates, or in any manner take part in the appointment or removal of officers or employees in the administrative service of the county. Except for the purpose of inquiry or in emergencies, the county board and its members shall deal with that portion of the administrative service over which the manager is responsible solely through the manager, and neither the county board nor any member thereof shall give orders to any subordinate of the county, either publicly or privately. Any violation of the provisions of this section by a member of the county board shall be a misdemeanor, conviction of which shall immediately result in the forfeiture of his office by the member so convicted.

§ 6. APPOINTMENT OF MANAGER.] (a) The county board shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government, and shall devote his full time to this work. He shall be appointed with regard to merit only, and he need not be a resident of the county at the time of his appointment. No member of the county board, shall, during the time for which elected, be chosen manager, nor shall the managerial powers be given to a person who at the same time is filling an elective office.

(b) The manager shall not be appointed for a definite tenure, but shall be removable at the pleasure of the county board. In case the county board determines to remove the manager, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the county board prior to the date on which his final removal shall take effect, but pending and during such hearing the county board may suspend him from office, provided that the period of suspension shall be limited to thirty days. The action of the board in suspending or removing the manager shall not be subject to review. In case of the absence or disability of the manager the county board may designate some responsible person to perform the duties of the office.

§ 7. APPOINTMENT OF SUBORDINATES.] The manager shall be responsible to the county board for the proper administration of all the affairs of the county which the board has authority to control. To that end he shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this act, and except as he may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform. All such appointments shall be without definite terms unless for temporary service not to exceed sixty days.

§ 8. REMOVAL OF OFFICERS OR EMPLOYEES.] Any officer or

employee of the county appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or the officer by him appointed.

§ 9. RIGHT TO ATTEND COUNTY BOARD MEETINGS.] The manager, the directors of all departments, and all other officers of the county shall be entitled to be present at all sessions of the county board. The manager shall have the right to present his views on all matters coming before the board and the directors and other officers shall be entitled to present their views relating to their respective departments or offices. This right shall apply to all officers of the county whether elective or appointive.

§ 10. POWERS AND DUTIES OF THE COUNTY MANAGER.] (a) As the administrative head of the county government for the county board, the manager shall supervise the collection of all revenues, guard adequately all expenditures, secure proper accounting for all funds, look after the physical property of the county, exercise general supervision over all county institutions and agencies, and, with the approval of the county board, co-ordinate the various activities of the county and unify the management of its affairs.

(b) He shall execute and enforce all resolutions and orders of the county board, and see that all laws of the state required to be enforced through the county board or other county officers subject to its control are faithfully executed.

(c) He shall attend all meetings of the county board and recommend such actions as he may deem expedient.

(d) He shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this act.

(e) He shall fix, with the approval of the county board, the compensation of all officers both elective and appointive and employees whom he or a subordinate appoints.

(f) He may remove such officers, agents and employees as he may appoint and he shall report every appointment or removal to the next meeting of the county board.

(g) He shall prepare and submit the annual budget and execute the budget in accordance with the resolutions and appropriations made by the county board.

(h) He shall make regular monthly reports to the county board in regard to matters of administration, and keep the board fully advised as to the financial condition of the county.

(i) He shall examine regularly the books and papers of every officer and department of the county and report to the county board the condition in which he finds them. He may order an audit of any office at any time.

(j) He shall perform such other duties as may be required of him by the county board.

§ 11. ADMINISTRATIVE ACTIVITIES.] (a) The county manager shall be responsible to the county board for the administration of the following activities: (1) all duties now or hereafter imposed by general law on the county auditor in the matter of assessment of property for taxation and the preparation of the tax rolls; (2) the collection of the taxes, license fees, and other revenues of the county and its subdivisions; (3) the custody and accounting of all public funds belonging to or handled by the county; (4) the purchase of all supplies for the county except those specifically excepted in this act; (5) the care of all county buildings; (6) the care and custody of all the personal property of the county; (7) the recording of deeds, mortgages and other instruments, and the entry and preservation of such other public records as the law requires; (8) the construction and maintenance of county highways and bridges; (9) such relief and welfare activities as are by general law made county functions; (10) public health work and the operation of the county hospitals; (11) such other activities of the county as are not specifically assigned to some other officer or agency by this act or by laws of the state subsequently enacted.

(b) These activities shall be distributed among the departments hereinafter described. There shall be a department of finance, a department of public works, and a department of public welfare; and the county board may, upon recommendation of the county manager, establish additional departments. Any activity which is unassigned by this act shall be assigned by the county board to an appropriate department, and any activity so assigned may, upon the recommendation of the county manager, be transferred by the board to another department.

(c) The manager shall appoint a director for each department provided for or authorized by this section, and he may, with the consent of the county board, act as the director of one or more departments himself or appoint one director for two or more departments. The subordinate officers and employees of each department shall be appointed or employed by the manager, unless he chooses to delegate this power in particular instances to a subordinate officer.

(d) The manager shall have power to employ persons on a part-time basis and may transfer personnel between the different departments.

§ 12. COMPENSATION ESTABLISHED BY COUNTY BOARD.] The county manager shall establish a schedule of compensation for officers and employees which shall provide uniform compensation for like service. Such schedule of compensation may establish a minimum and maximum for any class, and an increase in compensation, within the limits provided by any class, may be granted at any time by the county manager or other appointing authority upon the basis of efficiency and seniority records.

§ 13. PREPARATION AND SUBMISSION OF THE BUDGET.] On or

before the 6th day of July of each year the manager shall prepare and submit to the county board a budget presenting a financial plan for conducting the affairs of the county for the ensuing year. The budget shall be set up in the manner prescribed by general statute and shall be published prior to the date of the adoption by the county board. Published notices and hearings shall be in accordance with the general statutes.

§ 14. DEPARTMENT OF FINANCE.] (a) The director of finance shall have charge of the administration of the financial affairs of the county, including the budget; the assessment of property for taxation; the collection of taxes, license fees, and other revenues, the custody of all public funds belonging to or handled by the county; control over the expenditures of the county; the disbursement of county funds; the purchase, storage and distribution of all supplies, materials, equipment and contractual services needed by any department, office, or other using agency of the county; the keeping and supervision of all accounts; and such other duties as the county board may by ordinance or resolution require.

(b) No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance or resolution legally enacted supplement thereto. Accounts shall be kept for each item of appropriation made by the county board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligations entailed by contract, agreement or order.

(c) The director of finance shall have such duties in connection with assessments of property as are now or may hereafter be imposed on county auditors by general statute.

(d) The director of finance shall either act as tax collector and county treasurer or shall appoint and have supervision over these officials; provided, that in lieu of the appointment of a treasurer the county board may select and designate annually, by ordinance or recorded resolution, some bank or banks or trust company as an official treasury for the funds of the county. All moneys received by any officer or employee of the county for or in connection with the business of the county shall be paid promptly into the hands of the county treasurer or the bank or trust company acting as county treasury. Any bank serving as depository for county funds shall be subject to such requirements as to security therefor and the interest thereon as provided by general statutes for public depositories. All interest on money so deposited shall accrue to the benefit of the county.

(e) The director of finance shall be charged with the keeping of all general books of financial and budgetary control for all depart-

ments and offices of the county. Report shall be made to him daily, or as often as he may require, showing the receipt of all moneys and disposition thereof. He shall submit to the county board through the manager each month a summary statement of revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the county and of each department and division thereof. He shall submit once a year, or more often if the county board requires it, a complete financial statement showing the assets and liabilities of the county.

(f) The county board shall require an annual audit of the books of every county officer who handles public funds, to be made by an accountant who is not a regular officer or employee, and who is thoroughly qualified by training and experience. If the state provides an auditing service, whether at the expense of the state or the county, such audit may be considered as having satisfied the requirement of this section.

Either the county board or the manager may at any time order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal or expiration of the term of any officer of the county, the director of finances shall cause an audit and investigation of the accounts of such officer to be made and shall report the results thereof to the manager and the county board. In case of the death, resignation or removal of the director of finance, the county board shall cause an audit to be made of his accounts. If, as a result of such audit, an officer be found indebted to the county, the county board shall proceed forthwith to collect such indebtedness.

(g) The director of finance shall either act as purchasing agent or shall appoint and have supervision over this official. The purchasing agent shall make all purchases for the county in the manner, and with such exceptions, as may be provided by resolution of the county board. He shall have authority to make transfers of supplies, materials and equipment between departments and offices, to sell any surplus supplies, materials or equipment, and to make such other sales as may be authorized by the county board. He shall also have power, with the approval of the county board, to establish suitable specifications or standards for all supplies, materials and equipment to be purchased for the county, and to inspect all deliveries to determine their compliance with such specifications and standards. He shall have charge of such storerooms and warehouses of the county as the county board may provide.

Before making any purchase or sale, the purchasing agent shall invite competitive bidding under such rules and regulations as the county board may by ordinance or resolution establish. The purchasing agent shall not furnish any supplies, materials, equipment or contractual services to any department or office except upon receipt of properly approved requisition and unless there be an unencumbered appropriation balance sufficient to pay for the same.

§ 15. DEPARTMENT OF PUBLIC WORKS.] The director of public works shall have charge of the construction and maintenance of county roads and bridges, county drains, and all other public works; the construction and care of public buildings, storerooms and warehouses, and such equipment and supplies as the county board may authorize; and shall perform such other duties as the county board may prescribe.

§ 16. DEPARTMENT OF PUBLIC WELFARE.] The director of public welfare shall have charge of the relief and welfare activities now or hereafter imposed upon counties by general statute, hospitals, charitable and correctional institutions, parks and playgrounds, and public health; and shall perform such other duties as the county board may prescribe.

§ 17. COUNTY OFFICERS, DUTIES AND FUNCTIONS.] The duties and powers of county officers and the transfer of functions in counties adopting the County Manager Form of Government, except as otherwise provided in this act, shall be as follows:

(a) States Attorney.] The county manager may employ a county attorney, endorsed by the county board, to serve as legal adviser to the county board and to himself, to act as counsel for the county in any suit instituted by or against the county, to perform such other duties as may be prescribed by the county board and as may be required to be performed by state's attorneys.

(b) Sheriff.] There shall be elected in the county a sheriff, in the manner and method prescribed by general statutes. Except as otherwise provided herein, he shall perform the duties and be subject to the restrictions contained in general statutes.

(c) Auditor.] Except as provided herein, the functions now or hereinafter imposed by general statutes on county auditors shall be performed by the director of finance.

(d) Treasurer.] Except as herein otherwise provided, the functions now or hereafter imposed by general statutes on county treasurers shall be performed by or under the direction of the director of finance.

(e) Register of Deeds.] Except as herein otherwise provided, the functions now or hereafter imposed on registers of deeds shall be performed by or under the direction of the director of finance.

(f) Clerk of the District Court.] Except as herein otherwise provided, the functions now or hereafter imposed on the clerk of the district court shall be performed by the county judge.

(g) County Judge.] The county judge shall be elected biennially in the manner and method now or hereafter prescribed by general statute. He shall perform the functions now or hereafter imposed on this office by general statute.

(h) County Superintendent of Schools.] The county super-

intendent of schools shall be elected biennially in the manner now or hereafter prescribed by general statute. He shall perform the functions now or hereafter prescribed by general statute.

(i) The office of coroner shall be abolished, and the functions now or hereafter imposed on said office shall be performed by the sheriff. In case of conflict or inconsistency between the functions of the coroner and the sheriff, then, in that event, such inconsistent duties or functions now or hereafter imposed on the coroner shall be performed by the county attorney.

(j) Public Administrator.] The office of public administrator shall be abolished. Any functions now or hereafter imposed on the public administrator which may require attention shall be performed by a suitable person appointed by the county judge, who shall receive compensation at the same rate now or hereafter allowed the administrator of an estate.

(k) Surveyor.] The office of county surveyor shall be abolished, and the functions now or hereafter imposed on the surveyor by general statute, except as otherwise specified herein, shall be performed by the director of public works.

(l) County Justices of the Peace.] The offices of county justices of the peace shall be abolished, and the functions now or hereafter imposed on county justices of the peace by general statute, except as herein provided, shall be performed by the county judge.

(m) County Constables.] The office of county constable shall be abolished and the functions now or hereafter imposed on county constables shall be performed by the sheriff.

(n) County Commissioner.] The Board of County Commissioners shall consist of three or five members as is now provided by general statute. County Commissioners holding office at the time this form of government goes into effect shall continue to hold office until the expiration of their term; thereafter, they shall be elected in the manner now or hereafter provided by general statute.

Vacancies in the board of county commissioners shall be filled by the remaining members, the county judge, superintendent of schools and sheriff.

§ 18. BONDING OF OFFICERS.] The County manager shall give bond to the amount of not less than \$10,000. The directors of finance shall give bond to the amount of \$10,000. In case the county manager serves also as director of finance, he shall give bond to the full amounts indicated above. The county board shall have the power to fix bonds in excess of these amounts, and to require bonds of other county officers in their discretion, conditioned on the faithful discharge of their duties and the proper accounting of all funds coming into their possession.

§ 19. CONTRACT INTEREST PROHIBITED.] No member of the county board or other officer or employee of the county, or person

receiving a salary or compensation from funds appropriated by the county, shall be interested directly or indirectly in any contract to which the county is a party, either as principal, surety, or otherwise; nor shall any such officer or employee or his partner, agent, servant or employee or the firm of which he is a member purchase from or sell to the county, any real or personal property, nor shall he be interested, directly or indirectly, in any work or service to be performed for the county or in its behalf. Any contract made in violation of any of these provisions shall be void.

§ 20. ELECTIONS AS TO RETENTION OF THE PLAN.] At any time after said County Manager plan shall have been in force in any county for a period of four years, the county commissioners may, and shall when petitioned by 35% of the legal votes as provided in Section 2 of this Act, ninety days before any primary election, submit the question of whether or not said county manager plan shall be retained at any primary election, and if 55% of the legal votes cast at such primary election shall be against retaining said plan, then said county shall revert to the plan theretofore in force therein and the provisions of this law shall not be applicable thereto save after another compliance with its terms. Provided that when such petition shall have been filed, candidates for all county offices required by the plan theretofore in force may file nominating petitions, and if 55% of the legal votes cast at such primary election shall be against retaining the county manager plan, then the candidates nominated shall be voted upon at the general election and successful candidates elected in accordance with the general election laws. And provided further that said County Manager plan when so rejected by a 55% vote shall cease to be operative on the first Monday of January next succeeding such primary election, and that the terms of office of all officers elected as herein provided shall commence on said first Monday of January.

§ 21. 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 14, 1941.

CHAPTER 132**H. B. No. 270—(State Affairs Committee)****COUNTY MANAGERSHIP, SHORT FORM**

An Act Providing for an Optional Form of County Government to be known as the Short Form of County Managership, and declaring an emergency.

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

§ 1. PLAN OPTIONAL.] Any county in the State is hereby authorized to adopt a form of government, as herein defined, and in accordance with the procedure herein specified, which shall be known as the Short Form of Managership.

§ 2. METHOD OF ADOPTION.]

(a) Upon a petition filed with the county auditor, signed by not less than 35% of the total number of voters of the county who voted for governor at the last general election, asking that a referendum be held on the question of adopting the Short Form of County Managership, it shall be the duty of the election officials to submit the question at the next primary or general election. The question submitted shall be worded "Shall the Short Form of County Managership be adopted in _____County?" In lieu of the petition, a resolution may be passed by a majority vote of the full board of county commissioners and filed with the county auditor asking for a referendum, in which case the election officials shall proceed as in the case of a petition.

(b) It shall be the duty of the county auditor to publish a notice of the referendum once each week for four consecutive weeks, in the official county paper.

(c) If 55% of the votes cast on the question at the election shall be in favor of the Short Form of County Managership, it shall go into effect at a date designated in the petition or resolution; provided, however, such date shall not be less than thirty days after the date of the election. Provided, that no elected official then in office whose position will no longer be filled by popular election shall be retired prior to the expiration of his term of office.

§ 3. The powers of a county as a body politic and corporate shall be vested in a board of county commissioners and exercised in the manner provided in this act.

§ 4. POWERS AND DUTIES OF THE COUNTY BOARD.] (a) The board of county commissioners (hereinafter called the county board) shall be the policy-determining body of the county and except as otherwise provided by law, shall be vested with all the powers of the county, including power to levy taxes and to appropriate funds.

(b) The county board is vested with full power to inquire into the official conduct of any officer or office under its control and to investigate the accounts, disbursements, bills and receipts of any county officer, and for these purposes may subpoena witnesses, administer oaths, and require the production of books, papers and other evidence; and in case any witness fails or refuses to obey any such lawful order of the county board, he shall be deemed guilty of a misdemeanor.

(c) The county board shall have the power to preserve order in its sessions and for this purpose may enforce obedience by fines not exceeding five dollars, or by imprisonment in the county jail for a period not exceeding twenty-four hours.

(d) All officers of the county shall be on a salary basis and require all fees to be accounted for and paid into the county treasury.

(e) Whenever in any county adopting this act it is not clear what officer provided for thereby or under the authority thereof shall exercise any power or perform any duty conferred upon or required of the county or any officer thereof, by general law, then any such power shall be exercised or duty performed by that officer of the county designated by ordinance or resolution of the county board.

§ 5. COUNTY BOARD NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS.] Neither the county board nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the county manager or any of his subordinates, or in any manner take part in the appointment or removal of officers or employees in the administrative service of the county. Except for the purpose of inquiry or in emergencies, the county board and its members shall deal with that portion of the administrative service over which the manager is responsible solely through the manager, and neither the county board or any member shall give orders to any subordinate of the county, either publicly or privately. Any violation of the provisions of this section by a member of the county board shall be a misdemeanor, conviction of which shall immediately result in the forfeiture of his office by the member so convicted.

§ 6. APPOINTMENT OF MANAGER.]

(a) The county board shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government, and shall devote his full time to this work. He shall be appointed with regard to merit only, and he need not be a resident of county at the time of his appointment. No member of the county board, shall during the time for which elected, be chosen manager, nor shall the managerial powers be given to a person who at the same time is filling an elective office.

(b) The manager shall not be appointed for a definite tenure,

but shall be removable at the pleasure of the county board. In case the county board determines to remove the manager, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and a right to a hearing thereon at a public meeting of the county board prior to the date on which his final removal shall take effect, but pending and during such hearing the county board may suspend him from office, provided that the period of suspension shall be limited to thirty days. The action of the board in suspending or removing the manager shall not be subject to review. In case of the absence or disability of the manager the county board may designate some responsible person to perform the duties of the office.

§ 7. APPOINTMENT OF SUBORDINATES.] The manager shall be responsible to the county board for the proper administration of all the affairs of the county which the board has authority to control. To that end he shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this act. All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days.

§ 8. REMOVAL OF OFFICERS OR EMPLOYEES.] An officer or employee of the county appointed by the manager may be laid off, suspended or removed from office or employment by the manager.

§ 9. RIGHT TO ATTEND COUNTY BOARD MEETINGS.] The manager and all other officers of the county shall be entitled to be present at all sessions of the county board. The manager shall have the right to present his views on all matters coming before the board and the other officers shall be entitled to present their views relating to their respective departments or offices. This right shall apply to all officers of the county whether elective or appointive.

§ 10. POWERS AND DUTIES OF THE COUNTY MANAGER.] (a) As the administrative head of the county government for the county board, the manager shall supervise the collection of all revenues, guard adequately all expenditures secure proper accounting for all funds, look after the physical property of the county, exercise general supervision over all county institutions and agencies, and, with the approval of the county board, coordinate the various activities of the county and unify the management of its affairs.

(b) He shall execute and enforce all resolutions and order of the county board, and see that all laws of the state required to be enforced through the county board or other county officers subject to its control are faithfully executed.

(c) He shall attend all meetings of the county board and recommend such actions as he may deem expedient.

(d) He shall appoint all officers and employees in the administrative (administrative) service of the county except as otherwise provided in this act.

(e) He shall fix, with the approval of the county board, the compensation of all officers, both elective and appointive and employees whom he or a subordinate appoints.

(f) He may remove such officers, agents and employees as he may appoint and he shall report every appointment or removal to the next meeting of the county board.

(g) He shall prepare and submit the annual budget and execute the budget in accordance with the resolutions and appropriations made by the county board.

(h) He shall make regular monthly reports to the county board in regard to matters of administration, and keep the board fully advised as to the financial condition of the county.

(i) He shall examine regularly the books and papers of every officer and department of the county and report to the county board the condition in which he finds them. He may order an audit of any office at any time.

(j) He shall perform such other duties as may be required of him by the county board.

§ II. ADMINISTRATIVE ACTIVITIES.]

(a) The county manager shall be responsible to the county board for the administration of the following activities: (1) all duties now or hereafter imposed by general law on the county auditor in the matter of assessment of property for taxation and the preparation of the tax rolls; (2) the collection of taxes, license fees, and other revenues of the county and its subdivisions; (3) the custody and accounting of all public funds belonging to or handled by the county; (4) the purchase of all supplies for the county except those specifically excepted in this act; (5) the care of all county buildings; (6) the care and custody of all the personal property of the county; (7) the recording of deeds, mortgages and other instruments, and the entry and preservation of such other public records as the law requires; (8) the construction and maintenance of county highways and bridges; (9) such relief and welfare activities as are by general law made county functions; (10) public health work and operation of the county hospitals; (11) such other activities of the county as are not specifically assigned to some other officer or agency by this act or by laws of the state subsequently enacted.

(b) The manager shall appoint all officers and employees of the county, except as otherwise provided by this act. He may employ persons on a part time basis, and may transfer employees among the different departments.

§ 12. COMPENSATION ESTABLISHED BY THE MANAGER.] The county manager shall establish a schedule of compensation for officers

and employees which shall provide uniform compensation for like service. Such schedule of compensation may establish a minimum and maximum for any class, and an increase in compensation, within the limits provided by any class, may be granted at any time by the county manager upon the basis of efficiency and seniority records.

§ 13. PREPARATION AND SUBMISSION OF THE BUDGET.] On or before the 6th day of July of each year the manager shall prepare and submit to the county board a budget presenting a financial plan for conducting the affairs of the county for the ensuing year. The budget shall be set up in the manner prescribed by general statutes and shall be published prior to the date of the adoption by the county board. Published notices and hearings shall be in accordance with the general statutes.

§ 14. FINANCES.]

(a) The manager shall have charge of the administration of the financial affairs of the county including the budget; the assessment of property for taxation; the collection of taxes, license fees and other revenues, the custody of all public funds belonging to or handled by the county; control over the expenditures of the county; the disbursement of county funds; the purchase, storage and distribution of all supplies, materials, equipment and contractual services needed by any department, office, or other using agency of the county; the keeping and supervision of all accounts; and such other duties as the county board may by ordinance or resolution require.

(b) No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance or resolution legally enacted supplement thereto. Accounts shall be kept for each item of appropriation made by the county board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligations entailed by contract, agreement or order.

(c) The county manager shall have such duties in connection with the assessment of property as are now or may hereafter be imposed on the county or its officers by general statutes.

(d) The manager shall either act as tax collector and county treasurer or shall appoint and have supervision over these officials; provided, that in lieu of the appointment of a treasurer the county board may select and designate annually by ordinance or recorded resolution, some bank or banks or trust company as an official treasury for the funds of the county. All moneys received by an officer or employee of the county for or in connection with the business of the county shall be paid promptly into the hands of the county treasurer or the bank or trust company acting as county treasurer.

Any bank serving as depository for county funds shall be subject to such requirements as to security therefor and the interest thereon as provided by general statutes (statutes) for public depositories. All interest on money so deposited shall accrue to the benefit of the county.

(e) The manager shall be charged with the keeping of all general books of financial and budgetary control for all departments and offices of the county. Report shall be made to him daily, or as often as he may require, showing the receipt of all moneys and disposition thereof. He shall submit to the county board each month a summary statement of revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the county and of each department and division thereof. He shall submit once a year, or more often if the county board requires it, a complete financial statement showing the assets and liabilities of the county.

(f) The county board shall require an annual audit of the books of every county officer who handles public funds, to be made by an accountant who is not a regular officer or employee, and who is thoroughly qualified by training and experience. If the state provides an auditing service, whether at the expense of the state or the county, such audit may be considered as having satisfied the requirement of this section.

Either county board of (or) the manager may at any time order an examination of audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal or expiration of the term of any officer of the county, the manager shall cause an audit and investigation of the accounts of such officer to be made and shall report the results thereof to the county board. In case of death, resignation or removal of the manager the county board shall cause an audit to be made of his accounts. If, as a result of such audit, an officer be found indebted to the county, the county board shall proceed forthwith to collect such indebtedness.

(g) The manager shall either act as purchasing agent or shall appoint and have supervision over this official. The purchasing agent shall make all purchases for the county in the manner, and with such exceptions, as may be provided by resolution of the county board. He shall have authority to make transfers of supplies, materials and equipment between departments and offices, to sell any surplus supplies, materials or equipment, and to make such other sales as may be authorized by the county board. He shall also have power, with the approval of the county board, to establish suitable specifications or standards for all supplies, materials and equipment to be purchased for the county, and to inspect all deliveries to determine their compliance with such specifications and standards. He shall have charge of such storerooms and warehouses of the county as the county board may provide.

Before making any purchase or sale, the purchasing agent shall invite competitive bidding under such rules and regulations as the county board may by ordinance or resolution establish. The purchasing agent shall not furnish any supplies, materials, equipment or contractual services to any department or office except upon receipt of properly approved requisition and unless there be an unencumbered appropriation balance sufficient to pay the same.

§ 15. PUBLIC WORKS.] The manager shall have charge of the construction and maintenance of county roads and bridges, county drains, and all other public works; the construction and care of public buildings, storerooms and warehouses, and such equipment and supplies as the county board may authorize; and shall perform such other duties in connection therewith as the county board may prescribe.

§ 16. PUBLIC WELFARE.] The manager shall have charge of the relief and welfare activities now or hereafter imposed upon counties by general statutes, hospitals, charitable and correctional institutions, parks and playgrounds, and public health; and shall perform such other duties in connection therewith as the county board may prescribe.

§ 17. COUNTY OFFICERS, DUTIES AND FUNCTIONS.] The duties and powers of county officers and the transfer of functions in counties adopting the Short Form of County Managership, except as otherwise provided in this act, shall be as follows:

(a) State's Attorney.] The county manager may employ a county attorney, endorsed by the county board, to serve as a legal advisor to the county board and to himself, to act as counsel for the county in any suit instituted by or against the county, to perform such other duties as may be required to be performed by state's attorneys. Provided, however, the manager is authorized and empowered, with the approval of the county board, to appoint from time to time, or on an annual basis, the state's attorney of an adjoining county to perform such duties as may be required of a county attorney. The compensation for such services shall be that agreed upon by the state's attorney so appointed, the county manager, and the county commissioners of the two counties affected.

(b) Sheriff.] The county manager shall appoint one or more police officers, whose compensation shall be fixed by the manager with the approval of the county board. Such police officer shall perform all duties relating to the administration of justice, now or hereafter imposed on the sheriff by the general statutes. Provided, however, the county manager may from time to time, or on an annual basis, contract with an adjoining county and its sheriff to obtain the services of such sheriff of such adjoining county. The compensation for such sheriff shall be such as shall be agreed upon by the sheriff, the manager and the commissioners of the two counties affected.

Civil duties now or hereafter imposed on the sheriff by general statutes, shall be performed by or under the direction of the manager.

(c) Auditor.] Except as provided herein, the functions now or hereafter imposed by general statutes on county auditors shall be performed by or under the direction of the county manager.

(d) Treasurer.] Except as herein otherwise provided, the functions now or hereafter imposed by general statutes on county treasurers shall be performed by or under the direction of the county manager.

(e) Register of Deeds.] Except as herein otherwise provided, the functions now or hereafter imposed by general statutes on the register of deeds shall be performed by or under the direction of the county manager.

(f) Clerk of District Court.] Except as herein otherwise provided, the functions now or hereafter imposed by general statutes on the clerk of district court shall be performed by the county judge.

(g) County Judge.] The county judge shall be elected biennially in the manner and method now or hereafter prescribed by general statute. He shall perform the functions now or hereafter imposed on the office by general statutes.

(h) County Superintendent of Schools.] The county superintendent of schools shall be elected biennially in the manner now or hereafter prescribed by general statutes. He shall perform the functions now or hereafter prescribed by general statutes.

(i) Coroner.] The office of coroner shall be abolished, and the functions now or hereafter imposed by general statutes on said office shall be performed by the manager.

(j) Public Administrator.] The office of public administrator shall be abolished, and the functions now or hereafter imposed by general statute on the public administrator by general statute shall be performed by the county manager.

(k) County Surveyor.] The office of county surveyor shall be abolished, and the functions now or hereafter imposed by general statute on the surveyor shall be performed by or under the direction of the county manager.

(l) County Justices of the Peace.] The offices of county justices of the peace shall be abolished, and the functions now or hereafter imposed on county justices of the peace by general statutes shall be performed by the county judge.

(m) County Constables.] The office of county constable shall be abolished and the functions now or hereafter imposed on county constables by general statutes shall be performed by the police officer or officers appointed by the manager or the sheriff of an adjoining county, employed as provided in subdivision (b) of this section.

(n) County Commissioner.] The Board of County Commis-

sioners shall consist of three or five members as is now provided by general statute. County Commissioners holding office at the time this form of government goes into effect shall continue to hold office until the expiration of their term; thereafter, they shall be elected in the manner now or hereafter provided by general statute.

Vacancies in the board of county commissioners shall be filled by the remaining members, the county judge, except in case of tie the county superintendent of schools shall be a member of the appointed board.

§ 18. BONDING OF OFFICERS.] The county manager shall give bond to the amount of not less than \$10,000.00. The county board shall have the power to fix bonds in excess of these amounts, and to require bonds of other county officers in their discretion, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession.

§ 19. CONTRACT INTEREST PROHIBITED.] No member of the county board or other officer or employee of the county, or person receiving a salary or compensation from funds appropriated by the county, shall be interested directly or indirectly in any contract to which the county is a party, either as principal, surety, or otherwise; nor shall any such officer or employee or his partner, agent, servant or employee or the firm of which he is a member purchase from or sell to the county, any real or personal property, nor shall he be interested, directly or indirectly, in any work or service to be performed for the county or in its behalf. Any contract made in violation of any of these provisions shall be void.

§ 20. ELECTION AS TO RETENTION OF THE PLAN.] At any time after said County Manager plan shall have been in force in any county for the period of four years the county commissioners may, and upon petition signed by thirty-five per cent of the legal voters as provided in Section 2 of this Act at a general election or an election to be called for that purpose within thirty days after the filing of the petition, the question of whether or not said county manager plan shall be retained, and if fifty-five per cent of the legal votes cast at such election shall be against retaining said plan, then said county shall revert to the plan therefore in force therein and the provisions of this law shall thereafter not be applicable thereto save after another compliance with its terms; the county commissioners shall fix the date at which the plan shall cease to be operative therein, which shall not be less than three months nor more than six months after the election.

§ 21. 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 14, 1941.

CHAPTER 133

S. B. No. 192—(Committee on Delayed Bills)

**PROVIDING FOR PAYMENT OF JUDGMENTS OBTAINED BY
STATE OR AGENCY AGAINST ANY COUNTY**

An Act Providing for the payment of final judgments obtained by the State or any agency, bureau, department or officer thereof against any county; limiting the amount of tax that can be levied and extended in any one year; creating a special fund therefor and providing for the disbursement of such fund.

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

§ 1. When any final judgment or judgments is or are obtained against any county by the State or any agency, bureau, department or officer thereof, it shall be the mandatory duty of the board of county commissioners, after the filing of a certified copy of such judgment or judgments with the county Auditor, thereafter, at the same meeting at which they levy taxes for general county purposes, to levy an irrevocable tax, in addition to all other taxes levied, upon all of the taxable property in such county in an amount sufficient to pay and discharge such judgment or judgments in full. It shall be the mandatory duty of the county Auditor each year, when he extends the taxes for general county purposes, to extend therewith and in addition thereto sufficient mills upon the tax list against all of the taxable property in the county to pay said judgment or judgments in full in annual installments of not to exceed one mill each year, in not to exceed eight years. The tax authorized to be levied and extended by this act shall not be subject to the tax levy limitation for general county purposes but shall be levied in addition thereto.

All taxes collected from such levies shall be paid into a special fund to be established by the county Treasurer to be known as "Judgment Payment Fund," and shall be used and disbursed only for the purpose of paying any such judgment or judgments as provided under this Act. Whenever there is money in said fund, the county Auditor shall forthwith draw his warrant for the amount thereof in favor of the judgment creditor or creditors or assigns, upon a pro rata basis until said judgment or judgments are paid in full. Any balance remaining in said fund after such judgment or judgments have been paid in full, upon the resolution of the board of county commissioners, shall be transferred to the county general fund.

The property of the county, and of persons owning property situate or liable to taxation therein, shall in no case be subject to judgment lien, nor to seizure or sale upon execution or other process of any court.

Approved March 17, 1941.

CHAPTER 134

H. B. No. 332—(McInnes and Beede—Approved by Committee on Delayed Bills)

LAND USE POLICY, TAX DEED LANDS

An Act Declaring a Land Use Policy Relative to Agricultural Lands Obtained by the County on Tax Deed Proceedings, and Empowering the Board of County Commissioners to Conform to such Policy in the Sale and Lease of Such Lands. Declaring an Emergency.

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

§ 1. That whereas it is extremely important to the State of North Dakota, the counties and the other taxing districts thereof that all agricultural lands be put to the best possible use and, so far as possible, be operated by individuals who reside thereon or are actively engaged in the operation of such lands and in units of a size which may be efficiently managed and operated; and

WHEREAS, at the present time many of such agricultural lands held by the counties under tax deed proceedings are being purchased by individuals who cannot make efficient use of such lands and, in some instances, by those who do not expect to complete purchase contracts from the county thereon but to use the same as long as possible without further consideration than the initial down payment; and

WHEREAS, some purchasers of such lands are putting them to uses which may result in the serious or total damage of such lands and lands adjoining the same; it is

THEREFORE declared to be the public policy of this State relative to such agricultural lands that the same shall, so far as possible, be sold to such persons and to complete such units as will avoid the said abuses and preserve the interests of the State, county and other taxing districts by placing the land, so far as possible, in individuals who will make good and efficient use thereof and to continue to pay taxes thereon without the necessity of recurrent tax sale proceedings relative thereto.

§ 2. The county commissioners of each county are, therefore, hereby empowered, in the sale or lease of agricultural lands held by the county under tax deed proceedings, to put into effect the foregoing public policy by refusing to sell or lease in any manner such agricultural lands where in their discretion the person applying for such sale or lease will, (a) seriously impair the fertility of such tract or adjoining lands by use thereof which will result in wind or water erosion, etc., or (b) such lands by such sale or lease will become a part of an agricultural unit which will be too small or too large to be operated in conformance with the best interests of the community and taxing districts and therefore is apt to result in failure of the

owner or lessee to pay taxes upon the said land, or (c) where the sale of such lands so held by the county would result in lessening the value or marketability of adjacent tracts of such lands held by the county at such time.

§ 3. The county commissioners are further empowered to classify agricultural lands held by them so as to determine which tracts are properly usable for tillage and which tracts are usable only for haying or grazing purposes.

§ 4. To assist in the effectiveness of Section 2 hereof applicants for deeds or leases upon county agricultural lands may file with the county auditor, before the time set for sale or leasing of such county agricultural tax lands, a statement in such form as may be prescribed by the county commissioners, giving information as to the size of the farming unit for which such lands are applied, the uses intended therefor, and such other information relative to the planned operation of such lands as the county commissioners may reasonably deem necessary for the information of such board.

§ 5. This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 17, 1941.

CHAPTER 135

S. B. No. 208—(Committee on Delayed Bills)

AUTHORIZING COUNTIES TO MAINTAIN ACTIONS IN CLAIMS TO QUIET TITLE TO LANDS ACQUIRED THROUGH TAX DEEDS

An Act Authorizing counties to maintain actions in adverse claims to quiet title to lands acquired through tax deeds; providing for the joinder of the causes of action and parties defendant; providing for separate trials and judgments; authorizing judgments by default and prescribing the procedure applicable to the service of process and trial of such actions.

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

§ 1. COUNTIES MAY MAINTAIN ACTIONS TO DETERMINE ADVERSE CLAIMS.] Any county may maintain and prosecute any action to determine adverse claims and to quiet title to all lands acquired by it through tax deed proceedings against any person, firm or corporation claiming an estate, interest in, or lien or incumbrance upon any such lands.

§ 2. JOINDER OF CAUSES OF ACTION.] In all actions brought by any county to determine adverse claims and to quiet title to real estate acquired through tax deed proceedings, the county may unite in the same complaint, as may separate causes of actions as the State's Attorney shall determine advisable, provided however, that each description of real estate and the name of person, firm or corporation claiming an adverse estate or interest therein shall be separately stated so that any answering Defendant can take issue with the county by challenging the truth of the facts alleged in the particular paragraph applicable to the property of such answering Defendant.

§ 3. JOINDER OF PARTIES DEFENDANT.] In all actions brought to determine adverse claims the county may join as many persons, firms and corporations as parties defendant whose estates, interest in, or lien or incumbrance upon any real property appears of record, as the State's Attorney shall determine necessary, regardless of the non-existence of a common interest in and to all of the real property involved in such action and that all other persons unknown, whose estates or interest do not appear of record may be proceeded against and joined as parties defendant by adding the allegation:

"All other persons unknown claiming any estate or interest in, or lien or incumbrance upon the property described in the complaint."

§ 4. ACTIONS HOW TRIED AND JUDGMENTS WHEN TAKEN.] That whenever any defendant answers such Complaint and the issues have been duly joined such cause of actions against such answering Defendant may be tried separately to the Court and a separate judgment may be entered thereon, provided however, that joint judgments by default may be taken in the manner provided by law against all Defendants who may be in default; notwithstanding the fact that some of the Defendants may have answered such Complaints and that the issues presented thereby are pending trial.

§ 5. SERVICE OF PROCESS AND PROCEDURE APPLICABLE.] That all provisions of law relating to the service of process in civil actions and to the provisions of Sections 8147 to 8165 inclusive, of the Compiled Laws for the year 1913, relating to the procedure in actions brought to determine adverse claims, in so far as the same are consistent with the provisions hereof, shall apply to and govern the service of process, and the procedure upon the trial of all actions brought pursuant to the provisions of this Act.

Approved March 13, 1941.

CHAPTER 136**H. B. No. 123—(Smart, Holm & Black)****COUNTIES, MINERAL GAS AND OIL RIGHTS****An Act Reserving to the Counties of the State Mineral, Gas and Oil Rights; and Declaring an Emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. In all transfers of land hereafter made by any county of the State of North Dakota of lands now owned by such county or of lands which may hereafter be acquired by any county of the State by tax proceedings, deed, quit claim deed, or by any other method, and whether such transfers made by such county are made by deed, contract or lease, there shall be reserved to such county transferring such land fifty per cent (50%) of all oil, natural gas, and/or mineral which may be found on or underlying such land. Any transfer, deed or lease which does not contain such reservation shall be construed as if such reservation were contained therein. This act shall not apply to any lands redeemed by the former record owner thereof within one year after the date the county issues title thereof.

§ 2. It is the intention of the Legislature in passing this act to reserve to the county one-half of all oil, natural gas, and/or minerals found on or under such land with the intention that the county may join with the owner of the other fifty per cent (50%) of such oil, gas or mineral rights to make any standard or reasonable contract for the drilling, mining and/or production of oil, gas and minerals upon a royalty basis.

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

Approved March 14, 1941.

CHAPTER 137**S. B. No. 183—(Kehoe)**

CLAIMS FOR REIMBURSEMENT COUNTY RELIEF

An Act Providing that county funds used for relief are not a gift; providing for a general claim by the county against the estate of a recipient; providing that the statute of limitations shall not run against such claim; and declaring an emergency.

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

§ 1. County funds used for subsistence, medical, hospital or burial expenses of county indigents shall not be considered as a gift and the county shall have a general claim against the estate of any person for such funds expended for such person and his legal dependents and that the statute of limitations shall not run on any such claim.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1941.

CHAPTER 138**S. B. No. 94—(Streibel)**

**SHERIFFS PROHIBITED FROM ACTING AS PRIVATE
COLLECTION AGENTS**

An Act Prohibiting any Sheriff, Deputy Sheriff or Employee in the Sheriff's Office, or any Constable, from acting as a Collector or Collection Agent for any Person, Firm or Corporation in the Collection of any accounts or claims in the County where he is acting as such Sheriff, Deputy Sheriff or Employee, and Prescribing Penalties.

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

§ 1. It shall be unlawful for any sheriff, deputy sheriff, or employee in the sheriff's office, or any constable while holding office as sheriff, or deputy sheriff, or while so employed in the sheriff's office, or any Constable, in any county in this state, to accept for collection or to collect or attempt to collect any note, account or claim of any nature or description, from any person, firm, association or corporation within his county for pay, profit or remuneration, other than such collections as come within his duties imposed upon him by virtue of his office.

§ 2. It is the intent of the Legislature to prohibit by this act the acceptance of any private accounts for collection by any sheriff, deputy sheriff or employee of the sheriff's office, or any Constable and to prevent the use of the prestige of such office to force the payment of private claims and accounts.

§ 3. Any sheriff, deputy sheriff or employee of the sheriff's office, or any Constable, violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed One Hundred Dollars (\$100.00).

Approved March 6, 1941.

CHAPTER 139

S. B. No. 143—(Committee on Judiciary)

COUNTY AUDITOR'S CERTIFICATE, TRANSFER OF REAL ESTATE

An Act to amend and re-enact Section 2212, of the Supplement to the Compiled Laws of 1913, of the State of North Dakota, as amended by Chapter 271 of the Laws of 1927, as amended by Chapter 121 of the Laws of 1931, relating to the duty of the county auditor and requirements of the transfer of real property as to taxes, deeds, mineral deeds and other instruments of conveyances, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2212 of the Supplement to the Compiled Laws of 1913 of the State of North Dakota, as amended by Chapter 271 of the Laws of 1927, as amended by Chapter 121 of the Laws of 1931, be amended and re-enacted to read as follows:

§ 2212. Whenever any deed or patent is presented to the County Auditor for transfer, he shall ascertain from the books and records in the offices of the County Treasurer and County Auditor if there be delinquent taxes or special assessments on the land described therein, or if it has been sold for taxes and if there are delinquent taxes or delinquent special assessments or installments of special assessments due thereon, he shall certify to the same, and when the receipt of the County Treasurer shall be produced for the said delinquent taxes or special assessments or installments of special assessments that may be in the hands of the County Treasurer or County Auditor for collection, the County Auditor shall enter on every deed or patent so transferred over his official signature, "Delinquent taxes and special assessments or installment of special assessments, paid and transfer entered," or if the land described

has been sold for taxes, "paid by sale of the land described within," or if it is an instrument entitled to record without regard to taxes "transfer entered," and unless such entry is made upon any deed or patent, the Register of Deeds shall refuse to receive or record the same; provided, the sheriff's or referee's certificates of sale on execution or foreclosures of mortgages, and mineral deeds conveying oil, gas and other minerals in or under the surface of lands, and final decrees of distribution may be recorded by the Register of Deeds without any such certificate from the County Auditor; and provided further that any deed conveying to the state or any political subdivision or municipal corporation thereof, any right of way for use as a public street, alley or highway, shall be entitled to record without regard to taxes, unless the land conveyed has been sold for taxes prior to the taking effect of this act. The County Auditor shall keep a record of such transfers in a book kept for that purpose, showing the names of the grantor and grantee, a description of the property and the date of the transfer, and shall collect twenty-five cents for each certificate, from the person or persons presenting the same for certification, and said money so collected shall be by him paid into the office of the County Treasurer at the end of each month and be placed to the credit of the general fund of the county.

§ 2. 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 13, 1941.

CHAPTER 140

S. B. No. 78—(Committee on Taxes and Tax Laws)

RATE OF INTEREST ON WARRANTS

An Act to amend and re-enact Section 3352 of the Compiled Laws of North Dakota for 1913, to authorize the registration of warrants issued by taxing districts not paid for want of funds; Limiting the rate of interest of registered warrants; Requiring notice for presentation for payment thereof; and Declaring an emergency.

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

§ I. AMENDMENT.] Section 3352 of the Compiled Laws of North Dakota for 1913 is hereby amended and Re-enacted to read as follows:

§ 3352. Whenever the law authorizes the officers of any county, city or village to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment,

the treasurer of such taxing district, when such warrant is presented to him for payment, if not paid for want of funds shall endorse the same "Presented for payment this-----day of-----19---- and not paid for want of funds", and thereupon enter such warrant in his warrant register in the order of presentation for registration.

That the governing body of any such taxing district, authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which such warrants shall bear, provided that the rate of interest shall not exceed five percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

That whenever any treasurer of such taxing district shall have received money belonging to any particular fund, sufficient to pay the warrants drawn against such fund, such treasurer shall immediately notify by mail, the person in whose name such warrant is registered or his assignee, if notified of the assignment, that unless such warrant is presented for payment on or before the date specified in such notice, the interest upon such warrant shall immediately cease after such date.

That all warrants so registered shall be paid in the order of their registration.

§ 2. EMERGENCY.] That an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

CRIME

CHAPTER 141

H. B. No. 130—(Shure, Beede, and Aker)
(Special Committee on Code Revision.)

PUNISHMENT FOR BURGLARY

An Act to Amend and Re-enact Section 9876 of the 1913 Compiled Laws of North Dakota relating to Punishment for Burglary.

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

§ 1. AMENDMENT.] That Section 9876 of the 1913 Compiled Laws of North Dakota be amended and re-enacted to read as follows:

§ 9876. PUNISHMENT FOR BURGLARY.] Burglary is punish-

able by imprisonment as follows: burglary in the first, second, third, and fourth degrees by imprisonment in the State Penitentiary for not less than one year nor more than ten years.

Approved February 24, 1941.

CHAPTER 142

S. B. No. 114—(Morgan of Richland)

PRAIRIE FIRES FORBIDDEN

An Act to Amend and reenact Article 29, Section 2791 of the 1913 Compiled Laws.

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

§ 1. PRAIRIE FIRES FORBIDDEN.] If any person shall set or cause to be set on fire any woods, marsh, or prairie, or any grass or stubble lands, except as hereinafter provided, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than ten nor more than one thousand dollars, or be imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court, and shall also be liable in a civil action to any person damaged by such fire to amount of such damage.

Approved March 12, 1941.

CHAPTER 143

H. B. No. 199—(Johnson of Richland)

OPERATION OF MOTOR VEHICLE WITHOUT CONSENT OF OWNER

An Act to Provide Punishment for the Taking and Operating of an Automobile or other Motor Vehicle, or Causing the Same to be Taken and Operated Without the Consent of the Owner.

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

§ 1. No person shall drive, operate or use a motor vehicle without the permission of the owner or of his agent in charge or in control thereof. Any person so doing shall be guilty of a misdemeanor and punished by fine not to exceed five hundred dollars (\$500.00), or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment in the discretion of the court.

Approved March 14, 1941.

CHAPTER 144

H. B. No. 116—(Allen and Tuff by Request)

CONFISCATION OF VEHICLES USED IN COMMISSION
OF FELONY

An Act Authorizing the seizure and confiscation of vehicles or other conveyances used in the commission of a felony, in the furtherance of the Commission of a felony, in the escape from the scene of the commission of a felony, or in the transportation of property which is the subject matter of any felony; Providing for a proceeding to release such property; For the Sale and Method of Sale of Vehicle Confiscated; For the disposition of funds arising from sale; Declaring an Emergency.

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

§ 1. PEACE OFFICER MAY SEIZE ANY VEHICLE USED IN COMMISSION OF FELONY.] Any peace officer of this State may seize any vehicle or other means of transportation used in the commission of a felony, in the furtherance of the commission of a felony, in the escape from the scene of the commission of a felony, or in the transportation of property which is the subject matter of any felony, and may arrest any person in charge thereof, and proceed against any person arrested under the provisions of this act in any court having competent jurisdiction.

§ 2. RETURN OF CAR TO CLAIMANT.] If the committing magistrate on preliminary hearing shall find that the person owning such vehicle is innocent of all connection with the commission of the felony, the vehicle shall be returned to such owner. If claim to the vehicle is made by a person other than the one in the possession of whom it was found, and the officer is in doubt relative to such claim, the vehicle or conveyance taken by an officer under the provisions of this act shall be returned to such claimant thereof upon the execution by him of a bond in an amount equal to the value of the property, to be approved by said officer and conditioned for the return of said property to the officer on the day of the trial to abide the judgment of the court.

§ 3. COURT TO ORDER FORFEITURE OF VEHICLE.] The District Court, upon conviction of the person arrested, or upon his plea of guilty, or upon the failure of the officer after one month of effort, to locate or arrest the person who used such vehicle or other means of conveyance in connection with the commission of the felony, shall order the vehicle or other means of conveyance so confiscated to be forfeited.

§ 4. SUMMONS ON FORFEITURE; CONTENTS AND SERVICE.] The District Court shall require the State's attorney of the county in which the felony was committed to cause a summons to be issued

out of the District Court against all persons having any right, title or interest in the property seized. Such summons shall particularly describe the property and state that the same is held for forfeiture and sale under the provisions of this act and that in default of answer or claim filed within thirty days after the service of such summons, the court will enter its order forfeiting such property to the State of North Dakota. Such summons shall be served in the manner provided for the service of summons in a civil action. When the name of the owner of such property can be ascertained, such summons shall be served upon him personally or by registered mail.

§ 5. PROCEDURE AFTER SERVICE OF SUMMONS; SALE ON DEFAULT.] If no answer shall be filed or claim made within the time allowed by this act, the District Court shall enter its order forfeiting such property to the State of North Dakota, and requiring the sale of same in the manner provided for the sale of personal property on execution.

§ 6. RETURN OF PROPERTY AFTER HEARING; SALE TO SATISFY LIEN.] If an answer is filed or claim made, the District Court shall proceed to hear and determine the claim according to law. If at such hearing any claimant shall prove to the satisfaction of the Court that he is the owner of such property or has a valid and bona fide lien thereon duly filed or recorded prior to the time such vehicle was seized and that he had no knowledge of the use of such vehicle or conveyance for such unlawful purpose, the Court shall order such property to be surrendered to him, if the owner. If the claimant is a lien holder, the lien shall be foreclosed and the property sold, and the proceeds from such sale shall be applied in payment of the costs of such sale and the satisfaction of the lien or liens. The balance of such sum shall be deposited as hereinafter provided.

§ 7. ORDER OF SALE AFTER HEARING.] If the claimant or claimants shall fail to sustain their claims, the District Court shall enter its order for the forfeiture and sale of the property as hereinbefore provided in case of default.

§ 8. DISPOSITION OF PROCEEDS OF SALE.] After deducting the costs and expenses of a proceeding for sale under this act, the balance of all money received under the provisions of this act shall be paid to the treasurer of the county wherein the felony was committed, for the benefit of the state school fund.

§ 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 14, 1941.

CHAPTER 145

H. B. No. 57—(Bergesen)

PARDON BOARD MEETINGS

An Act to Amend and Re-enact Provisions of Section 11103 of Compiled Laws of the State of North Dakota for 1913, Relating to the Meetings of the State Pardon Board and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 11103 of the compiled laws of the State of North Dakota for 1913 be and is hereby amended and re-enacted to read as follows:

The board of pardons shall hold at least two regular meetings in each calendar year, and may hold such other special meetings at such times as it shall determine necessary for the proper performance of its official duties. Such regular meetings shall be held on the 15th day of March and the 10th day of August of each year at the State Penitentiary. All special meetings of the said board shall be held in the executive chamber at the state capitol, or in such other place as may be ordered by the said board.

§ 2. 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 February 17, 1941.

CHAPTER 146

H. B. No. 138—(Morrison, Kee, Juhola, Meyers and Olson of Barnes)

PENALTY FOR USURY

An Act to Amend and Re-enact Chapter 235 of the 1919 Session Laws, Constituting Section 6076 of the 1925 Supplement.

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

§ 1. AMENDMENT.] Chapter 235 of the 1919 Session Laws, constituting Section 6076 of the 1925 Supplement is hereby amended and re-enacted to read as follows:

§ 6076. PENALTY FOR USURY.] The taking, receiving, reserving or charging a rate of interest greater than is allowed by the laws of this state relative to usury, shall be deemed a forfeiture of the entire interest which the note, bill or other evidence of debt carries with it, or which has been agreed to be paid thereon, and, in addition,

a forfeiture of 25 per cent of the principal thereof. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representative, may recover back, in an action for that purpose, twice the amount of interest thus paid, together with the 25 per cent of the principal from the person taking or receiving the same; provided, that such action is commenced within four years from the time the usurious transaction occurred, or may offset twice the amount of such interest against any indebtedness owing to the party or parties receiving such usurious interest. Any person, whether in his own individual right, or as the agent, servant, or representative of any individual, firm, corporation, or association, who shall take, receive, reserve or charge a usurious rate of interest, shall be guilty of a misdemeanor, and upon conviction thereof, shall be confined in the county jail not exceeding ninety days, or shall be fined not to exceed \$300.00, or may be punished by both such fine and imprisonment. The penal clause of this Act shall be deemed cumulative, and the civil action, in this section provided for, shall be in nowise altered or taken away by the criminal provisions herein.

Approved March 17, 1941.

DANCES

CHAPTER 147

H. B. No. 241—(Crockett, Belzer and Fitch)

DEFINING A PUBLIC DANCING PLACE

An Act to Amend and Re-enact Section 3163a1, Compiled Laws of North Dakota, as Amended by Chapter 136 Session Laws of 1939, Defining a Public Dancing Place. Repeal.

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

§ 1. AMENDMENT.] That Section 3163a1 of the 1925 Supplement to the 1913 Compiled laws as amended by Chapter 136 of the Session Laws of 1939, be and the same are hereby amended and re-enacted to read as follows:

§ 3163a1. DEFINITIONS.] A public dancing place, as the term is used in this Act, shall be taken to mean a room, place or space, open to public patronage, where dancing, in which the public may participate is carried on and to which an admission may or may not be charged. A public dance, as used in this act, shall be taken to

mean any dance where the public may participate and whether or not admission is charged. Provided, however, that this act shall not apply to dances held, or conducted, in hotels having more than fifty guest rooms, when such dances are held by or conducted under the immediate control of the owner, operator or proprietor thereof.

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

Approved March 14, 1941.

ELECTIONS

CHAPTER 148

S. B. No. 60—(Fowler and Morgan of Walsh)

ABSENT VOTERS

An Act to amend and reenact Chapter 107 of the Session Laws of North Dakota for 1933 and amending and reenacting Section 1004 of the Compiled Laws of North Dakota for 1913.

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

§ 1. AMENDMENT.] Chapter 107 of the Session Laws of North Dakota for the year 1933 be amended and re-enacted to read as follows:

§ 992. ABSENT VOTER. WHO MAY VOTE.] Any qualified elector of this state, having complied with the laws in regard to registration, who is absent from the county in which he is an elector, or who by reason of physical disability, or who is in the Military or Naval service of the United States of America and, is unable to attend at the polling place in his precinct to vote at any general or primary election, may vote an absent voters ballot at any such election as hereinafter provided.

§ 993. APPLICATION FOR BALLOTS. MADE WHEN.] At any time within 30 days next preceeding such election, any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, or who by reason of physical disability, or who is in the Military or Naval service of the United States of America and, is unable to attend at the polling place in his precinct to vote at such election, may make application to the county auditor of such county for an official absent voters ballot to be voted at such election.

§ 995. APPLICATION FOR.] Application for such ballot shall be made on a blank to be furnished by the county auditor of the county of which the applicant is an elector and must be substantially in the following form:

I _____, a duly qualified elector of the township of _____ or of the village of _____ or of the _____ precinct of the _____ ward of the city of _____ of the county of _____ of the state of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from said county on the day for holding such election, or by reason of physical disability being unable to attend and vote at such election, hereby make application for an official absent voters ballot to be voted by me at such election.

Date _____

Signed _____
Postoffice _____

Provided, that if the application be made for a primary election ballot such application shall also give the name of the political party with which the applicant is affiliated.

Provided that when such application is made upon the ground of physical disability it shall be accompanied by the certificate of the superintendent of a hospital in which the applicant is actually confined or by the certificate of a licensed physician who is attending said applicant to the effect that said applicant is under such physical disability by reason whereof he is confined to such hospital or other place of confinement (stating location thereof) and is unable to attend and vote at such election.

§ 996. APPLICATION BLANK. HOW OBTAINED.] Such application blank shall upon request therefor, in writing, be sent by such county auditor to any absent voter by mail, or shall be delivered to any voter upon application made personally at the office of such auditor.

§ 2. AMENDMENT.] That section 1004 of the compiled laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 1004. PENALTY FOR VIOLATION.] If any person shall wilfully swear falsely to the affidavit in section 997 provided for or shall wilfully make false applications provided for in section 995 or shall make a false certificate as provided for in section 995, he shall upon conviction therefore be deemed guilty of perjury and shall be punished as by law in such case provided. If the secretary of state or any county auditor or any election officer shall refuse or neglect to perform any of the duties prescribed by this article or shall violate any of the provisions thereof, or if any officer taking the affidavit provided for in section 997 shall make any false statement in his certificate attached thereto, he shall be deemed guilty of a misdemeanor

and shall be punished by a fine not exceeding \$100 or by punishment in the county jail not exceeding 30 days or by both fine and imprisonment.

Approved February 21, 1941.

CHAPTER 149

H. B. No. 68—(Fleck)

CITY ELECTIONS UNDER COMMISSION FORM OF GOVERNMENT

An Act to amend and re-enact Section 3784 of the Supplement to the Compiled Laws of North Dakota for 1913 relating to elections in cities under the commission form of government providing that elective officers serve until their successors are elected and qualified, and repealing all acts and parts of acts relating to Commission form of government in conflict with this act.

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

§ I. AMENDMENT.] That Section 3784 of the Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 3784. Biennial municipal elections in all cities under the commission form of government shall be held the first Tuesday in April of each even numbered year at such place or places as the board of city commissioners shall designate. The polls of such election shall be opened at nine o'clock A. M., and closed at seven o'clock P. M. Ten days previous notice of the time and place of such election and of the officers to be elected shall be given by the city auditor by the publication in the official paper and by posting written or printed notices in three public places in the city. In all other respects such election shall be conducted as prescribed by general election laws, and for all general and special elections held under the provisions of this act in the city, for city officers and for other purposes, the board of city commissioners shall, at least ten days before any election is held, appoint in each precinct established in the city one inspector and two judges of election. The president of the board of city commissioners, the city commissioners and other elective officers whose elected terms would expire in 1943 and the president of the board of city commissioners, the city commissioners and other elective officers whose elected terms would expire in 1945 shall continue to serve in their respective official capacities until their successors have been elected at the regular biennial elections to be held in 1944 and 1946 and until their successors have been duly elected and qualified.

§ 2. REPEAL.] All acts or parts of acts relating to commission form of government and in conflict with this act are hereby repealed.

Approved February 15, 1941.

CHAPTER 150

H. B. No. 83—(Bergesen and Ohnstad)

APPOINTMENT OF POLL CLERKS

An Act to Amend and Re-enact Section 953 of the Compiled Laws of North Dakota for 1913, Providing for the Appointment of Poll Clerks for Elections, Defining their Qualifications and Fixing their Compensation, and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

§ 1. AMENDMENT.] That Section 953 of the Compiled Laws of the State of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 953. POLL CLERKS.] Such board of election shall appoint as poll clerks two qualified electors of the precinct, one from each of the two parties that cast the largest vote at the last state general election, provided that in voting precincts or districts in which over three hundred votes are cast in any election, such board of election may appoint two additional poll clerks who shall assume their duties at the time of the closing of the polls and shall assist the regular board in the opening, counting and telling of ballots. Such additional poll clerks shall have the same qualifications and subscribe to the same oath as the regular poll clerks and shall receive as compensation for their services the sum of four dollars each, to be paid in the same manner as regular poll clerks are paid. Provided, further, that it shall be the duty of the County Auditor to supply each precinct in his county with such additional poll books and such other additional supplies as may be needed in the conduct of the election.

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

Approved February 24, 1941.

CHAPTER 151

S. B. No. 89—(O'Brien and Morgan of Walsh)

VILLAGE OFFICERS TO BE ELECTED

An Act to amend and re-enact Section 3854 of the 1925 Supplement of the Compiled Laws of North Dakota and allowing villages to elect Trustees at large, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 3854 of the 1925 Supplement to the Compiled Laws of North Dakota is amended and re-enacted to read as follows:

§ 3854. VILLAGE OFFICERS TO BE ELECTED: TERMS OF OFFICE: COMPENSATION.] There shall be elected at the first annual village election of each village, held after the taking effect of this act, one trustee from each district in such village. Those trustees elected from the even numbered districts of such village shall hold office until the third Tuesday in March of the next year thereafter, or until a successor is elected and qualified; those trustees elected from the odd numbered districts of such village shall hold office until the third Tuesday of March of the second year following, or until a successor is elected and qualified. Thereafter all such trustees elected shall hold office until the third Tuesday of March of the second year following their election or until a successor is elected and qualified. Provided that at any annual village election by a majority of votes cast, the village may adopt the method of electing all village trustees at large without regard to districts, which method of election at large may be discontinued in the same manner by two-thirds vote at any subsequent village election. Each village trustee shall receive as compensation for services two dollars (\$2.00) for each meeting actually attended, but not to exceed Twenty-five (\$25.00) Dollars as such compensation for any one year of such term of office. There shall also be elected at each such annual village election, a village clerk, assessor, treasurer, marshal and justice of the peace who shall respectively hold their offices until the third Tuesday in March next following, or until their successors are elected and qualified; provided, however, that nothing herein contained shall prevent the respective offices of clerk, treasurer, assessor and marshal from being held by one and the same person.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall therefore be in effect from and after the date of its passage and approval.

Approved February 24, 1941.

GAME AND FISH

CHAPTER 152

H. B. No. 172—(Committee on Game and Fish)

KILLING AND TRAPPING BEAVER

An Act to Amend and Re-enact Subsection 1 of Section 1 of Chapter 150, Laws 1931.

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

Subsection 1 of Section 1 of Chapter 150, Laws 1931 is hereby amended and re-enacted to read as follows:

§ 1. BEAVER.] No person shall kill, take, attempt to take, transport, or sell any beaver or any part thereof at any time, or molest or disturb any beaver except as hereinafter provided.

(1) In the event that beaver shall at any time in any locality become so numerous that in the judgment of the Game and Fish Commissioner of the State of North Dakota a limited number thereof may be taken without unduly depleting the species, or when they cause substantial damage to public or private property such as to seriously prejudice property rights therein, then and in such case the Game and Fish Commissioner, upon receipt of the license fee of \$3.00 may issue to any land owner or his duly authorized agent a license to take beaver, upon the premises of such land owner, including any State Game Refuge, specifying therein the number of beaver, the time when and the place where the same may be taken. Such permit shall not be issued, however, without the written approval of any person or persons holding a lease governing surface rights or occupancy of the land involved.

Approved March 4, 1941.

CHAPTER 153

H. B. No. 240—(Sharpe, Benno and Collette)

**DISPOSITION OF MONEY COLLECTED BY GAME AND FISH
COMMISSIONER — WATER CONSERVATION AND
DAM CONSTRUCTION.**

An Act to repeal Chapter 120 of the 1933 Session Laws of the State of North Dakota as amended by Chapter 145 of the 1935 Session Laws of the State of North Dakota, relating to the disposition of money collected by the Game and Fish Commission; providing for the conservation of water and the construction of dams.

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

§ 1. REPEAL.] That Chapter 120 of the 1933 Session Laws of the State of North Dakota, as amended by Chapter 145 of the 1935 Session Laws of the State of North Dakota by and the whole thereof is hereby repealed.

Approved March 18, 1941.

CHAPTER 154

H. B. No. 65—(Committee on Game and Fish)

FOXES, PREDATORY ANIMALS

An Act to Amend and Re-enact Section 57 of Chapter 148, Session Laws of 1931, Giving the Governor Certain Powers Relative to Game and Fish, Limiting such Power and Authorizing the Governor to Declare Foxes Predatory Animals, in Certain Areas, and Dispensing with Licenses Relative to Foxes when Declared Predatory.

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

§ 1. AMENDMENT.] That Section 57 of Chapter 148 Session Laws of 1931 be amended and re-enacted to read as follows:

§ 57. ADDITIONAL PROTECTION—GOVERNOR'S ORDERS.]

(1) Whenever the Governor, after investigation and recommendation by the Game and Fish Commissioner finds that any species of game birds, fish or animals for which an open season is provided are in danger of undue depletion or extinction or when necessary for the proper protection during the propagating period, he may by an order provide protection for such species, additional to that provided by law, and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken and possessed. Provided, further, that whenever the Governor, after investigation and recommendation by the Game and

Fish Commissioner, finds that any species of game birds, fish or animals has become sufficient in numbers to warrant an open season, he may by order declare an open season thereon, or extend the already open season as now provided by law and to that end may prescribe in what manner, in what number, in what places and at what times the same may be taken and possessed. Provided that the bag limit shall not exceed fifteen birds of all upland species, nor be less than the Federal bag limits on migratory waterfowl, and the possession limit shall not exceed two days bag limit nor shall the open season on game birds begin before September 15 or end later than December 1 in any one year. The season shall not be opened on protected animals valuable for fur during the period from April 30 to October 15 of any one year.

(2) The Governor, by such an order upon recommendation by said commissioner, may declare all varieties of foxes predatory in any given area, for any given period of time during any part of the year, when in his judgment foxes have become too numerous or destructive in such area and when and where so declared predatory, no license shall be required to pursue, take or trap foxes.

(3) Any order issued by the Governor pursuant to this section shall have the force of law and the appropriate penalties now prescribed by law for the unlawful killing of game shall follow and be applicable to violations of any such order. Each order so made shall not be valid after the closing of the regular session of the legislature next succeeding its issuance.

(4) PUBLICATION OF ORDERS.] All orders, rules and regulations affecting the entire State as provided for herein shall be published once in the official newspaper in each county affected by such orders. No order, rule or regulation shall take effect until after such publication.

Approved March 4, 1941.

CHAPTER 155

H. B. No. 221—(Culver, Braun of Stark and Gress)

HUNTING SEASON, DEER ETC. LICENSE — TRESPASSING GAME RESERVES

An Act to Amend and Re-enact Sub-section 1 of Section 20 of Chapter 148 of the Session Laws of 1931, as Amended by Section 1 of Chapter 144 of the Session Laws of 1935, Relating to Game and Fish.

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

§ 1. AMENDMENT.] That Sub-section 1 of Section 20, Chapter 144 of the Session Laws of 1935 relating to Game and Fish, the

propagation and conservation thereof, regulating the hunting, taking and killing thereof, be and the same is hereby amended and re-enacted to read as follows:

§ 20. MOOSE; ELK; ROCKY MOUNTAIN SHEEP AND GOATS; ANTELOPE; DEER; SEASON FOR KILLING; LICENSE.] (1) No person shall hunt, pursue, take or attempt to take, transport, ship or convey by common or private carrier, or sell, or otherwise barter or exchange, any moose, elk, rocky mountain sheep or goat, antelope or deer or any part thereof at any time. Provided that any person, having procured a big game hunting license may take, kill and transport one deer between the 20th day of November and the 30th day of November following, both days inclusive. All deer hunters shall wear red caps.

Deer to be taken only in the daytime, with a gun fired from the shoulder, and any other device or instrumentalities used, or held with the intent to use, in the taking of deer, or as an aid or means in the hunting or taking of deer, is hereby specifically prohibited and declared to be unlawful. No dog or dogs, horses, mules or other animal shall be used in any manner in the hunting of deer or antelope. Deer shall not be shot from any artificial platform, scaffold, blind, or other artificial device. No artificial light, including automobile and motorcycle headlights, and spotlights, shall be used to entrap or entice deer, or as an aid in the taking or hunting of deer; and the practice commonly known as shining for deer is hereby specifically prohibited, and any person or persons, who shall shine any area, plot or territory, commonly frequented by deer, with or by means of any artificial lights, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section. Provided; That any person or persons found between sunset and sunrise in and about the territory frequented by deer and/or antelope or where such deer and/or antelope are frequently and usually found, in possession of any rifles, shot guns, traps, snares, artificial lights or other implements or equipment usually and commonly used in the illegal taking or hunting of such deer and/or antelope, shall be presumed to be possessed of said implements or equipments and to be in said territory unlawfully, and for the purpose of hunting or taking deer and/or antelope contrary to the provisions of this Act and upon conviction shall be subject to all the penalties imposed by this Act for the unlawful taking, hunting or killing of such deer and/or antelope.

Approved March 14, 1941.

CHAPTER 156**H. B. No. 26—(Benno, Swanson, Halvorson, Dalzell)**

HUNTING WITH SPOTLIGHT PROHIBITED**An Act Making it a misdemeanor for any Person to Hunt and Pursue any Wild Life with the Aid of a Spot Light or Any Other Kind of Artificial Light.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Any person who shall shoot and pursue any wild life between sunset of one day and sunrise of the next day, with the aid of a spot light or any other artificial light of any kind shall be guilty of a misdemeanor.

Approved February 18, 1941.

CHAPTER 157**H. B. No. 245—(Swanson and Fitch)**

ILLEGAL HUNTING OF BIG GAME, PENALTIES**An Act to Amend and Re-enact Sections 26 and Sub-Division (2) of Section 20 of Chapter 148, Laws 1931, Providing for Permit Fee and Providing Penalties for the Illegal Hunting of Big Game.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That Section 26 of Chapter 148, Laws 1931 be amended and re-enacted to read as follows:

§ 26. PERMITS.] The Game and Fish Commissioner may issue permits to breed or domesticate any protected birds or animals; permits to any resident hunting licenses to ship not to exceed in any one season twenty-five (25) protected game birds to points other than his home within the State or to points outside of the State; permits to make collections of protected birds and animals for scientific purposes. The Game and Fish Commissioner may also issue permits for shipment within or without the State of any live protected birds or animals, provided the permit is attached to the shipment. A fee of twenty-five (25) cents shall be charged for each such permit. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

§ 2. Sub-division 2 of Section 20 of Chapter 148, Laws 1931 is hereby amended and re-enacted to read as follows:

§ 20. (2) Any person who shall violate any provisions of

sub-division one (1) of this section shall be guilty of a misdemeanor, and shall be punished by fine of not less than fifty dollars (\$50.00) nor more than one Hundred dollars (\$100.00) or by imprisonment in the county jail for not less than twenty (20) nor more than thirty (30) days, or by both such fine and imprisonment.

Approved March 14, 1941.

CHAPTER 158

H. B. No. 249—(Aker, Benno, Swanson and Bymers)

ILLEGAL POSSESSION, GAME, FISH AND GUNS

An Act to Amend and Re-enact Section 10322a51 of the Supplement of 1925 and Chapter 118, Laws 1933 Relative to Going Afield with Guns Before the Hunting Season and Illegal Possession of Game and Fish After the Hunting Season.

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

§ 1. Section 10322a51 of the Supplement of 1925 is hereby amended and re-enacted to read as follows:

§ 10322a51. ILLEGAL ACT; PENALTIES FOR GOING AFIELD WITH GUNS.] Any person traveling in any manner in any part of this state off the public highway, outside of the immediate bounds of the inhabited part of any village, town or city in possession of any kind of a shot gun from the first day of July to the opening day of hunting season in each year, shall be presumed to have violated the laws of this state prohibiting unlawful hunting, shooting and taking of game birds. Any person violating the provisions of this section shall be punished by a fine of not less than ten (10) nor more than fifty (50) dollars or by imprisonment in the County jail for not less than ten (10) days nor more than thirty (30) days or by both such fine and imprisonment.

§ 2. Chapter 118, Laws 1933 is hereby amended and re-enacted to read as follows:

Except as herein provided, it shall be unlawful for any person to take, kill or wound, or attempt to take, kill or wound, any protected game bird or game animal, except during the open season or to have in possession, or under control any such bird, animal or protected fish, either alive or dead, or any part thereof except such as are lawfully taken during the open season. It shall be presumed that any game or any part thereof, found in possession of any person after the close of the open season except when held under permit, as herein provided, was taken illegally. It shall be unlawful for any person to knowingly aid or assist in the concealment of any game unlawfully killed or possessed.

Provided, however, that the State Game and Fish Commissioner shall issue a permit to keep a possession limit of game after the closed season thereon until March 1 following the close of the season. Such permit however, shall not extend the time for lawful possession of any game covered by the Federal laws beyond the Federal limit in which the same may be possessed lawfully. Any game so held after the close of the hunting season under permit must be properly tagged to identify the holders permit.

Application for permit to keep game after the close of the hunting season must be made within two days of the close of such season. Possession shall not be illegal within such two days time or if application is made for permit within such time possession shall not be illegal until the Commissioner has refused such permit.

The possession, transportation or control of any protected fish, game bird or game animal or any part thereof contrary to the provisions of this law shall constitute a misdemeanor and shall be punishable by the same penalty as that provided for the illegal killing, catching, taking or hunting thereof.

Approved March 19, 1941.

CHAPTER 159

S. B. No. 129—(Troxel)

ILLEGAL TRESPASS WHILE HUNTING

An Act to amend and re-enact Section 17 of Chapter 148, Laws of 1931, relative to trespassing while hunting.

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

Section 17 of Chapter 148, Laws of 1931, is hereby amended and re-enacted to read as follows:

§ 17. HUNTING UPON PREMISES OF ANOTHER ILLEGAL WHEN: It shall be unlawful for any person to enter upon the premises of another for the purpose of hunting or pursuing game birds or to hunt or pursue game birds upon the premises of another without having first obtained permission of the person legally entitled to grant the same; provided, that the owner or tenant of said land or premises shall have placed at a point alongside of the public highway or land posted signs giving notice that no hunting will be permitted on said land or premises, and such signs shall be conspicuously posted at a distance of not more than eighty rods apart, to be readable from the outside of the land. It shall also be unlawful for any person to hunt or pursue game except as hereinafter provided upon the premises of another within forty rods of any occupied residence thereon,

without the consent of the occupant thereof. Any person or persons entering upon the premises of another without permission as provided, who shall at the time of so entering have in his or her possession any gun or firearm shall prima facie be presumed to have entered said premises for the purpose of hunting game within the meaning of this Act; provided, however, that nothing in this Act shall prevent a person from going upon posted land to take game shot or killed on land where such person has lawful right to hunt. It shall not be considered the duty of the Game and Fish Commissioner or any of the game wardens to enforce the provisions of this section.

Approved March 14, 1941.

CHAPTER 160

H. B. No. 237—(Collette, Fuglestad, Benno and Fitch)

RETENTION OF PART OF LICENSE FEES BY COUNTY AUDITORS

An Act Providing for retention by County Auditors of a part of the resident and non-resident hunting license and non-resident fishing license fees, and repealing all Acts and parts of Acts in conflict herewith.

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

§ 1. Each County Auditor shall retain as his compensation for the sale of resident hunting licenses, non-resident hunting licenses and non-resident fishing licenses, for each license sold by him, the sum of ten cents for each resident hunting license, the sum of One Dollar (\$1.00) for each non-resident hunting license, and the sum of twenty-five cents for each non-resident fishing license. The entire balance of all license fees collected shall be transmitted to the Game and Fish Commissioner.

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

Approved March 14, 1941.

CHAPTER 161**H. B. No. 170—(Starck)****MUSKRAT PROPAGATION**

An Act Providing for the Establishment of, License fee For, and Setting up Regulations to Govern Muskrat propagation in the State of North Dakota in Captivity, and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

§ 1. RIGHTS OF OWNER AND LESSEE.] The owner or lessee of any lands within the State of North Dakota, suitable for the breeding and propagating of muskrats shall have the right upon complying with the provisions of this Act, to establish, operate and maintain on such lands a muskrat farm, for the purpose of breeding, propagating, trapping and dealing in muskrats raised in captivity.

§ 2. DECLARATION TO BE FILED.] Such owner or lessee desiring to establish, operate and maintain a muskrat farm in conformity with this act, shall file with the State Game and Fish Department a verified declaration describing the lands which such applicant for a license desires to use for the purpose of breeding and propagating muskrats, and setting forth also the title and leasehold of the applicant and the number of acres embraced in said tract.

§ 3. APPLICATION FOR LICENSE.] Upon the filing of such declaration, and making application to the Game and Fish Department for a license to operate a muskrat farm; The Commissioner shall issue a license to the applicant describing such lands, and certifying that the licensee is lawfully entitled to use the same for the breeding, propagating, trapping and dealing in of muskrats thereon.

§ 4. ACQUISITION OF MUSKRATS THEREON.] Thereupon the commissioner shall appoint one man, the applicant one man, and these two shall select a third man to act as a board to go upon the lands embraced within the license, and determine as near as possible the number of muskrats thereon, at the time of granting of the license.

The necessary expenses of all of the members of such board shall be paid by the licensee. Within ten days after the date of such determination, the licensee shall pay to the State Game and Fish Department fifty cents (50¢) for each muskrat so found on such lands. When such payment has been made the licensee shall become the owner of all the muskrats on said lands and of all of their offspring remaining thereon.

If there are no muskrats on the lands embraced within the license, then the licensee may acquire breeding stock by trapping muskrats during an open season in the State of North Dakota, by

buying breeding stock from licensed breeders within the state, or by buying live muskrats from licensed breeders living in any other state.

§ 5. COST OF LICENSE.] The holder of any such license shall pay an annual fee of two dollars and fifty cents (\$2.50) for any such farm of ten acres or under, and an additional fee of ten cents per acre for any additional land actually devoted to muskrat farming.

§ 6. FENCING COST OF SIGNS.] Within thirty days after the date of issuance of any such license the licensee shall erect a fence around the land embraced in such muskrat farm, such fence shall be built with iron posts placed not more than twelve feet apart, and with one and one half inch mesh woven wire not less than three feet high; one foot of the wire to be beneath the ground and two feet above the ground. On top of this woven wire there shall be fastened a strip of tin at least six inches high to prevent muskrats from climbing in or out of this inclosure. On this fence there shall be posted at intervals of not more than four rods apart signs furnished by the Game and Fish Department proclaiming a muskrat farm. For such signs the licensee shall pay the Game and Fish Department ten cents each.

§ 7. RIGHTS OF LICENSEE IN COURT.] Such license shall be prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successors or assigns, for the term of the license to establish and operate a muskrat farm upon said premises, and shall entitle the licensee therein named, successors or assigns, to the exclusive right for and during the said term to breed and propagate muskrats thereon, and to the exclusive and sole ownership of any property in all muskrats caught or taken therefrom. Such license shall expire on the thirty-first day of December of each year, but may be renewed from year to year upon payment by the licensee of annual license fee.

§ 8. TRESPASS.] Any person other than the licensee or his agents who shall hunt or trap muskrats upon any lands described in any such license, shall be liable to the licensee in the sum of twenty five dollars, in addition to all damage which he may do to said farm or the rats and property thereon, but all actions for such trespass shall be brought by such licensee.

§ 9. REPORT REQUIRED.] On or about the first day of March of each year, the licensee shall make a report, verified by affidavit, stating the number of his license and the total number and value of muskrats killed, transported or sold from said muskrat farm. This report shall cover the period from the first day of January to the thirty first day of December of the previous year, and be made upon the blanks furnished by the State Game and Fish Department.

§ 10. TRAPPING FURNISHING TAGS.] Any person or persons operating a muskrat farm under a license granted by the provisions

of this act, shall have the right to trap muskrats on the premises designated on the license for pelting or other purposes, from December first to May first. It shall be the duty of the Game and Fish Commissioner upon receipt of an application from the holder of such a license to operate a muskrat farm, to furnish seals at one cent each, bearing the inscription (N. D. MUSKRAT) each seal to bear a serial number, and one seal shall be attached to each muskrat skin from such farm.

§ 11. Repealing all acts and parts of acts in conflict herewith.

Approved March 4, 1941.

CHAPTER 162

H. B. No. 184—(Ireland and Bjella)

WILDLIFE RESTORATION PROJECTS—EXCHANGE OF LANDS

An Act Authorizing the Board of University and School Lands to transfer and convey certain acreage of State School Lands to the Game and Fish Department in exchange for other land, to be used and maintained for wildlife-restoration projects, and Declaring an Emergency.

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

§ 1. EXCHANGE AUTHORIZED.] The Board of University and School Lands is hereby authorized to transfer and convey to the Game and Fish Commissioner of the State of North Dakota for wildlife-restoration projects, not to exceed 640 acres of State School land for any one project in exchange for other land of equal value owned by the State of North Dakota for the benefit and use of the Game and Fish Commissioners of the State of North Dakota or acquired by him for exchange purposes.

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

Approved March 14, 1941.

GAS AND OIL

CHAPTER 163

S. B. No. 142—(Committee on Judiciary)

AUTHORIZING BOARD OF COUNTY COMMISSIONERS TO ADOPT OIL AND GAS LEASES IN LANDS SUBJECT TO DELINQUENT TAX CHARGES

An Act Authorizing the Board of County Commissioners of the counties of the State of North Dakota to confirm, approve and adopt oil and gas leases, executed by owners of the right of redemption, owners of the title to and owners of interest in lands subject to delinquent tax charges, including lands the tax charges against which have been adjusted by contract, and lands forfeited to the county under tax proceedings, and held by the county by tax deeds sufficient to constitute color of title in the county; and providing that upon such confirmation, approval or adoption, that such oil and gas leases shall be and become binding upon the county and the lessee named therein and assigns, with like force and effect as though the county had become a party to the said leases; and providing for the payment of rentals, bonuses and royalties and the distribution and allocation thereof; and providing for constructive notice to purchasers of said lands from the county, and validating prior proceedings of county commissioners in substantial compliance herewith.

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

§ 1.] The Board of County Commissioners of the respective counties of the state, for and in behalf of their respective counties, shall have full right, power and authority to confirm, approve and adopt oil and gas leases executed by owners of the right of redemption, owners of the title to and owners of interest in lands in said county which are subject to delinquent tax charges, including lands the tax charges against which have been adjusted by contract and lands which have been forfeited to the county under tax proceedings, and held by the county by tax deeds sufficient to constitute color of title in the county.

§ 2.] The Board of County Commissioners may confirm, approve and adopt said oil and gas leases by proper resolution to that effect, duly and regularly passed by said Board at a regular or special meeting thereof. Said resolution may contain such other and additional provisions in addition to those contained in the original lease as said Board may deem for the best interests of said County, in which event said resolution shall provide that the terms and provisions thereof shall be binding upon the said county, and the said lessee and assigns, upon the execution of an acceptance of the terms and provisions of said resolution, in writing, endorsed upon a

certified copy thereof, by the lessee, his assigns or successor in interest.

§ 3.] It is further provided that in the event any lands affected by said resolutions, and the subject of delinquent tax charges, including lands the tax charges against which have been adjusted by contract, shall be forfeited to the County under tax proceedings, and the county shall thereafter obtain tax deeds to said property sufficient to constitute color of title in said county, then and in that event such oil and gas leases as may be affected by said resolution or resolutions shall become and remain binding upon the lessee, his assigns and successors in interest, with like force and effect as though the county had become a party to said leases as of the date of the tax deed to the county, and the terms and conditions thereof, together with any additional provisions provided for in said resolution, shall be and remain binding upon the county, and its grantees and the lessee, his assigns and successors in interest, with like force and effect as though said lease, with the additional provisions as provided for in said resolution, if any, had been executed as of the date aforesaid, by the county, and said lessee, his assigns or successor in interest.

§ 4.] The lessee, his assigns and successors in interest, may pay all bonuses, rentals and royalties to the lessor and his assigns; and successors in interest, until such time as a tax deed is executed and delivered to said county, and upon the execution and delivery of a tax deed sufficient to constitute color of title in said county the said lessee shall, in the event of confirmation, approval and adoption of said oil and gas lease by the county, either with or without additional provisions as hereinbefore provided for, pay all rentals and royalties to said county, so long as the county continues to hold the same by color of title, and the amounts received by the county as bonuses, rentals or royalties shall be credited upon the tax charges as against said real estate. In event of redemption or in event title of the county is otherwise obtained by the lessor, or his assigns and made a matter of record in the office of the Register of Deeds, and after notice thereof to said lessee, his assigns or successors in interest, by registered mail, directed to said lessee, his assignee or successor in interest, to the address of said lessee, assignee or successor in interest as appears in the office of the Register of Deeds, all rentals, bonuses, and royalties which may subsequent to the receipt of said notice become due and payable under said lease, shall be paid to the lessor, his assigns or successors in interest, as may be provided for by the terms of said original lease.

§ 5.] In the event that the title or color of title of any county in and to any of the lands hereinbefore referred to is set aside or declared null and void by a final decree of a court having jurisdiction thereof, all payments of rentals, bonuses and royalties, which may become due after notice of such decree has been given to the lessee,

his assigns or successors in interest, in the manner hereinbefore provided, shall be payable by the lessee to the lessor, his assigns and successors in interest, in accordance with and pursuant to the terms of the original lease.

§ 6.] All moneys received by the county from said oil and gas leases as are hereinbefore referred to shall be paid to the county treasurer, and shall be allocated to the state or any city, county, township, incorporated village, school district, or other taxing subdivision in such proportions as the tax interests of said state and taxing subdivisions may be in the tax charges to which said money is applicable.

§ 7.] Certified copies of resolutions of the Board of County Commissioners confirming, approving or adopting oil and gas leases, certified by the county auditor of the county, shall be subject to record in the office of the Register of Deeds of said county, and upon the recording thereof shall be constructive notice to all subsequent purchasers, encumbrancers, lessees and all persons dealing with oil and gas leases, or rights, in and to the properties in said resolution referred to, of all of the terms, conditions and provisions in said resolution set out.

§ 8.] All confirmations, approvals and adoptions of oil and gas leases heretofore made by Boards of County Commissioners in substantial compliance with the terms and conditions of this Act are hereby declared valid.

Approved March 7, 1941.

CHAPTER 164

S. B. No. 159—(Aandahl, Fowler, Raschko and Brunsdale)

LICENSING PURCHASERS AND DEALERS OF MOTOR VEHICLE FUEL

An Act Amending and re-enacting Chapter 147, Laws of 1939, permitting the purchase of Motor Vehicle Fuel to be used solely for agricultural, industrial, and domestic purposes, without the payment of a motor vehicle fuel tax on the purchase price thereof; licensing purchasers and dealers; and providing conditions for licensing; and providing penalties for the violations of this Act.

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

AMENDMENT.] Chapter 147, Laws of 1939, is hereby amended and re-enacted to read as follows:

§ 1. DEFINITIONS.] When used in this Act, unless the context shall otherwise require, the word:

(1) "Person" shall mean any individual, firm, fiduciary, partnership, copartnership, trust, or association, however formed.

(2) "Tax exempt" motor vehicle fuel shall mean such motor vehicle fuel sold in this State to be used solely for agricultural, industrial, and domestic purposes, as defined herein, without the payment of a tax except such tax as may be required by a general sales tax law.

(3) The term "For agricultural purposes", as used in this Act, shall be construed to mean motor vehicle fuel used in engine motors of stationary portable type, for the purpose of farming and operating farming machinery in the usual course of husbandry.

(4) The term "for industrial purposes", as used in this Act, shall be construed to mean motor vehicle fuel used in engine motors of a stationary or portable type for the purpose of operating machinery in manufacturing or industrial purposes, and no part of which machinery is driven or operated upon the public roads, streets, or highways of this State.

(5) The term "for domestic purposes", as used in this Act, shall be construed to mean naphtha used for cleaning purposes; Class one household gasoline used for fuel in stoves and lamps and as classified as Class one gasoline by the Oil Inspection Division of the State Laboratories Commission of the State of North Dakota, and as found in Section 3080a1 of the 1925 Supplement to the Laws of North Dakota, for non-highway use; and "liquified petroleum gases" is defined as meaning and including any material which is composed predominantly of any of the hydrocarbons, or a majority of them; propane, propylene, butanes (normal butane or iso-butane), and butylenes, when sold or to be used for non-highway purposes. No license, as provided in this Act, is required for the purchase or sale of such naphtha, Class one household gasoline, or liquified petroleum gases for "domestic purposes".

(6) The term "non-highway purposes", as used in this Act, shall be construed to mean motor vehicle fuel or gasoline used for any other purpose than agricultural, industrial, or domestic purposes, and no part of which is used for operating motor vehicles or motor propelled machines of any description along and upon the streets, alleys, or highways of this State, as defined in this Act except in necessary movements about or between the farm and/or farms.

(7) The word "highway", as used in this Act, shall mean and include every way or place of whatever nature, including public roads, streets, and alleys of this State, generally open to the use of the public, or to be opened, or re-opened to the use of the public for the purpose of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repairs. Motor vehicle fuel for non-highway purposes may be sold for agricultural and industrial purposes by licensed bulk dealers only, and may be sold by licensed

retailers for aircraft purposes and for domestic purposes as defined in subsection 5 of Section 1, without payment of the motor vehicle fuel tax as provided by law.

§ 2. LICENSED DEALERS.] Motor vehicle fuel for non-highway purposes may be sold for agricultural, industrial, or domestic purposes by licensed dealers only and as herein prescribed, without the payment of the motor vehicle fuel tax, provided by law.

§ 3. LICENSED CONSUMERS.] Motor vehicle fuel for non-highway use may be purchased by licensed consumers only and as herein prescribed, without the payment of a motor vehicle fuel tax, provided by law.

§ 4. DEALER'S LICENSE. HOW PROCURED. FEE.] Any person who is authorized by Section 2 to sell tax exempt motor vehicle fuel desiring to sell tax exempt motor vehicle fuel in the State of North Dakota shall procure a license so to do by making application to the State Tax Commissioner. The application shall be made on a form approved by the Tax Commissioner, stating the name of the dealer, the location of the station to be licensed, and said applicant in such application shall therein agree to keep all records provided by law, available for inspection in the State of North Dakota, shall agree to comply with all the laws relating to the sale of tax exempt motor vehicle fuel, and shall agree to comply with the rules and regulations of the Tax Commissioner to be adopted under the provisions of this Act. The applicant shall further agree that service of any summons, complaint, or notice that may be deemed necessary by the Tax Commissioner may be made on the person in charge of the station licensed. A separate dealer's permit must be had for each station or place of sale of such tax exempt motor vehicle fuel.

Upon every sale or purchase of motor vehicle fuel as tax exempt, receipts in triplicate shall be made out upon a form to be determined by the Tax Commissioner, which said receipts must show the name of the purchaser, the place of business or farm, the number of the purchaser's license, the number of gallons sold, the date of the sale, the post office address of the purchaser, and such receipt shall be signed by such licensed purchaser, or his authorized agent. Two of such triplicate copies shall be retained by the licensed seller, and one shall be delivered to the licensed purchaser. The copy delivered to the purchaser shall be the original and printed upon white paper; one of the copies retained by the dealer shall be printed upon yellow tinted paper, and the other upon pink paper; the copy printed upon pink paper properly made out, and signed by the licensee, may be delivered by such licensed dealer in such tax exempt motor vehicle fuel to any dealer importing motor vehicle fuel into the State of North Dakota, and originally liable for the payment of the motor vehicle fuel tax thereon, and such pink copy of receipt shall be acceptable by the Tax Commissioner in lieu of payment by such

dealer importing motor vehicle fuel into the State of North Dakota, and liable for the tax upon the number of gallons of motor vehicle fuel by such receipt shown to have been sold for agricultural or industrial purposes.

A fee of \$5.00 must be paid by each dealer authorized to sell tax exempt motor vehicle fuel under Section 2, for agriculture and industrial purposes. A fee of one (\$1.00) dollar must be paid by each dealer licensed under Section 2 to sell tax exempt motor vehicle fuel for aircraft or domestic purposes. A separate license must be secured for each station where tax exempt motor vehicle fuel is sold. The license is annual and runs from January 1 to December 31, both inclusive. A bulk dealer licensed to do business within the state of North Dakota shall not be denied a license because their bulk station is not located within the state of North Dakota.

§ 5. CONSUMER'S LICENSE. HOW PROCURED. FEE.] A consumer's license authorizing the applicant to purchase tax free motor vehicle fuel for agricultural and industrial purposes, as defined in this Act, shall issue to the applicant upon his making the application as hereinafter provided for only if the Tax Commissioner is satisfied that the same is to be used solely for the purposes set forth in this Act. In order to procure a license, the applicant shall set forth in the application prepared by the Tax Commissioner for such purpose the name and address of the applicant, the use to which the motor vehicle fuel is to be put, the total number of gallons of motor vehicle fuel he feels entitled to purchase during the year; and if the use is agricultural, a legal description of the land owned or operated, the acreage to be farmed, the make and year of manufacture, and rated horsepower of each automobile, motor vehicle truck, the rated horsepower of each and every engine or tractor propelled by motor vehicle fuel and the description of any other machinery or implement wherein tax exempt motor vehicle fuel is to be used. If the Tax Commissioner is satisfied that the motor vehicle fuel is to be used solely for the purposes authorized in this Act, then he shall grant a license to the applicant to purchase free from any motor vehicle fuel tax the amount of motor vehicle fuel set forth in the application and the license. A fee of fifty cents must be paid to the Tax Commissioner for each consumer's license. The license is annual and runs from January 1 of each year to the following December 31, both inclusive. Each such licensee shall, prior to being granted any further annual license, file with the Tax Commissioner a duplicate of his receipt or receipts as herein provided that has been received by him from any dealer licensed hereunder from whom any such motor vehicle fuel has been purchased and covering all motor vehicle fuel so purchased under the former license; together with a statement upon a form to be provided by the Tax Commissioner of the motor vehicle fuel purchased for other than solely agricultural, industrial, and domestic purposes, and upon which a motor

vehicle fuel tax was paid by such licensee during the period covered by such former license.

§ 6. REGULATING DELIVERY AND STORAGE OF TAX EXEMPT FUEL.] No tax exempt motor vehicle fuel shall be sold or delivered except by a dealer licensed to sell tax exempt motor vehicle fuel or his employee.

§ 7. PENALTIES.] The use of tax exempt motor vehicle fuel for the purpose of propelling any motor vehicle or other equipment upon the highways of this State is prohibited, and any person who knowingly sells or purchases tax exempt motor vehicle fuel or uses tax exempt motor vehicle fuel, for the purpose of propelling any motor driven vehicle or other equipment upon any of the highways within the State shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$300.00, together with costs of prosecution.

§ 8. TAX COMMISSIONER MAY REFUSE OR CANCEL LICENSE.] The Tax Commissioner shall revoke and cancel a license of a purchaser or a seller under the following conditions:

A. A dealer's license shall be cancelled if he fails to keep the records, or to make the reports required by this Act, and the rules and regulations of the Tax Commissioner; makes or presents to the Tax Commissioner any false report, receipt, or certificate. for a sale of tax exempt fuel to anyone without a license; for placing tax exempt motor vehicle fuel in the supply tank of any motor vehicle being propelled or to be propelled upon a public highway.

B. A consumer's or purchaser's license shall be revoked and cancelled for loaning his license to another individual; for placing tax exempt fuel in the supply tank of a vehicle propelled upon or to be propelled upon the public highways of this State; for using tax exempt fuel to propel any motor vehicle along and upon the highways of this State; for sale of tax exempt motor vehicle fuel by purchaser to any person with knowledge that such fuel is to be used upon the highways of this State.

C. When revoked for cause, no new license shall issue to the dealer or the consumer for a period of one year.

§ 9. TAX COMMISSIONER TO ADMINISTER. RULES AND REGULATIONS.] The Tax Commissioner and his authorized agents are charged with the duty of enforcing the provisions of this Act, and are hereby given the power of peace officers for the purpose of making necessary inspections for the effective administration of the Act. The Tax Commissioner is hereby authorized to call to his assistance any member of the State Highway Patrol or any of the oil inspectors with the State Laboratories Commission, and it shall be the duty of the members of the State Highway Patrol and the

oil inspectors, so far as is consistent with their other duties, to assist the Tax Commissioner in effectively administering this Act.

The Tax Commissioner shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act for its detailed and efficient administration.

§ 10. FEES DEPOSITED IN STATE TREASURY.] All fees received by the Tax Commissioner, as herein provided for, shall be paid into the State Treasury and covered into the General Fund of the State.

§ 11. EXEMPTIONS FURTHER DEFINED.] Nothing in this Act shall be construed as exempting any motor vehicle fuel used in propelling any motor vehicle, truck, or engine to be operated in whole or in part upon any public highway in this State, or motor vehicle fuel used for purposes not wholly agricultural, industrial, or domestic, as defined in this Act. Provided that no tax exempt fuel, as herein defined, may be used for the construction, reconstruction, or maintenance of any state or county highway, except in cases where such construction, reconstruction, or maintenance of highways is done and performed by the State, county, township, or other municipality and where the public funds of the State, county, township, or other municipality are directly used for the purchase of such motor vehicle fuel.

§ 12. PENALTY.] Any person violating any of the provisions of this Act shall have his license revoked and no new license shall issue to such person for a period of one year. In addition to the revocation and cancellation of his license, any person violating any of the provisions of this Act shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than \$300.00, together with the costs of prosecution.

§ 13. The provisions in this Act for the payment of a license fee shall become effective January 1, 1942.

Approved March 18, 1941.

CHAPTER 165**H. B. No. 55—(Committee on Education)****MINERAL, GAS AND OIL RIGHTS—STATE OWNED LANDS****An Act to Amend and Re-enact Chapter 149, Session Laws of 1939, Relating to Reservation of Mineral, Gas and Oil Rights on Sale of State Owned Lands; and Declaring an Emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 1 of Chapter 149, Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 1.] In all transfers of land hereafter made by the State of North Dakota or any of the State departments of lands now owned by the State of North Dakota or which may hereafter be acquired by the State of North Dakota, or any of its departments by deed, quit claim deed, foreclosure or by any other method, and whether such transfers made by the State of North Dakota or any of its departments are made by deed, contract or lease, there shall be reserved to the State of North Dakota fifty (50%) per cent of all oil, natural gas or minerals which may be found on or underlying such land. Any transfer, deed or lease which does not contain such reservation shall be construed as if such reservation were contained therein.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved February 20, 1941.

CHAPTER 166**S. B. No. 135—(Committee on Judiciary)****AUTHORIZING OIL AND GAS LEASES BY ADMINISTRATORS AND EXECUTORS****An Act Authorizing executors and administrators of decedents and guardians of minors and incompetents to execute oil and gas leases, providing for the procedure for the approval and confirmation of such leases, and validating all such leases executed prior to the passage and taking effect of this act, and declaring an emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Executors and administrators of the estates of decedents and guardians of minors and incompetents are empowered to lease

the real estate of the estate for the purpose of mining, drilling and operating for oil and gas and laying pipe lines, and building tanks, power stations and structures thereon to produce, save and take care of said products, for a period of not to exceed ten years, or as long thereafter as oil or gas, or either of them, is produced from said land by the lessee, or assigns, upon such terms and in consideration of such bonuses, royalties, rentals and payments as may be agreed upon; provided, however, that in no case shall the royalty be less than the equal one-eighth part of all oil produced and saved from the leased premises; nor, in the case where gas only is found, less than the equal one-eighth of the gross proceeds at the prevailing market rate, for all gas used off the premises; nor, in the case where gas is produced from any oil well and used off the premises, or for the manufacture of casing-head gasoline or dry commercial gas, less than one-eighth of the gross proceeds at the prevailing market rate for the gas during which time such gas shall be used. No such lease shall run for a period of more than two years from the date thereof unless a well be commenced on said land within such time, provided, however, that such lease may provide that the lessee may pay a delay rental in an amount to be specified in such lease and approved by the court, which shall operate as a rental and cover the privilege of deferring the commencement of a well for one year. Such lease may also provide for the payment of successive delay rentals and deferring of the commencement of a well for like successive periods. Upon the execution, approval and delivery of such lease, all persons interested in the estate shall be bound thereby during the entire period of the lease.

§ 2. No lease authorized in the preceding section shall be valid or of any force or effect until it shall have been approved and confirmed by the county court having jurisdiction. After the execution of such lease, the executor, administrator or guardian shall submit the same to the county court, together with his petition for the approval and confirmation thereof, and, after a hearing thereon upon notice given all persons interested in the estate in the manner provided by statute, if it shall appear to the Court that the terms thereof are just and reasonable and that it is for the best interest and advantage of the estate and the persons interested therein that such lease should be approved and confirmed, the court shall enter an order approving and confirming the same, a certified copy of which shall be recorded in the office of the Register of Deeds of the county wherein the land is situated. If all persons interested in the estate shall join in the petition to approve and confirm such lease, or shall in writing waive service of notice of hearing such petition, the hearing may be held at any time.

§ 3. All leases for any of the purposes mentioned in Section 1 hereof, which have been executed and delivered under authority of an order of a county court having jurisdiction or which have been

approved by such a court, prior to the passage and taking effect of this act, are hereby declared valid and legal for all purposes.

§ 4. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1941.

CHAPTER 167

S. B. No. 140—(Committee on Judiciary)

AUTHORIZING SALE OF OIL, GAS AND MINERAL RIGHTS BY ADMINISTRATORS AND EXECUTORS

An Act Authorizing the sale by executors, administrators and guardians of estates of oil, gas and mineral interests in land, providing for the procedure relative to such sales, and declaring an emergency.

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

§ 1. Whenever it shall appear to the satisfaction of the county court that it is necessary for the payment of the family allowance, claims, expenses of administration, or legacies, or that it is for the advantage, benefit or best interest of the estate of a decedent, minor or incompetent, and the persons interested therein, that the whole or some undivided fractional part of the oil, gas and other minerals in and under, and that may be produced from, land belonging to the estate, should be sold separate from the surface rights, the executor, administrator or guardian, as the case may be, may sell the same, upon order of the court, in the manner hereinafter provided.

§ 2. To obtain such order for the sale of oil, gas and other minerals, a verified petition shall be presented to and filed with the court, setting forth the matters required by law to be contained in a petition for the sale of real estate, and in addition thereto, setting forth the quantity of the interest in the oil, gas and other minerals desired to be sold, and the probable amount to be realized on the sale, whereupon a citation thereon shall be issued and served in the manner provided by law. If all persons interested in the estate join in the petition or signify in writing their assent thereto, or waive service of notice thereof, the hearing may be had at any time.

§ 3. Any person interested in the estate may file written objections to the petition, and the petition and objections shall be heard, the hearing conducted and witnesses examined in the manner now provided by statute relative to sales of real property.

§ 4. If it appears to the satisfaction of the court that it is necessary or for the advantage, benefit and best interest of the estate and the persons interested therein, to sell the whole or some fractional part of the oil, gas and other minerals in and under, and that may be produced from, land belonging to the estate, the court may authorize the sale of the whole or any fractional part thereof, separate from the surface rights.

§ 5. Upon the entry of such an order of sale all further proceedings shall be conducted in compliance with Sections 8544a29 to 8544a34, inclusive, and Sections 8544a36 to 8544a39, inclusive, of the 1925 Supplement to the Compiled Laws of the State of North Dakota of 1913 and amendments thereto.

§ 6. All such sales shall be made subject to the terms of any existing oil, gas or mineral lease, and shall cover and include all or a fractional part of the oil royalty and gas rental or royalty and mineral rental or royalty to be paid thereunder.

§ 7. The conveyance directed to be made shall convey, in addition to the whole or fractional part of all oil, gas and other minerals in and under, and that may be produced from the land, also the right of ingress and egress at all times for the purpose of mining, drilling and exploring such lands for oil, gas and other minerals and removing the same therefrom, with the right at any time to remove any or all equipment in connection therewith.

§ 8. When property is directed by the will to be sold, or authority is given in the will to sell property, the executor may sell the whole or any fractional part of the oil, gas and other minerals in and under, and that may be produced from, land belonging to the estate in the same manner and upon the same proceedings as provided for in Section 8781 of the Compiled Laws of the State of North Dakota of 1913 and amendments thereto.

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

Approved March 17, 1941.

CHAPTER 168

S. B. No. 134—(Committee on Judiciary)

AUTHORIZING OIL AND GAS LEASES BY POLITICAL
SUBDIVISIONS

An Act to authorize the leasing of land owned by school districts, cities, villages, townships and park districts, for oil and gas; authorizing the governing boards to make such leases; providing for the consolidation of such oil and gas leases with adjoining lands for operation and development; repealing all laws and parts of laws in conflict herewith.

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

§ 1. The governing board of any school district, city, village, township and park district in this state is hereby authorized and empowered to lease its grounds, lands, or any part thereof, for oil and gas development, for a primary term not to exceed ten years and as long thereafter as oil or gas is or can be produced, and any such oil and gas lease may provide that the lessee shall have the right and power to consolidate the land covered by said lease with other adjoining land for the purpose of joint development and operation of the entire consolidated premises as a unit, in which event the lessor of such lease shall share in the royalty on oil and gas produced from said consolidated tract in the proportion that the area of the land covered by such lease bears to the total area of said consolidated tract.

§ 2. All such leases and the occupancy thereunder of the lands leased shall not interfere materially with the purposes for which said lands are used and occupied by the school district, city, village, township or park district, nor shall any oil or gas well be drilled or located thereon within 100 feet of any public building upon any such land.

§ 3. All monies arising from such leases or the production of oil or gas thereunder shall become a part of the general funds of such school district, city, village, township and park district.

§ 4. All leases heretofore executed by the governing board of any school district, city, village, township and park district in this State covering lands under its control are hereby validated.

§ 5. All laws, or parts of laws, in conflict herewith are hereby repealed.

Approved March 7, 1941.

CHAPTER 169**H. B. No. 82—(Austad)****TRACTOR FUEL SPECIFICATION**

An Act to Amend and Re-enact Section 3 (d) of Chapter 165 Laws of North Dakota for 1933 to Provide a Higher Sulphur Limit; and to Provide a Minimum Knock Rating for Tractor Fuel; and Declaring an Emergency.

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

§ 1. AMENDMENT.] Section 3 (d) of Chapter 165 of the Laws of North Dakota for 1933 is hereby amended and re-enacted to read as follows:

§ 3 (d) SULPHUR.] The sulphur shall not be more than 0.50 per cent. And there is hereby added to Section 3 the following:

(e) KNOCK RATING.] The knock rating shall not be less than Octane Number 30; provided that until January 1, 1942, the knock rating shall not be less than Octane Number 25.

§ 2. 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 12, 1941.

(Note—Emergency did not carry in House.)

CHAPTER 170**H. B. No. 210—(Morland, Bubel, Saumur, Rohde)****GAS AND OIL WELLS — RULES AND REGULATIONS**

An Act to conserve crude petroleum oil and natural gas; to enlarge the duties and authority of the Industrial Commission of North Dakota to supervise and control the oil and gas resources of North Dakota; authorizing the Industrial Commission of North Dakota to promulgate rules and regulations for the enforcement of the provisions of the Act for the purpose of conserving oil and gas; providing penalties for the violation of certain provisions of the Act or the regulations promulgated thereunder; repealing Chapter 184 of the 1929 Session Laws and Chapter 135 of the 1937 Session Laws of North Dakota; repealing all laws and parts of laws in conflict herewith.

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

§ 1: The duties and authority of the Industrial Commission of North Dakota are hereby enlarged to include supervision and

control over the crude petroleum oil and natural gas resources of the State of North Dakota.

§ 2: To accomplish the purposes of this Act the Industrial Commission shall obtain the assistance of the State Geologist of the State of North Dakota, who shall act as a supervisor charged with the duty of enforcing the regulations and orders of the Industrial Commission herein as they may apply to the crude petroleum oil and natural gas resources of the State of North Dakota, and the provisions of this Act.

§ 3: Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this Act:

(a) "Commission" shall mean the Industrial Commission of North Dakota;

(b) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind;

(c) "Oil" shall mean crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods;

(d) "Gas" shall mean all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in Subsection (c) above;

(e) "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of the general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used herein;

(f) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "Field" shall include the underground reservoir or reservoirs containing crude oil or natural gas, or both. The words "Field" and "Pool" mean the same thing when only one underground reservoir is involved; however, "Field", unlike "Pool", may relate to two or more pools;

(g) "Waste", in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include:

(1) underground waste and the inefficient, excessive or improper use or dissipation of reservoir energy, including gas energy and water drive, of any pool; and the locating, spacing, drilling, equipping, operating or producing of any oil well or gas well in a manner which results or tends to result in reducing the quantity of oil or gas ultimately recoverable from any pool; and (2) surface waste and the inefficient storing of oil and the locating, spacing, drilling, equipping, operating or producing of oil wells or gas wells

in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas;

(h) "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and another, or others;

(i) "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both, in paying quantities;

(j) "Well" shall mean a well drilled in search of oil or gas, but shall not include core test wells, stratigraphic test wells or wells drilled for information purposes only as distinguished from wells drilled for the purpose of producing oil or gas if found.

§ 4: The production or handling of crude petroleum oil or natural gas in such manner or under such conditions as to constitute or result in waste as herein defined is hereby prohibited; provided, however, that the production of gas in conjunction with the production of water insofar as such gas comes from the water bearing formations is expressly excluded from the coverage of this Act.

§ 5: (a) The Industrial Commission shall have jurisdiction and authority of and over all persons and property necessary to enforce effectively the provisions of this Act and all other Acts relating to the conservation of oil and gas.

(b) The Industrial Commission shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction exists or is imminent. In the exercise of such power the Commission shall have the authority to compel the State Geologist to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records, including drilling records and logs; to examine, check, test and gauge oil and gas wells, tanks, refineries and modes of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this Act.

(c) The Industrial Commission shall have the authority to make, after hearing and notice as hereinafter provided, such reasonable rules, regulations and orders as may be necessary from time to time in the proper administration and enforcement of this Act, which shall include rules, regulations and orders for the following purposes: (1) to require the drilling, casing and plugging of wells to be done in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into oil or gas strata; to prevent the pollution of fresh water supplies by oil, gas or salt water; and to require reasonable bond conditioned for the performance of the duty to plug each dry or abandoned well; (2) to require the person desiring or proposing to drill

any well for oil or gas, before commencing the drilling of any such well, to notify the State Geologist upon such form as the State Geologist shall prescribe and to pay to the Commission a fee of \$25.00 for each such well. The drilling of any well is hereby prohibited until such notice is given and such fee has been paid as hereunder provided. The State Geologist shall have the power and authority and it shall be his duty to prescribe that the said form indicate the exact location of such well, the name and address of the owner, operator, contractor, driller, and any other person responsible for the conduct of drilling operations; the elevation of the well above sea level, and such other relevant information as the State Geologist may deem necessary or convenient to effectuate the purpose of this Act. All funds paid to the Board pursuant to the provisions of this Section shall be by the Board deposited with the State Treasurer. (3) Shall compel the filing of logs, including electrical logs, if any are taken, drilling records, typical drill cuttings or cores, if cores are taken, in the office of the State Geologist within six months from the date of completion of any well. (4) To prevent wells from being drilled, operated and produced in such a manner as to cause injury to neighboring leases or property. (5) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool. (6) To require the operation of wells with efficient gas-oil ratios, and to fix such ratios. (7) To prevent "blow outs", "caving", and "seepage" in the same sense that conditions indicated by such terms are generally understood in the oil and gas business. (8) To prevent fires. (9) To identify the ownership of all oil and gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities. (10) To regulate the "shooting" and chemical treatment of wells. (11) To regulate secondary recovery methods, including the introduction of gas, air, water or other substance into producing formations. (12) To regulate the spacing of wells. (13) To require the filing currently of information as to the volume of oil and gas, or either of them, produced and saved from the respective properties. (14) To require the filing with the State Geologist of a notice of intention to drill stratigraphic test wells, giving the location thereof, and to require the filing with the State Geologist of a plugging report within sixty (60) days after completion of such well. No fee shall be required in connection with the filing of such notices and reports.

§ 6: (a) The Commission shall prescribe its rules or order of procedure in hearings or other proceedings before it under this Act.

(b) No rule, regulation or order, including change, renewal or extension thereof shall, in the absence of an emergency, be

made by the Commission under the provisions of this Act except after a public hearing upon at least ten (10) days' notice given in the manner and form as may be prescribed by the Commission. Such public hearing shall be held at such time, place and in such manner to be held before the said commission or any member thereof, or before the State Geologist, at such time, place and in such manner as may be prescribed by the Commission, and any person having any interest in the subject matter of the hearing shall be entitled to be heard.

(c) In the event an emergency is found to exist by the Commission, which in its judgment requires the making, changing, renewal or extension of a rule, regulation or order without first having a hearing, such emergency rule, regulation or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order permitted by this sub-section shall remain in force no longer than fifteen days (15) from its effective date, and in any event it shall expire when the rule, regulation or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

(d) All rules, regulations and orders made by the Commission shall be in writing, and shall be entered in full by the State Geologist in a book to be kept for such purpose by the Commission, which shall be a public record and open to inspection at all times during reasonable office hours. A copy of such rule, regulation or order, certified by such Geologist, shall be received in evidence in all courts of this state with the same effect as the original.

(e) Any interested person shall have the right to have the Commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the Commission by making a request therefor in writing. Upon the receipt of any such request the Commission promptly shall call a hearing thereon, and after such hearing and with all convenient speed and in any event within thirty (30) days after the conclusion of such hearing, the Commission shall take such action with regard to the subject matter thereof as it may deem appropriate.

§ 7: (a) The Commission, or any member thereof, or the State Geologist is hereby empowered to issue subpoenas for witnesses, to require their attendance and giving of testimony before it, and to require the production of books, papers and records in any proceeding before the Commission as may be material upon questions lawfully before the Commission. Such subpoenas shall be served by the Sheriff or any other officer authorized by law to serve process in this state. No person shall be excused from attending and testifying, or from producing books, papers and records before the Commission or a Court, or from obedience to the subpoena of the Commission or a Court, on the ground or for the reason that

the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers or records, or to testify in response to any inquiry, not pertinent to some question lawfully before such Commission or Court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be required to testify or produce evidence, documentary or otherwise, before the Commission or Court, or in obedience to its subpoena; provided, that no person testifying shall be exempted from prosecution and punishment for perjury committed in so testifying.

(b) In case of failure or refusal on the part of any person to comply with any subpoena issued by the Commission or any members thereof; or in case of the refusal of any witness to testify or answer to any matter regarding which he may be lawfully interrogated, any District Court in this State, on application of the Commission, may issue an attachment for such person and compel him to comply with such subpoena and to attend before the Commission and produce such documents, and give his testimony upon such matters, as may be lawfully required, and such Court shall have the power to punish for contempt as in case of disobedience of like subpoenas issued by or from such Court, or for a refusal to testify therein.

§ 8: Any interested person affected by this Act or by any rule, regulation or order made or promulgated by the Commission hereunder and who may be dissatisfied therewith shall have the right to file a suit in a court of competent jurisdiction against the Commission or the members thereof as defendants to test the validity of any provision of this Act or any rule, regulation or order made or promulgated hereunder. Such suit shall be advanced for trial and be determined as expeditiously as feasible, and no postponement or continuance thereof shall be granted except for reasons deemed imperative by the Court. In such trials, the burden of proof shall be upon the party complaining of the validity of this Act or any provision thereof, any rule, regulation or order made or promulgated hereunder and any such rule, regulation or order so complained of shall be deemed prima facie valid.

§ 9: (a) No temporary restraining order or injunction of any kind shall be granted against the Commission or the members thereof, or against the Attorney General, or any State's Attorney, or against any agent, employee or representative of the Commission, restraining the Commission, or any of its members, or any of its agents, employees or representatives, or the Attorney General or any State's Attorney from enforcing any of the provisions of this Act, or any rule, regulation or order made hereunder, except after due notice to the members of the Commission and to all other defend-

ants, and after a hearing at which it shall be clearly shown to the Court that the act done or threatened is without sanction of law, and that if enforced against the complaining party will cause an irreparable injury. The order or decree of the Court granting temporary injunctive relief shall state the nature and extent of the probable validity of any provision of this act, or of any rule, regulation or order made hereunder, involved in such suit, and shall also contain a clear statement of the probable damage relied upon by the Court as justifying the temporary injunctive relief.

(b) No temporary injunction of any kind, including a temporary restraining order, against the Commission or the members thereof, or its agents, employees or representatives, or the Attorney General, or any State's Attorney, shall become effective until the plaintiff shall execute a bond to the State with sufficient surety in an amount to be fixed by the Court, reasonably sufficient to indemnify all persons who may suffer damage by reason of the violation pendente lite, by the complaining party, of the provisions of this Act, or of any rule, regulation or order complained of. Such bond shall be approved by the Judge of the Court in which the suit is pending, and the Court may, from time to time, on motion and with notice to the parties increase or decrease the amount of the bond, and may require new or additional sureties as the facts may warrant. Such bond shall be for the use and benefit of all persons who may suffer damage by reason of the violations pendente lite of this Act, provision, rule, regulation or order complained of in such suit, and any person so suffering damage may bring suit on such bond before the expiration of six months after any provision of this Act, or any rule, regulation or order complained of shall be finally held to be valid, in whole or in part, or such suit against the Commission or the members thereof, shall be finally disposed of.

§ 10: Whenever it shall appear that any person is violating or threatening to violate any provision of this Act, or any rule, regulation or order made hereunder, and unless the Commission without litigation can effectively prevent further violation or threat of violation, then the Commission, through the Attorney General, who may call to his assistance the State's Attorney of the county in which suit is instituted, shall bring suit in the name of the State of North Dakota against such person in the District Court of the County of the residence of the defendant, or, if there be more than one defendant, in the District Court of the county of the residence of any of them, or in the District Court of the county in which such violation is alleged to have occurred, or in the District Court of Burleigh County, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit the Commission, in the name of the State of North Dakota, may, without bond, obtain such injunctions, prohibitory and mandatory,

including temporary restraining orders and temporary injunctions, as the facts may warrant.

§ 11: In any suit where the Commission, in the name of the State, seeks enforcement of this Act, or of any rule, regulation or order issued thereunder, as provided in Section 10 of this Act, or in any suit where an interested party seeks to test the validity of, or enjoin the enforcement of any prior issue of this Act, or any rule, regulation or order issued hereunder, as provided in Section 8 of this Act, either party shall have the right of an immediate appeal to the Supreme Court from any final judgment or order therein entered. The manner of presenting any appeal as herein provided shall be governed by the provisions of the laws of the State of North Dakota regulating appeals in injunction proceedings.

§ 12: Nothing in this Act contained or authorized, and no suit by or against the Commission and no penalties imposed or claimed against any person for violating any provision of this Act, or any rule, regulation or order issued hereunder, and no forfeiture, shall impair or abridge or delay any cause of action for damage which any person may have or assert against any person violating any provision of the Act, or any rule, regulation or order issued hereunder. Any person so damaged by the violation may sue for and recover such damages as he may show that he is entitled to receive. In the event the Commission should fail to bring suit to enjoin any actual or threatened violation of any provision of this Act, or of any rule, regulation or order made hereunder, then any person or party in interest adversely affected by such violation, or threat thereof, and who has requested the Commission to sue in the name of the State, may, to prevent any or further violation, bring suit for that purpose in any Court in which the Commission could have brought suit. If, in such suit, the Court holds that injunctive relief should be granted, then the State shall be made a party and shall be substituted by order of the Court for the person who brought the suit, and the injunction shall be issued as if the State had at all times been the complaining party.

§ 13: Any person of whom an oath or affirmation shall be required under the provisions of this Act, or by any rule, regulation or order of the Commission, who shall wilfully swear or affirm falsely in regard to any matter or thing respecting which such oaths or affirmation is required, or any person who, for the purpose of evading any rule, regulation or order made thereunder shall intentionally make or cause to be made any false entry or statement of fact in any report required to be made by this Act or by any rule, regulation or order made hereunder, or who, for such purpose shall make or cause to be made any false entry in any account, record or memorandum kept by any person in connection with the provisions of this Act or any rule, regulation or order made here-

under, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for a term of not more than six (6) months, or to both such fine and imprisonment.

§ 14. REPEAL]: That Chapter 184 of the 1929 Session Laws of North Dakota, and Chapter 135 of the 1937 Session Laws of North Dakota be, and the same are hereby, repealed. All laws or parts of laws in conflict with this Act be, and the same are hereby, repealed.

§ 15. SAVING CLAUSE]: It is hereby declared to be the legislative intent to enact each separate provision of this Act independently of all other provisions; and the fact that any section, word, clause, sentence or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence or part thereof unless otherwise stated herein.

Approved March 20, 1941.

HIGHWAYS

CHAPTER 171

H. B. No. 303—(Johnson of Cass)

BIENNIAL REPORT TO BE SUBMITTED BY THE STATE HIGHWAY COMMISSIONER

An Act Requiring departmental budgets and biennial reports by the State Highway Commissioner and repealing all Acts and parts of Acts in conflict herewith.

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

§ 1. DEPARTMENTAL BUDGETS.] Not later than the 31st day of December of each year, the State Highway Commissioner shall adopt a Department Budget wherein shall be allocated, set aside and appropriated to each Department, division, section or activity of the State Highway Department for the ensuing calendar year, a definite and fixed sum or allowance in such amount and with such detail as the Commissioner may elect for the use and purpose set aside in said Department Budget.

§ 2. BIENNIAL REPORTS.] It shall be the duty of the State Highway Commissioner, on or before January 15 of each odd num-

bered year, to transmit to the Governor a full and complete biennial report of the activities of his office for the preceding two calendar years; and also to submit a biennial report, as is now required by law, for other departments of the State government.

§ 3. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 18, 1941.

CHAPTER 172

H. B. No. 112—(Trydahl, Brusseau and Blair)

CONTRACTS FOR ROAD IMPROVEMENTS AND MACHINERY TO BE ADVERTISED

An Act to amend and re-enact Section 2 of Chapter 108 of the Session Laws of 1915, being Section 1946a1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota; Relating to the expenditure of money by contract for road improvements and road machinery by the County Commissioners, and repealing all Acts and parts of Acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 108 of the Session Laws of 1915, being Section 1946a1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ 1946a1. CONTRACTS TO BE ADVERTISED.] All purchases of road machinery and all rental contracts or agreements for the use of road machinery and other articles or contracts for the improvements of the highways, except necessary repairs for such road machinery, which shall exceed the sum of Two Hundred Dollars (\$200.00), shall be advertised in the manner as now provided by law for the purchase of county supplies.

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

Approved February 24, 1941.

CHAPTER 173

H. B. No. 113—(Trydahl, Boulden, Saumur and Smart)

PURCHASE OF RIGHT OF WAY BY COUNTY COMMISSIONERS
An Act to Amend and Re-enact Section 1, Chapter 121 of the Session
Laws of North Dakota for the year 1935.

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

§ 1. PURCHASE OF RIGHT OF WAY BY COUNTY COMMISSIONERS.] That the county commissioners of any county of the State of North Dakota, by resolution or order may, as part of the cost of construction, reconstruction, widening, altering, changing, locating, re-locating, aligning, realigning or maintaining of any highways in said county, may purchase, acquire, take over or condemn, under the right and power of eminent domain, for any county, any and all lands which it shall deem necessary for the present use, either temporary or permanent and to provide adequate drainage in the improvement, constructing, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning or maintaining of any highways in said county, and it may by the same means acquire said lands notwithstanding the fact that the title thereto now or hereafter is vested in the state or any of its subdivisions. Whenever said county commissioners shall determine by resolution or order that the public necessity requires the taking of land as aforesaid, it shall cause said lands to be surveyed and described and a plat thereof prepared and recorded in the office of the Register of Deeds of the County wherein the same is located. The county commissioners or their duly authorized agents and employees are hereby authorized and empowered to enter upon any land or lands for the purpose of making such surveys, examination or test; provided, however, that in case of damages to said premises the county commissioners shall forthwith pay to the owner of said premises the amount of said damages.

Approved February 21, 1941.

CHAPTER 174

H. B. No. 323—(Johnson, Crockett and Twitchell)

STATE HIGHWAY DEPARTMENT, BIDS

An Act to Amend and Re-enact Section 11 of Chapter 159, Session Laws of 1927, relating to the Department of State Highways.

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

§ I. Section 11 of Chapter 159, Session Laws of 1927, is hereby amended and re-enacted as follows:

§ II. CONTRACTS AND FORCE ACCOUNT.] Whenever the cost of any improvement or the purchase price of equipment or materials and supplies shall exceed the sum of Three Thousand (\$3,000.00) Dollars, the Department of State Highways shall proceed to advertise the same, request bids and award such contracts in the manner hereinafter provided. Whenever any proposed contract, purchase or work of the Department of State Highways shall be for a sum less than Three Thousand (\$3,000.00) Dollars, it shall be discretionary with the Department of State Highways whether the same shall be awarded after advertising, or request of bids; and it shall award such contracts in a manner hereinafter provided; provided, however, that where contracts be in excess of One Thousand (\$1,000.00) Dollars, the Department of State Highways shall request informal bids from as many contractors, manufacturers and dealers as it can conveniently.

Request for bids for all construction work or the improvement of any State Highway, or any structure in excess of Three Thousand (\$3,000.00) Dollars, shall be advertised by publication once a week for a period of three successive weeks, prior to the opening of such bids, in the county official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened.

All requests for bids for the purchase of equipment, materials and supplies in excess of the sum of Three Thousand (\$3,000.00) Dollars, shall be advertised in the official newspaper of Burleigh County, once a week for a period of three successive weeks prior to the opening of such bids. All bids shall be opened at the time and place specified, and in the offices of the Department of State Highways, by and in the presence of the State Highway Commission, or its successors. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in an amount equal to five per cent of his bid, which check shall be forfeited to the State Highway Fund, should the bidder fail to effect a contract within ten days after a notice of such award. In the event that any county or municipality shall participate in and defray the cost, or part of the

cost of any improvement to be made by the Department of State Highways, it shall be the duty of the chief executive officer of such Highway Commission to notify the board of county commissioners of the county so interested, or the proper city officials of any municipality of the time set for opening such bids.

Excepting the certified checks of the three lowest bidders; all certified bidders' checks shall be returned to the bidders promptly upon opening such bids. The checks of the three lowest responsible bidders may be cashed and the money retained until the contract has been awarded and properly executed.

Informal bids shall be requested and the contract therefor may be awarded upon such basis and procedure as the State Highway Commission shall direct.

Provided, however, that in case of great emergency requiring immediate action and, where delay would cause a public injury, the work may be done by the Department of State Highways by force account.

§ 11A. Whenever any highway improvement involves structural work, dirt grading and traffic service gravel, graveling, stabilizing and oiling, or concrete surfacing, or any two or more of them, then wherever practical and not contrary to any Federal law or regulations, separate proposals and bids shall be received on each separate type of work.

Approved March 21, 1941.

CHAPTER 175

H. B. No. 62—(Sharpe, Nystrom and Bergesen)

HIGHWAY PATROL AND DRIVERS LICENSE

An Act to amend and re-enact Sections 4, 7, 12 and 18 of Chapter 139 of the Session Laws of North Dakota of 1937 relating to issuance of motor vehicle operators' licenses to persons under sixteen years of age; the fee for motor vehicle operators' licenses; the revocation of licenses; and the establishment of the Division of Highway Safety and Police Patrol, repealing all Acts and parts of Acts in conflict herewith and declaring an emergency.

March 20, 1941

Honorable Herman Thorson
Secretary of State

Dear Mr. Thorson:

I transmit herewith House Bill 62 entitled "An Act to amend and re-enact Sections 4, 7, 12, and 18 of Chapter 139 of the Session Laws of North Dakota of 1937 relating to issuance of motor vehicle operators' licenses to persons under sixteen years of age; the fee for

motor vehicle operators' licenses; the revocation of licenses; and the establishment of the Division of Highway Safety and Police Patrol, repealing all Acts and parts of Acts in conflict herewith and declaring an emergency" which I have signed.

It will be noted that both the title of the act and the act itself contain an emergency clause and that both branches of the Legislature have certified that the act was passed by a $\frac{2}{3}$ majority. It is further noted, however, that as a matter of fact, the vote on the measure in the Senate was 29 for and 16 against the measure with 4 members absent and not voting, and that as a result less than $\frac{2}{3}$ of the members of the Senate present and voting voted in favor of the Law. It, therefore, appears that the emergency clause failed to pass and should have been declared lost and should have been so certified by the presiding officers of the Senate. It necessarily follows that the act will not become effective until July 1, 1941 pursuant to the mandatory provision of the Constitution.

Yours truly,
JOHN MOSES
Governor

JM:S:EH

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

§ 1. AMENDMENT.] That Section 4, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 4. LICENSE TO PERSONS UNDER SIXTEEN YEARS.] Upon the recommendation in writing of the County Judge of the County wherein the child resides, a motor vehicle driver's license may be issued to any child, otherwise qualified, who is less than sixteen years of age but more than fourteen years of age. No County Judge shall make a recommendation for the issuance of a motor vehicle driver's license to a child who is less than sixteen years of age unless such child, accompanied by his parent or guardian, shall appear in person before such Judge and shall satisfy the Judge that such child is at least fourteen years of age, that he appears to be qualified to safely operate an automobile, and that it is necessary for such child to drive his parent's or guardian's automobile without being accompanied by some person over the age of sixteen. The parent or guardian shall at all times be responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this section shall not authorize such child to drive a motorcycle, commercial truck, motor bus, or taxicab.

§ 2. AMENDMENT.] That Section 7, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 7. TERM OF LICENSE AND LICENSE FEE.] Motor vehicle

operators' licenses shall be issued for terms of two years each, which terms shall commence on the first day of July of each odd numbered calendar year and shall expire on the thirtieth day of June of the next succeeding odd numbered calendar year. The fee for each operator's license shall be the sum of Seventy-five (75¢) cents for each current term of two years or part thereof, and new licenses shall be obtainable at the beginning of each term, provided, however, that applicants who are eighteen years of age or younger shall pay the sum of twenty-five cents for each such license; and provided further that the first license term under the provisions hereof shall expire on June 30, 1943.

In the event of the loss or destruction of such operator's license card the person to whom it was issued may obtain a duplicate thereof by filing an application with the State Highway Department and by paying a twenty-five cent fee. Whenever a motor vehicle operator's license becomes worn or mutilated to such an extent that it is not legible but is not wholly destroyed or lost, the holder of such card shall immediately apply to the said State Highway Department for a duplicate and forward the said fee of twenty-five cents, and a duplicate will be issued.

§ 3. AMENDMENT.] That Section 12, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same is hereby amended and re-enacted to read as follows:

§ 12. STATE HIGHWAY COMMISSIONER TO REVOKE OR SUSPEND LICENSES.] It shall be the duty of the State Highway Commissioner to revoke or suspend the license of any person convicted of any of the offenses hereinafter enumerated, and in addition the certificate of license of such person shall be returned to and retained by the State Highway Commissioner for the period of the revocation or suspension. Such revocation or suspension shall be done by Order of the State Highway Commissioner made within thirty days after he receives a record of the conviction of such person for any of the following offenses:

(a) Manslaughter or homicide in any degree arising out of the operation of a motor vehicle.

(b) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Any crime punishable as a felony under the motor vehicle laws of this State, or any other felony in the commission of which a motor vehicle was used.

(d) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding twelve months.

(e) Conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person upon a charge of failing to stop and disclose his identity at the scene of the accident.

(f) Any person who shall have been convicted of three misdemeanors for violation of this Act or of any law of this State relating to highways during the two-year period covered by any single license.

(g) Provided, however, that upon the written recommendation of the Judge of the Court in which a person convicted of any of the crimes specified in paragraphs (a), (b), (c), (d) and (e) above that the license of said person be suspended rather than revoked, it shall be within the discretion of the State Highway Commissioner to suspend the license of said person, provided however, that such period of suspension shall be no less than thirty days or more than one year, and further provided that unless said written recommendation from the Judge of the Court in which a person has been convicted of any one of the crimes specified in paragraphs (a), (b), (c), (d) and (e) hereof be received by the State Highway Commissioner within thirty days from the time the record of conviction is received by him the license of the person so convicted shall be revoked.

(h) Any person who drives a motor vehicle upon the highways of this State while his license to operate a motor vehicle is suspended or revoked shall be guilty of a misdemeanor.

§ 4. AMENDMENT.] That Section 18, Chapter 139 of the Session Laws of North Dakota of 1937 be and the same are hereby amended and re-enacted to read as follows:

§ 18. ESTABLISHMENT OF DIVISION OF HIGHWAY SAFETY AND POLICE PATROL.] (a) The Commissioner is authorized and empowered to appoint a State Highway Patrol Superintendent and an Assistant Highway Patrol Superintendent, whose duty it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State, and the operating of motor and other vehicles upon said highways. The jurisdiction of said officers shall extend throughout the State.

(b) The State Highway Patrol Superintendent, with the approval of the Highway Commissioner, is hereby authorized and empowered to appoint not more than twenty patrolmen, who shall constitute the Division of Highway Safety and Patrol, subject to removal for cause only, and whose duty it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the highways in this State. The Superintendent shall require that the Division of Highway Safety and Patrol properly patrol the highways of this State and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways, provided further that all sheriffs, peace officers, and the local authorities are required to enforce the provisions of this Act.

(c) OATH AND BOND.] Every person appointed as Superin-

tendent of the Division of Highway Safety and Patrol, or Assistant Superintendent, or as a Highway Patrolman shall, before entering upon his duties subscribe to an oath, and sign and file a bond with the Commissioner, the bond to run to the State of North Dakota; said oath and bond to be in such form and in such amounts as shall be prescribed by the Commissioner.

(d) SALARIES, WAGES AND EXPENSES.] All salaries, wages and other expenses of the Division of Highway Safety and Patrol shall be paid by the State Auditor and State Treasurer out of the "Patrol Fund" herein provided, upon vouchers as now required by law for the payment of all State expenses, duly approved by the Commissioner and the Superintendent, and audited and allowed by the State Auditing Board. The salary of the Superintendent of the Division of Highway Safety and Patrol shall not exceed \$2,000 per annum, and the salary of the Assistant Superintendent shall not exceed \$1,800 per annum, the salary of each highway patrolman shall be fixed by the Superintendent at not to exceed \$125 per month, and shall be paid monthly out of the funds in the "Patrol Fund."

(e) QUALIFICATIONS OF HIGHWAY PATROLMEN.] All members of the Division of Highway Safety and Patrol shall not be less than twenty-five nor more than thirty-five years old on the date of their appointment. They shall, before being qualified to appointment, be required to pass such physical examination and such other qualification test as may be determined by the Superintendent, be of good moral character and temperate habits, have been citizens of the United States and of the State of North Dakota for not less than two years prior to their appointment. For appointment preference shall be given at all times to honorably discharged Veterans and all appointments shall be made without regard to any political party affiliation of the applicant.

(f) POLICE AUTHORITY TO THE DIVISION OF HIGHWAY SAFETY AND PATROL.] The Commissioner and such officers and inspectors of the department as he shall designate and all members of the division of highway safety and patrol shall have the power:

1. Of peace officers for the purpose of enforcing the provisions of this Act and of any other law regulating the operation of vehicles or the use of the highways.

2. To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this Act or other law regulating the operation of vehicles or the use of the highways.

3. At all times to direct all traffic in conformance with law and in the event of a fire or other emergency or to expedite traffic or to insure safety to direct traffic as conditions may require notwithstanding the provisions of law.

4. When on duty, upon reasonable belief that any vehicle is

being operated in violation of any provision of this Act, or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.

5. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.

7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.

8. To investigate reported thefts of motor vehicles, trailers, and semi-trailers.

9. That said patrolmen shall be required to inspect all motor vehicles as to compliance with the provisions of law relating to the issuance and possession of motor vehicle licenses and to fully cooperate with the motor vehicle registrar in carrying out all of the laws relating to motor vehicle licenses, and to take over and perform the duties now performed by motor vehicle license inspectors under the Regulatory Department.

10. To take applications for driver's licenses without making charge therefor.

(g) (a) The Commissioner shall issue to each member of the division of highway safety and patrol a badge of authority with the seal of this State in the center thereof, the word "North Dakota Highway Patrol" encircling said seal and below the designation of the position held by the member to whom issued. Every such badge shall be serial numbered or each member shall otherwise display a distinctive serial number.

(b) Neither the Commissioner nor any other person shall issue any such badge to any person who is not a duly appointed and acting member of said division.

(c) Any person who without authority wears the badge of a member of said division, or a badge of similar design which would tend to deceive anyone, is guilty of a misdemeanor.

(d) Any person who impersonates a member of said division or other officer or employees of the department with intent to deceive anyone, or who without authority wears a uniform likely to be confused with the official uniform of any such officer, is guilty of a misdemeanor.

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

§ 6. 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, 1941.

CHAPTER 176

S. B. No. 186—(Nelson of Grand Forks and Young)

REMOVING STATUTORY LIMITATIONS ON SALARIES PAID TO STATE HIGHWAY COMMISSIONER, CHIEF ENGINEER, ETC.

An Act Removing statutory limitations on salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the Highway Department between April 1, 1941 and June 30, 1943; repealing all Acts and parts of Acts in conflict herewith.

Whereas, the present national emergency and defense program has created an unusual demand for engineers, draftsmen and technicians, and

Whereas, Employees of the North Dakota Highway Department are being induced to leave their positions in such Department by offers of positions in defense industries at higher salaries,

Therefore,

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

§ 1. Between the first day of April, 1941, and the 30th day of June, 1943, the limitations imposed by statutes on the salaries to be paid to the State Highway Commissioner, Chief Engineer, engineers, assistant engineers, and draftsmen in the State Highway Department shall not be operative or effective, and salaries in excess of such limitations may be paid, provided, however, that the salaries of the State Highway Commissioner, Chief Engineer, engineers, assistant engineers and draftsmen in the State Highway Department shall not be increased more than twenty percent above the limitations imposed by statutes.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 20, 1941.

INSURANCE

CHAPTER 177

H. B. No. 38—(Fitch)

CERTIFICATE OF AUTHORITY, INSURANCE COMPANIES, ASSOCIATIONS, EXCHANGES AND SOCIETIES

An Act to provide for the Issuance of Certificates of Authority to Insurance Companies, Associations, Exchanges and Societies Authorized to Transact Business in North Dakota, Repealing all Laws or Parts of Laws in Conflict Herewith and Declaring an Emergency.

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

§ 1. Certificates of Authority required by law to be issued by the Commissioner of Insurance to insurance companies, associations, exchanges and societies shall expire on the succeeding April 30th.

§ 2. REPEAL.] All laws or parts of laws in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved February 15, 1941.

CHAPTER 178

H. B. No. 72—(Fitch)

ACCIDENT AND SICKNESS INSURANCE CORPORATIONS, ASSOCIATIONS AND SOCIETIES

An Act to Amend and Re-enact Section 4972, Compiled Laws of North Dakota for the year 1913, Relating to the Age of Members of Accident and Sickness Insurance Corporations, Associations and Societies.

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

§ 1. AMENDMENT.] That Section 4972, Compiled Laws of North Dakota for the year 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 4972. AGE OF MEMBERS.] No corporation, association or society organized or operating under this article shall issue any certificate of membership or policy of insurance to any person under the age of fifteen years, nor over the age of sixty-five years; provided, however, that such corporation, association or society may issue a certificate of membership or policy of insurance providing for hospital and surgical benefits only, to any person between the ages of three months and sixty-five years. Any member of any corporation, association or society holding a policy or certificate of membership, naming a beneficiary, operating under this article shall have the right at any time with the consent of such corporation, association or society to designate a new and different beneficiary without requiring the consent of such beneficiary.

Approved March 17, 1941.

CHAPTER 179

H. B. No. 39—(Fitch)

RECIPROCAL INSURANCE AGENTS LICENSE

An Act to Amend and Re-enact Chapter 151 of the Session Laws of North Dakota for 1935, as Amended by Chapter 161 of the Session Laws of North Dakota for 1939, Providing for Licenses for Reciprocal Fire and Life Insurance Underwriters, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 151 of the Session Laws of North Dakota for 1935, as amended by Chapter 161 of the Session Laws of North Dakota for 1939, be and it is hereby amended and re-enacted to read as follows:

§ 1. UNDERWRITERS' LICENSES REQUIRED.] A non-resident insurance agent or solicitor placing insurance, through a resident insurance agent of this State, shall be permitted to do so only where he first shall have made written application for, and procured from the Commissioner of Insurance, a license therefor upon a form prescribed by the Commissioner of Insurance and upon the payment of a fee of ten dollars (\$10.00). Such license shall expire on the 30th day of April next succeeding and in no case shall be granted to a resident of any state which does not permit the licensing of an agent of this state under like circumstances.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved February 15, 1941.

CHAPTER 180

H. B. No. 262—(Bergesen, Myers, Drovdal)

LIMITATION OF RISK OF INSURANCE COMPANIES

An Act to Amend and Re-enact Section 4914, Compiled Laws of North Dakota for the year 1913, Relating to the Limit of Risks to which Insurance Companies shall be exposed; Repealing all Acts or Parts of Acts in Conflict Herewith.

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

§ 1. AMENDMENT.] That Section 4914, Compiled Laws of North Dakota for the year 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 4914.] No company organized under this chapter, or transacting business in this State, shall expose itself to loss on any one risk or hazard to an amount exceeding ten per cent of its paid up capital and surplus, unless the excess shall be re-insured in some other good reliable company.

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

Approved March 7, 1941.

LICENSE

CHAPTER 181

H. B. No. 265—(Myers, Panko, Larson, Brusseau, McIntyre, Haugen, Rohde, Mollet, Braun of McLean, Heckman, Bymers, Belzer, Glas)

REGULATION AND LICENSING OF AMUSEMENT GAMES

An Act to license and regulate the operation of amusement games; levying a tax therefor, appropriating revenue derived therefrom, and repealing all Acts and parts of Acts in conflict therewith.

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

§ 1. LICENSE.] It shall be unlawful for any person or persons, firm or corporation to set up for operation, operate lease or distribute for the purpose of operating any coin-operated amusement device which can be legally operated in the State of North Dakota, without first having obtained a license therefor.

§ 2. Amusement games shall include such games and devices as electric ray guns, music boxes, picture boxes, bumperball or pinball, and other similar miniature games, whether or not they show a score, where the charge for playing is collected by a mechanical device, provided, however, that this Section shall not be construed to apply to any machine which may constitute a lottery under the laws of this State.

§ 3. Any person, firm or corporation who displays any coin-operated amusement devices as herein defined to the public to be played or operated by the public, shall secure for each such device an annual license, the fee for said license being due and payable on July 1 of each year. No license shall be issued for any fractional portion of a year, except that if any devices are put on display at any time after January first and before July first of any year the license fee for such period until July first shall be one-half of the amount of the license fee provided for herein.

§ 4. Before any such amusement device is put on display to the public, to be played or operated by the public, the owner or person in possession thereof shall pay an annual license fee as follows: For all games operated by the insertion of a penny, ten (\$10.00) dollars per year for the first machine, and two dollars (\$2.00) for each additional machine; and for all games operated by the insertion of a five-cent piece or greater denominations, the sum of twenty-five (\$25.00) dollars per year for the first machine, and seven dollars and fifty cents (\$7.50) for each additional machine so displayed by him to the public.

§ 5. It shall be the duty of the Attorney General's Licensing Department to administer and enforce the provisions of this act, and for that purpose the Attorney General is hereby directed, authorized and empowered to make, promulgate and enforce such reasonable rules and regulations as he may deem necessary and expedient. The Attorney General and/or the inspectors of said Department are hereby authorized to confiscate all machines as herein defined upon which the tax herein imposed has not been paid as provided; and to do any and all acts necessary or expedient for the strict enforcement of the provisions of this act.

§ 6. Concurrent with the issuance of each license for each machine, the Attorney General shall issue a metal plate or other device prescribed by him upon which shall appear the serial number of the license and the manufacturer's serial number of the machine; such plates must at all times be firmly attached to the machine and prominently displayed thereon

§ 7. Fifty per cent of all money collected here-under for licenses on amusement devices as defined herein shall be remitted to the State Treasurer and shall be credited to the General Fund

of the State and the remaining fifty per cent of such money so collected shall also be paid into the State Treasurer and shall there be and constitute a separate trust fund to be used and disbursed dolely for the purpose of paying old age assistance payments as now provided by law.

§ 8. There is hereby appropriated out of the monies collected under this act the sum of three thousand (\$3,000.00) dollars for the purpose of administering the provisions of said act, providing, however, that this appropriation shall not exceed the amount of revenue collected under the provisions of this act.

§ 9. Any person or persons, firm or corporation engaged in the operating or displaying to the public of any amusement devices as defined herein in violation of any of the provisions of this act shall be guilty of a misdemeanor and shall upon conviction thereof be fined not more than one hundred (\$100.00) dollars or imprisoned not more than thirty (30) days, or both such fine and imprisonment; each machine upon which such person, firm or corporation has failed to secure such license which is displayed to the public shall constitute a separate offense.

§ 10. SAVING CLAUSE.] If any section, sub-section, sentence, clause, phrase or word of this act, is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this act; and it shall be construed to have been the legislative intent to pass this act without such unconstitutional, inoperative or invalid part therein and the remainder of this act, after the exclusion of such part or parts shall be deemed and to be valid as if such excluded parts had not been included therein; and if this act or any provision thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other person, property or circumstances.

Approved March 22, 1941.

CHAPTER 182

H. B. No. 299—(Bergesen)

ARCHITECTS' EXAMINATION AND LICENSE

An Act to Amend and Re-enact Sections 2997a26, 2997a32, and 2997a33 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913, relating to the State Board of Architecture.

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

§ 1. AMENDMENT.] That Section 2997a26 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913, be and the same is hereby amended and re-enacted as follows:

§ 2997a26. WHAT MAY BE ACCEPTED IN LIEU OF ALL EXAMINATIONS.] In lieu of all examinations, the board may accept registration or certification as an architect in another state or country where the standard qualifications for the same are not lower than those required by the board under this act.

§ 2. AMENDMENT.] That Section 2997a32 of the 1925 Supplement to the Compiled Laws of North Dakota of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 2997a32. RENEWAL FEE.] Every architect who is registered under the provisions of this act, and who desires to continue to practice architecture in North Dakota, shall annually pay to the Secretary of the Board a renewal fee of Ten (\$10.00) Dollars.

§ 3. AMENDMENT.] That Section 2997a33 of the 1925 Supplement of the Compiled Laws of North Dakota of 1913, be and the same is hereby amended and re-enacted as follows:

§ 2997a33. EFFECT OF FAILURE TO PAY FEE.] Upon failure to pay such annual renewal fee when due, the holder thereof shall have his certificate revoked, but the failure to pay such renewal fee in due time shall not deprive him of the right of renewal thereafter, provided his application for renewal is made within one year after the expiration of his certificate. He shall then pay a renewal fee of Fifteen (\$15.00) Dollars.

Approved March 19, 1941.

CHAPTER 183**H. B. No. 261—(Crockett)****CHIROPRACTIC LICENSE, RENEWALS**

An Act to amend and re-enact Section 523B3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, Providing for Chiropractic License renewals; Repealing all Acts and parts of Acts in Conflict herewith; and declaring an emergency.

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

§ 1. AMENDMENT.] Section 523B3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be, and the same is hereby amended and re-enacted to read as follows:

§ 523B3. RENEWALS FEES: NON-PAYMENT: EFFECT.] All Chiropractic licenses heretofore issued in this State shall be subject to expiration on September 1st, 1941, and it shall be unlawful for any person or persons to practice Chiropractic in this State thereafter until he has received from the Board of Chiropractic Examiners an annual license expiring on September 1st following, for which license a renewal fee of \$5.00 shall be charged, conditioned however, that as a condition precedent to the issuance of such renewal license, the State Board of Chiropractic Examiners may, in their sound discretion, require each applicant practising within the boundaries of this State to attend a post-graduate course in an accredited Chiropractic school or college, or to attend at least a two-day session of the educational program as arranged by the North Dakota Chiropractic Association.

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

§ 3. 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 15, 1941.

CHAPTER 184

S. B. No. 99—(Beaton and Stucke)

HOTEL AND RESTAURANT LICENSE FEES

An Act to amend and re-enact Section 12 of Chapter 144 of Laws of North Dakota for 1929 relating to hotels, restaurants, lodging houses and boarding houses to provide for application for license and payment of license fees.

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

§ 1. AMENDMENT.] Section 12 of Chapter 144 Laws of North Dakota for 1929 is hereby amended and re-enacted to read as follows:

§ 12. LICENSE FEES.] Every hotel containing less than eleven sleeping rooms for the accommodation of the public and every lodging house shall pay an annual license fee of two dollars and fifty cents and every hotel containing more than ten sleeping rooms and less than twenty-one sleeping rooms for the accommodation of the public shall pay an annual license fee of five dollars and every hotel containing twenty-one or more sleeping rooms and less than fifty-one sleeping rooms for the accommodation of the public shall pay an annual license fee of ten dollars and every hotel containing fifty-one or more rooms shall pay an annual license fee of twenty dollars. Every restaurant or boarding house as described in Section 1 of this Act, conducted without sleeping accommodations shall be required to pay an annual license fee of two dollars and fifty cents. Application for license shall be made in writing, on forms furnished by the State Laboratories Department, during December of every year or prior to opening or operating such hotel, restaurant, lodging house or boarding house and shall be accompanied by the required fee.

Approved February 20, 1941.

CHAPTER 185

S. B. No. 177—(Drew)

PHARMACISTS' LICENSE

An Act to Amend and Re-enact Section 486 of the Compiled Laws of 1913 as Amended and Re-enacted by Section 1 of Chapter 232, Laws 1935, and declaring an emergency.

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

§ 1. Section 486 of the Compiled Laws of 1913 as amended and re-enacted by Section 1 of Chapter 232 of the Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 486. QUALIFICATIONS FOR REGISTRATION.] Every applicant for a license as a registered pharmacist shall be not less than twenty-one (21) years of age, shall be of good moral character, shall be a graduate of a school or college of pharmacy recognized by the board; and shall have at least two (2) years of practical experience in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians prescriptions, keeping records and making reports required under the state and federal statutes; provided, however, that not to exceed one year of additional credit on practical experience may be allowed for one year or more years of satisfactorily completed work in an approved school or college of pharmacy, in excess of two years.

An applicant for examination as a registered pharmacist, must with the application for examination, present to and file with the Pharmacy Board, satisfactory evidence that he or she has at least one year of practical experience as defined above and must have graduated from a school or college of pharmacy having a course of three years or more, and recognized by the Board of Pharmacy as an approved school.

The said board shall be authorized to determine what shall constitute an approved school or college or pharmacy, but a school or college to be so approved must maintain standards equivalent to the requirements of membership of the American Association of Colleges of Pharmacy.

Provided further that any person who was duly qualified to take the examination under the laws of this state at any period prior to any amendment of said Section 486 of the Compiled Laws of North Dakota of 1913, but who failed to apply for such examination, may upon due proof given to such Board that such person was so qualified, be entitled to take the examination and upon passing such examination in a manner satisfactory to the majority of said Board, such person shall be given a certificate as a registered pharmacist;

provided further that such applicant was at such time so qualified, a bona fide resident of the State of North Dakota.

Registration as a pharmacist by said Board, entitles the person so registered to membership in the North Dakota Pharmaceutical Association.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this bill shall be in full force after its passage and approval.

Approved March 22, 1941.

CHAPTER 186

H. B. No. 301—(Sellens)

STATE BOARD OF OSTEOPATHIC EXAMINATION AND REGISTRATION

An Act Relating to the State Board of Osteopathic Examination and Registration, and Providing for the Annual Registration and Renewal of Certificates of all Persons Licensed to Practice Osteopathy; Providing for an Annual License Fee of Three Dollars; Providing for Conditions upon which Renewal of Licenses shall be issued and Requirements prerequisite to the Granting of such Renewal Licenses; Providing for Penalties and Suspension of License for Failure to Reregister; Providing for reinstatement after Suspension.

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

§ 1. All persons legally licensed to practice Osteopathy in this State shall, on or before the first day of July of each year after this Act takes effect, pay to the Secretary of the State Board of Osteopathic Examiners an annual license fee of three dollars (\$3.00) for a renewal of his or her certificate to practice Osteopathy, and in addition to the payment of such annual renewal fee, from and after the first day of July, 1941, each licensee so applying for renewal of his or her certificate shall furnish to the State Board of Osteopathic Examiners proof that he or she has attended at least two days of the annual educational program and meeting conducted by the North Dakota State Osteopathic Association, or its equivalent, as determined by said licensing board, in the year preceding each such application for license renewal.

§ 2. The Secretary of the State Board of Osteopathic Examiners shall send written notice to every person holding a legal certificate to practice Osteopathy in this State at least thirty days prior to the first day of July in each year, directed to the last known address of such licensee, enclosing with said notice proper blank forms for application for such annual registration.

§ 3. Every person failing to renew his or her certificate or license to practice Osteopathy within thirty (30) days after same is due shall automatically forfeit his or her license to practice Osteopathy in the State of North Dakota but may have his or her license restored upon payment of all fees due, not to exceed twenty (\$20.00) Dollars, and presentation of satisfactory evidence of post-graduate study of a standard approved by the North Dakota State Board of Osteopathic Examiners.

Approved March 18, 1941.

CHAPTER 187

S. B. No. 164—(Stucke, Drew and Bridston)

CREATING A STATE BOARD OF PLUMBING

An Act to promote and protect the public health through the regulation of the business of plumbing; creating a State Board of Plumbing and empowering said Board and State Department of Health to adopt rules governing the practice of plumbing and establishing a code of minimum standards for plumbing work; providing for the licensing and regulation of plumbers and the regulation, supervision and inspection of plumbing work; providing concurrent authority for cities and villages; and fixing penalties.

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

§ 1. DEFINITIONS.]

(a) MASTER PLUMBER.] A master plumber as used in this Act, is a person skilled in the planning, supervision and the practical installation of plumbing and familiar with the laws, rules and regulations governing the same.

(b) JOURNEYMAN PLUMBER.] A journeyman plumber as used in this Act is any person, other than a master plumber, who, as his principal occupation, is engaged in the practical installation of plumbing.

(c) PLUMBER'S APPRENTICE.] A plumber's apprentice, as used in this Act, is any person other than a journeyman plumber, who, as his principal occupation, is engaged in learning and assisting in the installation, alteration and repair of plumbing and drainage.

(d) PLUMBING.] Plumbing as used in this Act is the act of installing in buildings the pipes, fixtures and other facilitating apparatus for bringing water into, and using same in buildings, and for removing liquids and water carried wastes therefrom.

§ 2. STATE PLUMBING BOARD.] A State Board of Plumbing consisting of three persons is hereby created to carry out the purposes and intents of this Act and to enforce the provisions thereof.

The State Health Officer of the State Department of Health or the head of any division of such department who may be named by the State Health Officer to act in his stead shall be ex-officio a member of said Board, and the Governor of the State shall appoint the other two members of the Board, one of such members to be a master plumber with at least five years experience as a master plumber, and the other member a journeyman plumber with a (at) least five years experience as a journeyman plumber, and both to be residents of the State of North Dakota for the five years immediately preceding their appointment. Each member of the Board shall serve for a term of four years and until his successor is appointed and qualified, except in the case of the first Board, where one appointed member shall be appointed for two years, and the other appointed member shall be appointed for four years, as may be specified in his certificate of appointment. Vacancies on said Board caused by the death, resignation or expiration of the term of any appointed member thereof, shall be filled by appointment from the same class of persons to which the deceased or retiring member belonged.

§ 3. HOW ORGANIZED.] Said Board shall elect a President, Vice President, Secretary and Treasurer, and shall have its Headquarters at the State Capitol. The offices of Secretary and Treasurer may be held by the same person, and the Secretary, or Secretary-Treasurer, need not be a member of said Board.

§ 4. COMPENSATION.] Each member of said Board, except the State Health Officer, shall receive \$5.00 per day for each day actually engaged in the performance of his duties under this Act, and all members of the Board, and all employees thereof, shall receive their actual traveling expenses incurred in the performance of their duties, all such compensation and expense to be paid out of any moneys in the hands of the State Treasurer to the credit of the State Plumbing Board Fund.

§ 5. OFFICES AND EMPLOYEES.] Said Board may employ a Secretary, or Secretary-Treasurer (who shall be a plumber) and such other inspectors (who shall also be registered plumbers), stenographers and assistants, and fix compensation, and may incur such other expenses as may be required, all of such salaries and expenses to be paid, however, only out of such moneys as may be in the State Plumbing Board Fund.

§ 6. DUTIES OF SAID BOARD.] The State Board of Plumbing shall be charged with the duty of supervising and inspecting the plumbing, drainage, sewage and plumbing ventilation in all public buildings within this State, and shall have the authority, if and when authorized by law, to supervise and inspect the same in private buildings. It may employ such plumbing inspectors and other assistants to carry out the purposes of this Act as may be necessary.

§ 7. PLUMBING CODE.] The said Board shall formulate, prepare and circulate among all plumbers of all classes within the State, and the various cities and villages in the State having public water supply or sewerage systems, a State Plumbing Code, which shall contain the minimum basic standards for plumbing, drainage and ventilation of plumbing in buildings of all classes. Upon adoption by said Board, and the mailing of copies thereof as herein provided, the provisions of said code shall be in full force and effect, and shall have the force and effect of law, and violation thereof shall constitute a violation of this Act; provided, however, that such code shall first have been approved by the State Department of Health.

§ 8. REGULATION OF PLUMBING BY ORDINANCE.] Any incorporated city or village in the State of North Dakota, having a system of waterworks or sewerage, may by ordinance adopt Rules and Regulations governing plumbing, drainage and ventilation of plumbing within its corporate limits, but the standards provided for therein shall not be less nor lower than the minimum standards provided for in the State Plumbing Code, but may be higher than those prescribed by the State Code, and in such regulations, subject to the foregoing, it may prescribe rules and regulations for all materials, constructions, alteration and inspection of pipes, tanks and fixtures by which water is supplied to its citizens, by which waste or sewage is carried, and may provide such pipes, tanks and fixtures be not placed in any building except in accordance with plans approved by said ordinance, and that no plumbing shall be done except by plumbers registered or licensed under the State Law, and registered or licensed under said ordinance, except by an owner on his or her own premises, occupied as his or her home or place of residence, in which case all work shall be done in accordance with the provisions of the State Plumbing Code or local ordinance, whichever shall prescribe the highest standards. Any plumber, registered and licensed by the State Board of Plumbers, may engage in or work at the business of plumbing at any place in this State, except that if any city or village shall by ordinance regulating the business of plumbing, and provide standards equal to, or in excess of those provided by the State Plumbing Code, it may require a municipal license or registration in addition to the State License, before permitting any plumber to work in said municipality. Such State Plumbing Code may be adopted as a whole as an ordinance of any city or village by reference, without the necessity of publishing the text thereof.

§ 9. REPORTS TO STATE BOARD.] Such local authority as may be designated by Ordinance for the issuance of plumbing permits and licenses, and the approval of plumbing plans, shall report to the State Board of Plumbing persistent of (or) wilful violations of the State Plumbing Code, and of any municipal ordinance regulating the same, and any incompetence on the part of any registered and licensed plumber coming to the attention of the local authorities.

§ 10. PRACTICE OF PLUMBING BY UNLICENSED PERSONS PROHIBITED.] In any incorporated city or village, having a system of waterworks or sewerage, no person, firm or corporation shall engage in the work or business of a master plumber or journeyman plumber unless registered and licensed to do so by the State Board of Plumbers. In any such city or village no person, firm or corporation shall engage in the business of installing plumbing or install plumbing in connection with the dealing in and selling of plumbing materials and supplies unless at all times a registered and licensed master plumber, who shall be responsible for the proper installation thereof, is in charge of the plumbing work of such person, firm or corporation.

§ 11. EXAMINATION AND LICENSING OF PLUMBERS.] The State Board of Plumbers shall prescribe rules and regulations not inconsistent herewith for the examination, regulations and licensing of plumbers, either as master plumbers or journeyman plumbers, or both.

§ 12. EXAMINATIONS.] The State Board of Plumbing shall hold two public meetings a year to be held at the State Capitol, at such times as the Board may prescribe, for the purpose of examining persons who may desire to take examination to become registered and licensed plumbers. Notice of such meeting shall be given by mail to all persons who have made application to take such examination, and notice shall also be given by publication in such newspaper or newspapers as may be designated by the Board. Special meetings and special examinations may be called for at any time by the Board.

§ 13. LICENSE; HOW OBTAINED; FEE.] Any qualified applicant desiring to take any such examination and obtain a certificate of registration and license shall make application to said Board therefor and pay the Treasurer of that Board the sum of \$25.00 as an examination fee for a master plumber's certificate and license, and the sum of \$10.00 as an examination fee for a journeyman plumber's license and certificate. Such applicant shall present himself at the next regular meeting of said Board for examination of applicants under the rules and regulations that may be adopted by such Board. If upon examination such applicant is found by said Board to be qualified as a master plumber or journeyman plumber, or both, the Board shall issue to him a certificate of registration and license, which will entitle him to do the work and be a plumber as specified in the certificate of registration and license issued to him, which certificate shall be good until the end of the then current calendar year, and may be renewed by said Board upon application made within thirty days after the expiration thereof, and the payment of \$25.00 for each renewal of a master plumber's certificate and license, or the sum of \$10.00 for each renewal of a journeyman plumber's certificate and license. All certificates of registration and license shall commence January 1st and expire December 31st of each year. Nothing

contained in this Act shall be construed to prohibit the issuance of a master plumber's and journeymen's license to one and the same person, it being the intent hereof that persons may engage in both classes of occupation, if properly licensed in both; provided, however, that the holder of a master plumber's license may be granted a journeymen's license without the payment of the journeymen's license fee.

The State Board of Plumbers shall have the power and authority, when the conditions of its fund may permit the same, and when in its sole judgment and discretion it is deemed advisable, to reduce the amount of fees herein provided for renewal licenses for either master or journeyman plumbers, but may not increase the same. Any such change by way of reduction and renewal license fees shall be adopted by the Board to take effect on the 1st day of January following its action, and shall apply to all renewals in the class or classes specified in said ruling. All certificates and licenses shall be consecutively numbered and shall not be transferable, and no person shall work under the license issued to another person. If a plumber holding a certificate of license, either as a master plumber or journeyman plumber, shall permit any other person to work under his said license, such fact shall be deemed sufficient for revocation of the license.

§ 14. REGISTER.] The Board shall keep a register in which shall be entered the names and addresses of all persons to whom certificates of registration and license are issued as master plumbers and also a register in which shall be entered the name and addresses of all persons to whom certificates of registration and license shall be issued as journeyman plumbers, which, shall be open to the public for inspection.

§ 15. TEMPORARY CERTIFICATES OF REGISTRATION.] The State Plumbing Board shall have the power, upon the payment of the regular examination fee, to issue a temporary permit either as a master plumber or journeyman plumber, or both, effective until the next examination of plumbers is held, to any person to engage in work of plumbing, who shall furnish to the Board satisfactory evidence of his qualifications to do so. In case of the failure of such applicant to appear for the next examination, except for sickness, certified to by a physician, or other accepted excuse presented at the time or in the case of his failure to pass the examination, said applicant's permit shall become void and his fee forfeited.

§ 16. LICENSING OF PERSONS NOW ENGAGED IN PLUMBING.] The Board may issue a certificate of registration and license as either a master plumber or journeyman plumber, or both, upon application accompanied by the required license fee, within a period of six months after the date upon which this Act shall become effective, to any person who shall furnish to said Board satisfactory proof that

for six months or more preceding the effective date of this Act he has been engaged in the division of the business of plumbing for which he seeks a license, as his principal occupation.

§ 17. POWER TO REVOKE CERTIFICATES.] The Board shall have the power to revoke any certificate issued by it under this Act for (a) commission of a crime; (b) error or fraud in obtaining certificate; (c) permitting the use of his certificate and license in violation of this Act; and (d) incompetency. Provided, that before any certificate shall be revoked the holder of such certificate shall be notified in writing by the Board, of the charges against him and at the time and place fixed by such Board for a hearing upon such charges, which time shall be not less than five days after the service thereof by registered mail, mailed to him at his postoffice address as shown in his certificate of registration and license, which hearing shall be public, and full opportunity shall be given the accused to produce witnesses and evidence in his own behalf, and to examine the witnesses against him. After hearing all of the evidence, the Board shall render its decision in writing, and the accused shall be furnished, by mail, with a copy thereof. If the accused is found guilty of any offense for which revocation of license is hereinbefore provided, his certificate of registration and the license shall be automatically revoked, and the offending person shall not be permitted again to apply for a license for a period of one year. After the expiration of a period of one year from the date of any such revocation, the Board may again consider an application for reinstatement of said plumber, and, upon a showing that the disability has been removed, or that there is no further likelihood of the offense being repeated, the Board may reinstate said license.

§ 18. APPRENTICES.] Nothing in this Act shall prohibit any person from serving as an apprentice in said trade of duly registered and licensed plumber doing business in this State.

§ 19. FEES.] All fees and money obtained through the administration of this Act, including all license and registration fees, shall be deposited with the State Treasurer of the State of North Dakota, and shall by him be credited to a fund to be known as "The State Plumbing Board Fund", and shall be disbursed upon auditor's warrants, on vouchers of the State Board of Plumbing, approved by the State Auditing Board for the administration and enforcement of this Act. It is the intention of this Act that all funds collected for the registration and licensing of plumbers in this State shall be used for the regulation of the business of plumbing through the State Board of Plumbing, and to that end, all funds accruing to the credit of the State Plumbing Fund from any and all registration fees and license fees, hereby imposed, are hereby appropriated to the State Plumbing Board for said purpose, and this appropriation shall be construed as a continuing appropriation of all such sums hereafter accruing to said fund.

§ 20. PENALTIES.] Any person who shall work as a master plumber or journeyman plumber for compensation without being a registered and licensed plumber in such classification, shall be fined not less than \$10.00 nor more than \$50.00, or imprisoned in the county jail for not more than 30 days, or by both such fine and imprisonment for each such offense. Each day of violation of this Act shall be a separate offense. Any person who shall do any Act prohibited by this law, or who shall do any act prohibited by the State Plumbing Code, when lawfully promulgated, or fail to do any act required by said Plumbing Code, shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not exceeding \$100.00, or by both such fine and imprisonment. Nothing in this Act shall be construed to prohibit the imposition of additional penalties by cities or villages for violation of municipal ordinances governing the business of plumbing and the installation of plumbing apparatus.

§ 21. Nothing in this Act shall be construed as requiring that licensed or registered plumbers be employed in the performance of any plumbing work in private buildings outside of the corporate limits of cities and villages having water or sewerage systems.

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

Approved March 20, 1941.

LIENS

CHAPTER 188

S. B. No. 53—(Thatcher)

HOUSE-MOVERS LIEN

An Act Providing for a lien in favor of house-movers and providing for the filing, perfection and enforcement of said lien.

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

§ 1. Any house-mover having an established place of business within this State, who has complied with the Workmen's Compensation Act, and who moves any building, under contract with the legal owner or possessor thereof, shall have a lien thereon for his reasonable charges for work done and materials furnished, until such charges are paid; provided, however, that said lien must be

perfected by filing, within thirty days after such moving is completed, a verified statement showing the labor performed and the materials furnished, the price agreed upon or, if no price was agreed upon, the reasonable value thereof, the name of the person for whom the work was performed and a description of the building moved, which statement must be filed in the office of the Register of Deeds of the county in which such building remains after moving. Unless such statement is filed as aforesaid, any lien hereunder shall be deemed to be lost and waived.

§ 2. Such lien shall have priority over all other liens and incumbrance upon such building, except any existing mortgage or lien thereon of record.

Approved February 20, 1941.

CHAPTER 189

H. B. No. 222—(Drovdal, Sellens, Anderson, Myers)

LIEN FOR REPAIRS OF PERSONAL PROPERTY

An Act to Amend and Re-enact Section 6877 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Chapter 176 of the Session Laws of 1931, and as amended by Chapter 146 of the Session Laws of 1933, providing for a lien for repairs made on automobiles, trucks, engines, threshing machines, combines, tractors, power-driven farm equipment and well machines. Repeal.

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

§ 1. AMENDMENT.] That Section 6877 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Chapter 176 of the Session Laws of 1931, and as amended by Chapter 146 of the Session Laws of 1933, be amended and re-enacted to read as follows:

§ 6877. LIENS FOR REPAIRS OF PERSONALTY.] Any blacksmith, machinist, farm equipment dealer or garage keeper, having an established place of business within the state who makes, alters, or repairs any automobile, truck, engine, threshing machine, combine, tractor, power-driven farm equipment or well machine, at the request of the owner, or legal possessor of the property, shall have a lien upon the same for his reasonable charge for work done and material furnished, including accessories and parts placed upon the same, until the charges are paid, and said lien shall have priority over all other liens, chattel mortgages or encumbrances against said personal property, provided such lien does not exceed Seventy-five Dollars (\$75.00); any amounts of said lien in excess of Seventy-five Dollars (\$75.00) shall become a lien subject to any prior encumbrance, and provided further that any person entitled to a lien under this Section,

shall, within sixty days after materials are furnished or labor performed in altering or repairing such personal property, file in the office of the Register of Deeds of the county of residence of the owner or legal possessor of the property, a statement in writing, verified by oath, showing the labor performed, materials furnished, the price agreed on for the same, or if no price is agreed on then state the reasonable value thereof, the name of the person for whom the work or labor was performed, or to whom materials were furnished, or both, and descriptions of the property upon which the lien was claimed; provided, that when the person retains possession of this property so altered or repaired no statement is required to be filed as above provided; provided, that if any person makes, alters, or repairs more than one article of personal property for the same owner or legal possessor thereof, he may include all such articles or personal property so made, altered, or repaired, within sixty days preceding the filing thereof, in the same statement, and the statement so made shall have the same force and effect as to each article enumerated therein as though a separate statement had been filed for each of said articles so made, altered, or repaired. Unless the person entitled to said lien shall file such statement within the time aforesaid, he shall be deemed to have waived his right thereto, provided, further, that the person holding such lien on property that has been previously encumbered by mortgage, before the foreclosure of same, shall give to the record holder of such mortgage twenty days' notice in writing of his intention to foreclose said lien before beginning action or proceedings for foreclosure of the same, which notice may be served by sending same in a registered letter addressed to such lien holder at his last known post office address; and provided, further, that the holder of any mortgage against property on which the lien herein provided for, shall have been filed, may at any time previous to sale, pay off the amount due on such lien, the holder thereof shall assign the same to such person and thereafter he shall be entitled to all the rights that the person filing said lien would have been had the same not been paid.

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

Approved March 20, 1941.

MORTGAGES

CHAPTER 190

H. B. No. 213—(Morland and Beede)

MORATORIUM FROM FORECLOSURES AND EVICTIONS

An Act to amend and re-enact Sections 5 and 8 of Chapter 165 of the Session Laws of 1939, providing for relief in certain cases during the emergency declared to exist, from foreclosure of mortgages or other liens on real estate, and execution sales of real estate, and cancellation of contracts for the sale of real property, eviction of tenants from real estate, and for postponing certain sales and extending the period of redemption from certain sales, and relating to the jurisdiction and procedure for such relief, and for the right to possession during the extended period, and limiting the right to emergency actions for deficiency judgment, and for extending the expiration of certain periods of redemption to thirty days after the passage of this Act; and providing that the Act shall not be applicable in certain cases set forth in this Act; repealing all acts inconsistent herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 165 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 5. Where any mortgage or other lien upon certain real estate has been foreclosed and the period of redemption has not yet expired, or where sale is hereafter had in the case of real estate mortgage or other lien foreclosure proceedings, now pending, or which may hereafter be instituted, prior to the expiration of two years from and after the passage and approval of this amendment, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage and approval of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1943; or where stay of execution has been granted against the cancellation of a contract or the ejection of a tenant from premises, for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1943. Provided that the mortgagor or the owner in possession of said property in the case of mortgage foreclosure proceedings, or the lienor or person in possession of said property in the case of foreclosure of such a lien, or the judgment debtor in the case of sale under judgment or execution, or the tenant in case of judgment of eviction, or the vendee in case of a contract of sale of real property, shall, prior to the expiration of the period of redemption, or in case of judgment or eviction or

cancellation of land contract within the period of time described in Section 4 hereof, apply to the court having jurisdiction of the matter, on not less than ten days written notice to the mortgagee, the lienee, judgment creditor or plaintiff, or the attorney of either as the case may be, for an order determining the reasonable value of the income of said property, or if the property has no income then the reasonable rental value of the property involved in such sale, cancellation or eviction, and directing and requiring such mortgagor, lienor, vendee, tenant or other judgment debtor to pay all or a reasonable part of such income or rental value in or toward the payment of taxes, insurance, interest, mortgage, or judgment indebtedness, at such time and in such manner as shall be fixed and determined and ordered by the court; provided, however, that in fixing the rental value of farm lands, the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, lienor, vendee, tenant or judgment debtor of such an amount, at such times and in such manner as to the court shall, under all circumstances, appear just and equitable, and provided that upon the service of notice or demand aforesaid, that the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor, lienor, vendee, tenant, or judgment debtor or personal representative shall default in the payments, or any of them, in such order required on his part to be done, or commits waste, his right of redemption from said sale shall terminate thirty days after such default, and holders of subsequent liens may redeem in the order and manner now provided by law beginning thirty days after the filing of notice of such default with the clerk of court, and his right to possession shall cease and the party acquiring title to such real estate shall then be entitled to immediate possession of said premises. If default is claimed by allowance of waste, such thirty day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any real estate mortgage or other lien foreclosure, or judgment, or execution sale heretofore made which otherwise cannot expire less than thirty days after the passage and approval of this amendment, shall be, and the same hereby is extended to a date thirty days after the passage and approval of this amendment, and in such case the mortgagor, lienor, vendee, tenant or judgment debtor, or the assignee or personal representative of either, as the case may be, or the owner in possession of the real property may, prior to said date, apply to said court for, and the court may thereupon grant, the relief as hereinbefore and in this section provided. Provided, further, that prior to July 1, 1943 no action shall be maintained in this State for a deficiency judgment until the period of redemption, as allowed by existing laws or as extended under the provisions of this act, has expired; provided, however that the provisions of this

act shall not be construed as a repeal of Chapter 155 of the Session Laws of 1933 or any other similar enactment.

§ 2. AMENDMENT.] That Section 8 of Chapter 165 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 8. Every law and all provisions thereof now in force insofar as inconsistent with the provisions of this act, are hereby suspended until July 1, 1943. No extension of the period for redemption, nor any postponement of sale judgment on execution shall be ordered or allowed under this act which would have the effect of extending the period of redemption or enforcement of judgment beyond July 1, 1943.

§ 3. EMERGENCY.] This act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 17, 1941.

MOTOR VEHICLES

CHAPTER 191

S. B. No. 50—(Committee on Tax & Tax Laws)

ONE CENT GASOLINE TAX

An Act Assessing and levying from July 1, 1941, to July 1, 1943, on all licensed dealers of motor vehicle fuels, a special additional license tax of one cent per gallon on motor vehicle fuels used or sold by them in addition to all other taxes now imposed upon them; appropriating the proceeds of such special tax on the State Highway fund for specific purposes; making all provisions of Initiated Measure approved June 30, 1926, and amendments thereto and known as the "Motor Vehicle Fuel Tax Law", other than division of proceeds between the State and Counties and other than for costs of administration and collection and other than penalties for violation applicable to said special license tax; providing for exemption of motor vehicle fuels sold and used for agricultural and industrial purposes; and fixing fines and penalties for the violation of the provisions of this Act.

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

§ 1. There is hereby imposed, beginning the first day of July, 1941, and ending the 30th day of June, 1943, on dealers in motor vehicle fuels, a special motor vehicle fuel license tax of one cent per gallon on all motor vehicle fuels used and sold in the State

of North Dakota; which tax shall be separate and apart from and in addition to any license tax or other tax imposed upon or applicable to motor vehicle fuels or dealers therein under the laws of this State, and said additional one cent per gallon tax shall be in addition to and over and above the three cent tax now imposed and assessed by the Initiated Measure approved June 30, 1926, and amendments thereof and Acts supplementary thereto, known as "Motor Vehicle Fuel Tax Law", provided however, that said additional one cent per gallon tax shall not be imposed upon or applicable to motor vehicle fuels sold in this State to be used solely for agricultural and industrial purposes and said motor vehicle fuels so sold to be used solely for agricultural and industrial purposes shall be tax exempt as is provided by Chapter 147 of the 1939 Session Laws of the State of North Dakota.

§ 2. Said additional one cent per gallon tax shall be paid by every dealer in motor vehicle fuels as defined and provided in the said Initiated Measure approved June 30, 1926, and the amendments thereto and said additional one cent per gallon tax shall be paid in the manner, at the times, and to the officer specified in said Initiated Measure and amendments thereto and all definitions of terms and methods of procedure for assessment and collection and other general provisions by context applicable hereto now contained and provided in said Initiated Measure and amendments thereto shall apply and hereby are made applicable to the special license tax imposed under the terms and provisions of this Act.

§ 3. The proceeds of said special license tax of one cent per gallon is hereby appropriated and shall be allocated and transferred to the State Highway Fund as created by statute and shall be expended for such purposes only as are provided in the statute creating said State Highway Fund as may come within the purview and restrictions of the Acts of Congress and amendments thereto granting regular and secondary Federal Aid road funds for the construction and repair of federal, state and feeder highways within this State and the total proceeds of the tax herein imposed shall be covered in said State Highway Fund without any deductions for administrative and collection costs or other deductions whatsoever.

§ 4. Every dealer paying the additional one cent per gallon special motor vehicle fuel license tax herein imposed or being liable for the payment thereof shall be entitled to charge and collect the sum of one cent per gallon on such motor vehicle fuels sold by him as a part of the selling price thereof.

§ 5. Any dealer, person or association of persons, firm or corporation violating any provisions of this Act, or any person, firm or corporation who makes any false statement in any statement or report required by this Act, or who shall fail or neglect to pay the one cent per gallon additional special motor vehicle fuel license tax

herein imposed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred and no/100 (\$500.00) Dollars or be imprisoned in the County jail for not more than ninety (90) days, or by both such fine and imprisonment.

§ 6. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional, the decisions of the Court shall not affect or impair any of the remaining provisions of this Act. It is hereby declared, as of Legislative intent, that this Act would have been adopted had such unconstitutional provision not been included therein. It is hereby further declared, as of Legislative intent, to levy a special motor vehicle fuel license tax in the sum of one cent per gallon which shall be separate and apart from and in addition to any license tax or other tax imposed upon or applicable to motor vehicle fuels or dealers therein and to allocate the proceeds of such tax.

Approved February 21, 1941.

CHAPTER 192

H. B. No. 100—(Fleck and Jennings)

EXEMPTIONS FROM AUTOMOBILE REGISTRATION FOR NON RESIDENTS IN MILITARY SERVICE

An Act Exempting members of the United States military service stationed in North Dakota, who are permanent residents of reciprocating States, from automobile registration requirements; repealing all Acts and parts of Acts in conflict herewith and declaring an emergency.

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

§ 1. A non-resident passenger automobile owner who is a member of the military service of the United States and who is stationed within the territorial limits of the State of North Dakota shall not be required to register such automobile in this State until the expiration of the license year for which such automobile is registered in the home State of such person, provided however, that such exemption from registering the automobiles of persons in the military service of the United States shall extend only to persons who are permanent residents of States that extend privileges and exemptions from registering automobiles to residents of North Dakota who are in the military service of the United States and who are temporary residents of such reciprocating States.

§ 2. The Governor is hereby authorized and directed to execute for and in the name of the State of North Dakota any and

all reciprocal agreements with other States necessary to effectuate the intents and purposes of this Act.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 4. 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 February 20, 1941.

CHAPTER 193

H. B. No. 194—(Wambheim and Nelson of Morton)

REGULATION OF USED MOTOR VEHICLES BY DEALERS

An Act to amend and re-enact Chapter 169, Session Laws of 1937, Regulating the Business of Selling Used Motor Vehicles by Resident and Non-resident Dealers in the State of North Dakota, and Motor Vehicles Acquired from Non-resident Owners; Requiring the Registration of all used Motor Vehicles Brought into this State for the Purpose of Sale to be Registered with the Motor Vehicle Registrar; Requiring all such dealers to Execute and Deliver to each Purchaser a bond indemnifying the Purchaser Against Failure of Title, Breach of Warranty or Fraudulent Misrepresentation; Requiring the Delivery of Certificate of Title; Providing Penalties for the Violation of this Act, and Repealing Section 14 of Chapter 180, Session Laws of 1927.

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

§ 1. AMENDMENT.] That Chapter 169, Session Laws of 1937 be and the same are hereby amended to read as follows:

§ 1. Every dealer in used, or second hand motor vehicles who is a resident or a non-resident of this state, and every person, firm or corporation who brings any used or second hand motor vehicles into this State for the purpose of sale or resale except as a trade-in on a new motor vehicle or another used motor vehicle, shall on or before sale and delivery of said motor vehicle in the limits of the State of North Dakota become a licensed dealer as required for dealers in passenger automobiles or automobile trucks under the provisions of Sub-section G of Section 25, Chapter 186 of the 1931 Session Laws, and register such motor vehicle with the Motor Vehicle Registrar on a form to be provided by him, and under such rules and regulations as may be promulgated by him from time to time, and shall before said used or second hand car is put on a used car lot for sale or offered for sale, or sold, execute a surety bond, executed by a responsible Fidelity Company authorized to do busi-

ness in the State of North Dakota, to be approved by the Registrar for the use and benefit of the purchaser and his vendees, conditions to pay all loss, damages, and expenses that may be sustained by the purchaser or vendee, that may be occasioned by reason of the failure of the title of such vendor or by reason of any fraudulent misrepresentation or breach of warranty as to freedom from liens, quality, condition, use or value of the motor vehicle being sold. Said bond shall be in the full amount of the sale price of each such motor vehicle but in no event to exceed the sum of One Thousand (\$1,000.00) Dollars, shall be effective for one year, and shall be filed with the Motor Vehicle Registrar by the vendor. The vendor shall pay to the Motor Vehicle Registrar a fee of one (\$1.00) Dollar as required by law for the transfer of the title of each said motor vehicle, and a further fee of Five (\$5.00) Dollars for each bond so filed and approved, which sums shall be paid into the State Treasury to the credit of the State Highway Fund.

§ 2. Every person, firm or corporation upon the sale and delivery of any used, or second hand, motor vehicle shall within 24 hours thereof deliver to the vendee, a certificate of title indorsed according to law.

§ 3. No action, nor right of action to recover any such motor vehicle, or any part of the selling price thereof, shall be maintained in the Courts of this State by any such dealer or vendor, his successors or assigns, in any case wherein such dealer or vendor shall have failed to comply with the terms and provisions of this Act, and in addition thereto such dealer or vendor, upon conviction of the violation of any of the provisions of this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars, or by imprisonment for not less than thirty days or more than six months, or by both such fine and imprisonment.

§ 4. The term "dealer" and "vendor" herein used shall be construed to include every individual, partnership, corporation or trust whose business in whole or in part is that of selling used motor vehicles and shall be construed to include every agent, representative or consignee of such dealer as defined above, except that no agent, representative or consignee of such dealer or vendor shall be required to make and file said bond herein provided for if such dealer or vendor for whom such agent, representative or consignee acts has complied with the provisions of this Act.

§ 5. If any Section or part of a Section of this act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid and unconstitutional, such unconstitutionality shall not affect, impair, or invalidate the remainder of this Act, and the Legislature hereby states that they would have passed the remainder of

said Act if it had known that such part or parts thereof would be declared unconstitutional.

§ 6. Section 14 of Chapter 180, Session Laws of 1927, is hereby repealed.

Approved March 20, 1941.

CHAPTER 194

H. B. No. 165—(Falconer, Ireland and Erickson of Divide)

MOTOR VEHICLES, SIZE AND LOADS; REGISTRATION FEES; LICENSES FOR HOUSE TRAILERS

An Act to amend and re-enact Section 36 of Chapter 162 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931, as amended by Chapter 163 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 185 of the Session Laws of North Dakota for the year 1935, prescribing and relating to the size of motor vehicles and loads of motor vehicles upon the highways; and amending and re-enacting subdivision (b) of Section 25 of Chapter 186 of the Session Laws of North Dakota for the year 1931 as amended by Chapter 161 of the Session Laws of North Dakota for the year 1933, providing for registration fees for trucks on a gross weight basis; providing a license for house trailers and lights or reflectors for all trailers; regulating the designation and display of plates and the issuance of and payment for "In Transit" permits.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 285 (185) of the Session Laws for the year 1935, be and the same is hereby amended and re-enacted to read as follows:

(a) VEHICLE SIZE, LOADS.] No vehicle shall exceed a total outside width, including load thereon, of eight (8) feet excepting that this limitation shall not apply to contractor's equipment nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset.

(b) No vehicle loaded or unloaded shall exceed a height of twelve feet, six inches (12', 6").

(c) No vehicle, including the load thereon, shall exceed a length of thirty-five (35) feet. No combination of vehicles including the load thereon, shall exceed a length of forty (40) feet. No more than two units shall be used in a combination. A tractor truck and semi-trailer shall be considered as two units. The provision hereof shall not apply to carriage of equipment of the Army or the

defense forces of the United States Government or the National Guard of the State of North Dakota; structural material of the telephone, power and telegraph companies which necessarily must be transported on the highways on account of the location of their lines adjacent to said highways. Other structural material which otherwise could not be transported over the highways of this state on account of the provision of this act, may be transported upon obtaining a temporary permit from the highway commissioner, or from any employee designated by the said highway commissioner for said purposes, upon showing of reasonable necessity and that the transporting of such structural material will not damage the highways to be used.

(d) No motor vehicle which carries any load extending more than three (3) feet beyond the front thereof and no passenger vehicle which carries any load extending beyond the lines of the left fender of such vehicle, nor extending more than twelve (12) inches beyond the line of the fenders on the right side thereof, shall be operated upon the highways.

(e) No single axle shall carry a gross weight in excess of 18,000 pounds nor a wheel load to exceed 9,000 pounds. No wheel shall carry a gross weight in excess of 550 pounds for each inch of tire width. Provided, that the gross weight of any single vehicle shall in no event exceed 35,000 pounds and the gross weight of any combination of vehicles shall in no event exceed 40,000 pounds. Provided further, that axels spaced forty (40) inches apart or less, shall be considered as one (1) axle; provided further, that for axles spaced over forty (40) inches and under eight (8) feet, the axle load shall not exceed 14,000 pounds per axle. The wheel load, in any instance, shall not exceed one-half the allowable axle load. Spacing between axles shall be measured from axle center to axle center. Gross weight shall be defined as the total of the unloaded weight of vehicle, or combination of vehicles and the load carried thereon.

(f) All applicants for registration shall state on the application required by the Registrar of Motor Vehicles, the size or sizes of tires used on each vehicle so registered.

§ 2. AMENDMENT.] That subdivision B of Section 25 of Chapter 186 of Session Laws of North Dakota for 1931 as amended by Chapter 161 of the Session Laws for the year 1933, be and the same is hereby amended and re-enacted to read as follows:

(b) (1) Every motor truck or combination of truck or trailer operating on the highways of this state shall have paid thereon one of the following schedules of registration fees to be determined as hereinafter set out:

SCHEDULE A

Gross Weight in Pounds	License Fees
4,000, and under -----	\$20
6,000 -----	25
8,000 -----	30
10,000 -----	35
12,000 -----	40
14,000 -----	45
16,000 -----	50
17,000 -----	55
18,000 -----	60
20,000 -----	65
22,000 -----	70
24,000 -----	75
26,000 -----	80
28,000 -----	85
30,000 -----	100
32,000 -----	125
34,000 -----	150
36,000 -----	180
38,000 -----	210
40,000 -----	250

SCHEDULE B

Gross Weight in Pounds	License Fee
4,000 lbs. and under -----	\$13.50
6,000 -----	16.00
8,000 -----	18.50
10,000 -----	21.00
12,000 -----	23.50
14,000 -----	26.00
16,000 -----	28.50
18,000 -----	31.00
20,000 -----	34.00
22,000 -----	37.00
24,000 -----	40.00

Provided that for registrations under Schedule B of gross weights over 24,000 pounds, the fee schedule of Schedule A shall be applied.

(b) (2) The above schedules shall apply to the first year in which the vehicle is licensed. The registration fee for years subsequent to the year in which the vehicle is first licensed, shall be the basic fee or major fraction thereof, as herein determined, less ten per cent of the basic fee for each successive year until the tax equals \$5.00 for vehicles licensed under Schedule B, and until the tax equals seventy per cent of the original basic fee for vehicles licensed under Schedule A, which shall be the annual fee thereafter; provided further, that those vehicles which in 1941 were licensed for less

than \$5.00 shall be reduced ten per cent per year of its original basic fee until it reaches a minimum of \$3.00, which will be the annual fee thereafter.

(b) (3) All motor vehicles to be registered pursuant to the provisions of this act and used for the first time upon the highways of this state after July 1, shall be entitled to a fifty per cent reduction of that year's fee for such vehicle; and all such motor vehicles used for the first time upon the highways of this state after October 1, shall be entitled to a seventy-five per cent reduction of that year's fee for such vehicle; provided, that the Registrar is satisfied with the proof given as to such fact.

(b) (4) For motor vehicles, or for any lawful combinations of motor vehicles used for the transportation of property, the registration and license fee shall be based upon the gross weight of such motor vehicle or combination of vehicles. The minimum gross weight for which such motor vehicles or combination of motor vehicles can be licensed shall be double the unloaded weight of such motor vehicle or such combination of vehicles and, subject to such minimum, the owner of any motor vehicles or combination of vehicles shall in his application for license, set out the gross weight for which he desires license. Such licensed weight shall be stenciled on both sides of the truck or tractor truck, as the case may be, in letters and figures not less than two inches in height, as follows: N. D. Legal Gross Wt. (here follows figures designating the licensed weight in pounds). The tare, or unloaded weight, of each truck, tractor truck, semi-trailer or full trailer, shall be stenciled upon both sides of each unit in letters and figures not less than one inch in height.

(b) (5) It shall be unlawful to operate any motor vehicle or combination of motor vehicles upon the highways of this state when the gross weight exceeds the gross weight for which the vehicle or combination of vehicles was licensed.

(b) (6) Gross weight shall be defined as the total of the unloaded weight of the vehicle, or combination of vehicles, and the load carried thereon.

(b) (7) Motor vehicles which operate exclusively within the corporate or recognized limits of any city or village, or within two miles thereof, shall be licensed on double the unloaded weight of such vehicle.

(b) (8) Any owner of a motor vehicle who has licensed such vehicle under Schedule B or any gross weight limitations may change such registration to Schedule A and/or to a higher gross weight limitation by the payment of the difference between fee required for the new registration and the fee paid for the registration under which time the vehicle is being operated, and provided further, that if such owner makes application for such change of registration sub-

sequent to July 1 of any year, he shall pay fifty per cent of the additional increase in license fees and after October 1 of any year, twenty-five per cent of such increase.

(b) (9) It shall be unlawful for any person to haul on the highways of this state a house trailer without displaying a license plate, to be issued by and under such regulations as determined by the Registrar, for which a fee shall be charged in the sum of \$5.00, unless licensed in another state.

(b) (10) All house trailers and other trailers shall be equipped with approved reflectors not less than three (3) inches in diameter or tail lights and it shall be unlawful to transport or operate such trailer without such equipment.

(e) (1) Motor vehicles which are used by the owner of such vehicle for the transportation of farm or agricultural products of such owner from the farm where such products are produced or grown to the market, or the transportation of goods of the owner of such vehicle from the market to the farm of such owner; and motor vehicles which are used for the transportation of any and all property between the farms and the usual local trading places of the person for whom such transportation is performed or between farms locally; and motor vehicles which operate exclusively within the corporate limits of any city or village, or within two miles thereof; shall pay the registration fees provided for in Schedule B herein. All other trucks, including commercial and non-commercial trucks, and excluding vehicles for the transportation of passengers, shall pay the license fees provided for in Schedule A herein.

(e) (2) The Registrar of motor vehicles may design and issue a distinctive type of license plate for each classification of motor vehicle, as he may determine.

(e) (3) Motor vehicles, or combinations of motor vehicles, licensed under the statutes of this state shall at all times display one plate upon the front of such vehicles, or combination of vehicles, and while operated on the highways of this state, one license plate on the rear of such vehicles, or combination of vehicles, in the manner determined by the Registrar of motor vehicles.

(e) (4) It shall be unlawful to transport or tow but not to operate any motor vehicle upon the highways of this state for the purpose of resale without an "in transit" permit to be issued by the Registrar upon the payment of \$2.00 for each such motor vehicle so transported or towed.

Approved March 20, 1941.

CHAPTER 195

H. B. No. 44—(Committee on Appropriations)

MOTOR VEHICLE FUEL TAX ACT OF 1941

An Act Transferring the administration of the Motor Vehicle Fuel Tax Laws and the collection of Motor Vehicle Fuel Taxes from the State Auditor to the State Tax Commissioner, together with the administration of licensing Sellers and Buyers of tax exempt Motor Vehicle Fuel and the granting of refunds of Motor Vehicle Fuel Taxes as provided by the Initiated Measure of June 30, 1926, with amendments thereto, and Chapter 147, Laws of 1939 and Chapter 170, Laws of 1939, pertaining to Motor Vehicle Fuel Taxes, and transferring all the rights, powers and duties now placed in the State Auditor and the State Auditor's Department under the laws to the State Tax Commissioner, together with the files, records, equipment and supplies pertaining thereto, and repealing all Acts and parts of Acts in conflict therewith.

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

§ 1. All of the rights, powers and duties formerly possessed by the State Auditor and the State Auditor's Department under the Initiated Measure of June 30, 1926, with amendments thereto, relating to motor vehicle fuel tax laws, the collection of taxes, the licensing of purchasers and dealers, the administration of refunds and all of the rights, powers and duties formerly possessed by the State Auditor and the State Auditor's Department in the administration of Chapter 147, Laws of 1939 and Chapter 170, Laws of 1939, are hereby transferred to the State Tax Commissioner who, from the effective date of this Act, shall assume the administration of such laws relative to the collection of motor vehicle fuel taxes, the licensing of purchasers and sellers of tax exempt motor vehicle fuel, the granting of refunds and all other rights and duties under said laws.

Whenever the officer designated in said laws as the State Auditor shall be granted any power or charged with the performance of any duty in connection with the enforcement and administration of any laws heretofore specified, or any acts amendatory thereto, said power so vested in said State Auditor shall be vested in the State Tax Commissioner, and said State Tax Commissioner and his assistants shall perform all of the duties required by said laws to be performed by said State Auditor or the State Auditor's Department.

§ 2. All of the files and records in the State Auditor's Office, pertaining to the administration of the motor vehicle fuel tax laws, together with all equipment and supplies pertaining thereto, shall be transferred from the State Auditor's Office to the office of the State Tax Commissioner.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved February 15, 1941.

CHAPTER 196

S. B. No. 182—(Streibel, Wog, and Olson of Mountrail)

REGULATION MOTOR VEHICLE TRANSPORTATION, FEES

An Act Amending and reenacting Section 25 of Chapter 164 of the Session Laws of 1933, providing for the collection of certificate and permit fees and providing for an identification tag fee from carriers by motor vehicle, except passenger common carriers who pay the seat tax under Chapter 180 of the Session Laws of 1935.

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

§ 1. AMENDMENT.] Section 25 of Chapter 164 of the Session Laws of 1933, be and the same is hereby amended and reenacted to read as follows:

§ 25. (a) Every common motor carrier and every contract carrier of property and/or passengers now operating, or which shall hereafter operate as such common or contract carrier in this state, shall at the time of making application for certificate of public convenience and necessity, or permit, and annually thereafter, on or before April 15th of each calendar year, pay a fee of not less than \$15.00, nor more than \$150.00, to be fixed by the Commission in each instance.

Miscellaneous fees shall be as follows:

Application for transfer of certificate of public convenience and necessity, or permit-----	\$10.00
Application for the mortgaging of a certificate of public convenience and necessity -----	5.00
Application for the issuance of a duplicate certificate of public convenience and necessity -----	3.00
Copy of all records of the Commission pertaining to auto transportation companies, per 100 words or portion thereof---	.15

(b) Every motor carrier who under the statutes of this state must register with or secure a permit or certificate of public convenience and necessity from the Public Service Commission, except common carriers of passengers who pay the motor bus seat tax provided for under the provisions of Chapter 180 of the Session Laws of 1935, shall at the time of securing such certificate or permit, and annually thereafter on or before April 15th of each calendar year, secure from the Commission an identification tag for each motor vehicle operated within this state, which shall be in the form, color combination, lettering and numbering as provided by said Commission; provided, however, that the identification tag for each type of carrier licensed by the Commission shall be identified in a different manner from that of each other type of carrier. That the Public Service Commission shall collect a fee of \$15.00 for each

such identification tag. It shall be unlawful for any motor carrier to operate within this state without such identification tag attached to each vehicle owned and/or operated by such carrier. That the said identification plate shall be secured from the Registrar of Motor Vehicles upon request from the Public Service Commission and mailed to the applicant therefor by the Registrar of Motor Vehicles, provided that the identification tag fee herein provided for shall be in lieu of the additional fee of \$25.00 required of motor trucks used for commercial freighting by the provisions of Chapter 180 of the Session Laws of 1935.

(c) For the purpose of carrying out the provisions of this act there is hereby created in the State Treasury a state fund to be known as the "Auto Transportation Fund." All fees collected by the Commission, as herein provided, shall be paid into the State Treasury monthly and shall be credited to the said "Auto Transportation Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board and used only for the expenses of said Commission in administering and enforcing the provisions of this act in the regulation and supervision of the carriage of property and passengers by motor vehicle.

Approved March 17, 1941.

CHAPTER 197

S. B. No. 119—(Streibel, Wog, Isaak and Olson of Mountrail.)

REGULATION MOTOR VEHICLE TRANSPORTATION, COMMON CARRIERS

An Act Amending and re-enacting Section 2 of Article II, Chapter 164 of the Session Laws of 1933 providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by motor propelled vehicles; defining and classifying transportation by motor propelled vehicles affected hereby; providing safety and sanitary regulations for the operation of motor propelled vehicles used for the purpose of transporting persons and property for compensation over any public highway; providing for the supervision and regulation thereof by the Board of Railroad Commissioners of the State of North Dakota; providing for the enforcement of the provisions of this Act and for penalties for the violation thereof.

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

Section 2 of Article II of Chapter 164 of the Session Laws of 1933 be amended and re-enacted to read as follows:

§ 2. (a) The term "common motor carrier of property", when used in this act, shall mean any person who holds himself out

to the public as willing to undertake for hire to transport by motor vehicle from place to place the property of others who may choose to employ him. Those common motor carriers operating between fixed termini, over fixed routes on schedule time, shall be designated as class "A" common carriers. Those carriers operating over irregular routes, not on schedule time, at the will and command of the shipper shall be designated as "special" common motor carriers.

Class "A" common motor carriers shall transport, within their authority, commodities in any quantity or quantities offered them for shipment.

"Special" common motor carriers may transport commodities within their authority in any quantity or quantities but only from or to that territory or zone for which they have heretofore proved, or may hereafter prove, public convenience and necessity, or such territory or zone as may be found by the Commission to be convenient and necessary to the public or in the public interest; provided, that no "special" motor carrier shall transport shipments in lots less-than-truckloads, as defined, and under the conditions and rules set, by the Commission, between two or more points served by class "A" carriers whether within or without such zone, except under express authority of the Commission to be granted in cases of undue circuitry via two or more connecting class "A" carriers; and, provided further, that "special" motor carriers may transport household goods, emigrant moveables, or other special commodities, or general commodities in truckloads as defined by the Commission, from or to points not in such zone, or between points on class "A" routes, by the authority of and under the conditions and rules set by the Commission; and, provided further, that any "special" motor carrier may, with the approval of, and under the conditions and rules set by the Commission, by tariff publication, specify minimum shipments which such carrier shall be obliged to carry; and, provided further, that the rates and tariffs prescribed by the Commission shall be uniform for similar service for all classes of carriers affected by this act, and, provided further, that it shall be unlawful for any common carrier to transport any shipment in violation of this act or his authority as conferred by the Commission.

(b) The term "common motor carrier of passengers", when used in this act, shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place persons who may choose to employ him.

(c) The transportation for more than one consignor, or to more than three consignees, by any motor carrier shall be prima facie evidence that such motor carrier is operating as a common carrier.

Approved March 17, 1941.

MUNICIPAL CORPORATIONS

CHAPTER 198

H. B. No. 87—(Olson of Barnes)

TERM OF OFFICE OF ALDERMEN

An Act Amending and re-enacting Section 3583 of the Compiled Laws of North Dakota for the year 1913 as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1935, relating to the term of office of aldermen. Repeal.

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

§ 1. AMENDMENT.] That Section 3583 of the Compiled Laws of North Dakota for the year 1913 as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1935, be amended and re-enacted to read as follows:

§ 3583. TERM OF OFFICE.] Aldermen shall hold their office for four year and until their successors are elected and qualified, provided, however, that the aldermen elected shall alternate in their respective terms of office by electing only one-half of the number of aldermen at any one election, provided further that when a city governed under the Commission system of city government adopts the City Council form of city government as provided by Section 3839 of the Compiled Laws of North Dakota for the year 1913, then to effect such alteration one-half of the aldermen in each ward, or in case the city is not divided into wards then the one-half of the aldermen in the city receiving the greatest number of votes when elected shall serve for four years, and the one-half of the aldermen in each ward, or in the city if the city is not divided into wards, receiving the lowest number of votes when elected shall serve for two years; and provided further that whenever, for any cause, more than one-half of the total number of aldermen in each ward, or more than one-half of the number of aldermen in the city in case the city is not divided into wards, are to be elected in any one election, then the number representing one-half of the total number of aldermen of the ward, or of the city in case the city is not divided into wards, and receiving the lowest number of votes at said election when elected shall serve for only two years and the others elected at said election shall serve for four years.

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

Approved February 24, 1941.

CHAPTER 199
S. B. No. 169—(Rue)

PROVIDING FOR DESTRUCTION OF BONDS, COUPONS, ETC.,
OF CITIES AND VILLAGES

An Act providing for the destruction of certain bonds, coupons, warrants and other evidences of debt of cities and villages, providing the procedure to be adopted and used before destruction and the time during which such documents must be kept before destruction thereof.

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

§ 1. DOCUMENTS WHICH MAY BE DESTROYED DEFINED.] The documents referred to in this act shall be construed to mean all bonds, bond coupons for interest, warrants, special assessment warrants and any and all other documents evidencing debt and made or executed by any city or village in the State of North Dakota.

§ 2. TIME TO BE KEPT.] No such documents as hereinbefore defined shall be destroyed as hereinafter provided until ten years have elapsed after their payment; provided that no such documents shall be destroyed until the right of action to determine the validity of such documents has run.

§ 3. PROCEDURE FOR DESTRUCTION.] The governing body of any city or village desiring to destroy such documents as hereinbefore set forth shall at its first meeting in January of each year procure from the auditor or clerk of such city or village a list of such documents which have been paid more than ten years prior to such time or against which the right of action to determine the validity of such documents has run, which said list shall contain a full statement and description of the documents desired to be destroyed and thereupon shall check said documents with such lists, and if found correct the said governing body shall by resolution order that said documents be destroyed and shall in said resolution provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or village clerk and retained as a permanent record.

Approved March 7, 1941.

CHAPTER 200

H. B. No. 211—(Johnson of Cass)

FILING OF FINAL BUDGETS AND TAX LEVIES
BY MUNICIPALITIES

An Act to amend and re-enact Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for 1939.

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

§ 1. AMENDMENT.] Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for 1939 is hereby amended and re-enacted to read as follows:

§ 3684a3. PRELIMINARY BUDGET STATEMENT.] The Council of each municipality shall make annually between July 1st and July 15th of each year on suitable blanks prescribed by the State Tax Commissioner an itemized statement (to be known as the Preliminary Budget Statement) of the amounts of money which, in the opinion of such council, shall be required for the proper maintenance, expansion or improvement of the municipality during the fiscal year and such other information relating to the finances of the municipality as the State Tax Commissioner may require.

§ 2. FILING OF FINAL BUDGETS AND ANNUAL TAX LEVIES.] As soon as the governing board of any municipality subject to the provisions of Article 17-a of Chapter 44 of the Political Code of the Supplement to the Compiled Laws of North Dakota for 1913 and acts amendatory thereof and supplementary thereto shall have completed the final budget and shall have adopted the annual tax levy, the auditor or clerk of said municipality shall immediately thereafter send two certified copies of the levy as adopted and two certified copies of the final budget to the county auditor. As soon as the county auditor has available the data showing the total assessed valuation of said municipality, he shall proceed to calculate the necessary tax rates to produce the sums called for in said final budgets; provided, however, that if the county auditor shall find that any amount or amounts called for in the levy cannot be produced by a tax rate which is within the limits prescribed by statute, said auditor shall reduce the amount so that it can be produced by a tax rate which is within legal limits; and said auditor shall at once notify the council of the reductions so made by him. As soon as the county auditor shall have calculated the necessary tax rates to produce the sums called for in the said final budget or such reduced amount or amounts which can be produced by a tax rate which is within legal limits, and not later than November first of each year,

he shall transmit one copy of said annual tax levy and said final budget to the State Tax Commissioner.

Approved March 20, 1941.

CHAPTER 201

S. B. No. 146—(Bridston, Morgan of Richland and Thatcher)

FOOD MARKETS

An Act Authorizing city councils of cities in the state having a population of 15,000 and over to provide ordinances for the regulating and inspecting of food markets, stores and other places of business where food intended for human consumption is sold at retail and to prohibit the operation thereof on Sundays and legal holidays not inconsistent with the provisions of any state laws relating to the same subject matter and declaring an emergency.

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

§ 1. The city council of any city in this state having a population of 15,000 and over, shall have the power to enact ordinances providing for the regulating and inspecting of food markets, stores and other places where food intended for human consumption is sold at retail and to prohibit the operation thereof on Sundays and legal holidays.

§ 2. No ordinance or ordinances enacted under the provisions of this act shall be in conflict with any state laws covering the same subject matter.

§ 3. 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 7, 1941.

CHAPTER 202

H. B. No. 187—(Fleck)

SEWER AND WATER IMPROVEMENTS, CITIES

An Act Relating to Payment of the Costs of Sewer and Water Improvements in Cities and Villages Partly by Special Assessments and Partly by Service Charges, and Declaring an Emergency.

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

§ 1. Any city or village hereafter constructing a sewer or water improvement under the provisions of Sections 3697 to 3743, Compiled Laws of 1913, or acts amendatory thereof or supplemental thereto, may, in the resolution required by Section 3704 as amended, resolve that a portion of the costs of the improvement shall be raised by service charges for use of the improvement. If so resolved, the city or village may, in its resolutions or ordinances and other proceedings relating to the levying of special assessments and the issuance of warrants to pay the costs of such improvement, determine the portion of such costs to be specially assessed against specially benefited property and cause to be specially assessed only the portion so determined. Except as to the portion resolved or ordained to be paid by service charges, all of the provisions of Sections 3697 to 3743 and acts amendatory thereof and supplemental thereto shall be applicable to such improvements. The city or village acting through its governing body shall provide for the establishment, imposition and collection of service charges for the services furnished by such improvement, and in connection therewith shall have all the rights and powers respecting such service charges and the pledging thereof and the making of covenants in respect thereto for the benefit and security of the warrant holders which it would have with respect to like matters if such improvement were made under authority of, and in accordance with, the Revenue Bond Law of 1937, being Chapter 104, Session Laws of 1937, and amendments thereto. The net revenues derived from the imposition and collection of such service charges shall be paid into the appropriate improvement district funds created pursuant to Section 3711, as amended, and shall be used and applied in like manner as moneys paid into such funds from the collection of special assessments.

§ 2. It is hereby found and declared that many (many) cities and villages are in need of sewer and water improvements, which they are unable to obtain by any of the methods presently permitted by law, and that there is immediate need of this law to protect the health and safety of the people. 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 15, 1941.

CHAPTER 203

H. B. No. 188—(Fleck and Fitch)

STREET, WATER MAIN AND SEWER IMPROVEMENTS,
CITIES

An Act Authorizing cities to enter into agreement with the State Highway Department or Board of County Commissioners of any County, or both, for the Improvement of Streets, Water Mains and Sewers within the Limits of Such City, to Create a Special Improvement District for such purpose, Providing for the Assessment of a Proportionate Share of the Cost Thereof Against the Property Benefited, and Dispensing with Proceedings Leading up to the Construction of Such Improvement; Emergency.

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

§ 1. AGREEMENT FOR PUBLIC IMPROVEMENT.] Any City in this State through its governing body is hereby authorized to enter into an agreement with the Highway Department of the State of North Dakota, or the Board of County Commissioners of the County in which such city is located, or either or both, for the improvement of streets, sewers and water mains, and for this purpose may create a special improvement district or districts. Provided, however, that before any such agreement is entered into the owners of a majority of the property liable to be specially assessed for a portion of the cost of such improvement shall have filed with the governing body of such city, a petition in writing, requesting such improvement, and which petition shall have been thoroughly checked, the authenticity of the signatures and the ownership of the property affected established, and the petition approved by such governing body.

§ 2. PRELIMINARY REQUIREMENTS DISPENSED WITH.] Where such an agreement is entered into, and under the terms thereof the contract for such work is to be let by the State Highway Department or the Board of County Commissioners, or either, or both, and where under the terms of such agreement the portion of the cost of such project to be borne by the city will not exceed twenty per cent, and the portion of such cost to be borne by the owners of the property benefited thereby will not exceed thirty per cent, the governing body of such city, after taking steps to create such special improvement district, or districts, as the case may be, is hereby expressly authorized to dispense with the balance of the requirements set forth in Article 20 of Chapter 44, of the Compiled Laws of North Dakota for the year 1913, and acts amendatory thereof, relating to plans for, bids upon, contract for the construction, and any other steps therein provided leading up to the construction of such improvement work; provided, however, that, upon the completion of such work, the governing body of such city shall cause to be certified to the Special Assessment Commission that portion of the

cost of such project to be borne by the property owners within such special improvement district, and the assessment of such amount to the owners of the property benefited shall be made as in other cases provided for in said Article 20, of Chapter 44, above referred to.

§ 3. 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, 1941.

CHAPTER 204

S. B. No. 82—(Committee on Tax and Tax Laws)

FUNDING AND REFUNDING MUNICIPAL INDEBTEDNESS

An Act to amend and re-enact Chapter 178, Session Laws for the year 1939 Relating to the Funding and Refunding of Existing Indebtedness of Municipalities and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 178 of Session Laws of 1939 be and the same is hereby amended and re-enacted to read as follows:

§ 1. A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding its existing indebtedness at any time prior to July 1, 1943. The terms "governing body" and "municipality" as used herein, shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927. The terms "floating indebtedness" and "bonded indebtedness" shall collectively be deemed to include orders, certificates of indebtedness, bonds, contracts and warrants and other instruments evidencing a general municipal indebtedness, issued and outstanding prior to January 1, 1941.

§ 2. AMENDMENT.] That Section 2 of Chapter 178 of the Session Laws of 1939 be, and the same is hereby amended and re-enacted to read as follows:

§ 2. (a) Any municipality may by resolution of the governing body propose or accept and adopt a plan for refunding (funding) and refunding floating indebtedness and/or bonded indebtedness or any part thereof existing prior to January 1, 1941. Such resolution shall recite the plan in detail and contain such provisions not inconsistent with this act as shall be found to be for the best interest of the municipality, its creditors, and its taxpayers. The plan may contem-

plate the issuance of bonds to refund any or all outstanding bonds, including bonds which are not due or about to become due, may provide that bonds may be exchanged in whole or in part for unmatured bonds with the consent of the holders thereof, and may provide for the execution and sale or exchange and delivery of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment of (or) exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it shall become effective. Any municipality may take any action authorized by any present or future bankruptcy or similar law enacted by the Congress of the United States designed to assist in the compounding or compromising and refinancing of indebtedness, including the payment of fees and expenses necessary to make use of such act and approved by the court having jurisdiction thereof.

(b) OPTION OR REDEMPTION.] All bonds hereafter issued under this act and which bear interest at the rate of three (3%) per cent or less payable semi-annually and mature serially in twenty (20) years or less, in annual installments of not less than 5 per cent of the principal amount of the bond issue, commencing not later than the third year, may be issued without option of payment and redemption prior to maturity or with such provisions as to prior payment and redemption as the governing body shall adopt.

§ 3. AMENDMENT.] That Section 3 of Chapter 178 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 3. Bonds issued hereunder may be sold or exchanged for outstanding bonds or other indebtedness, or part sold and part exchanged in such manner as the governing body shall determine, but none shall be sold or exchanged upon such terms that the annual interest cost of the proceeds, computed to maturities of the bonds of the series according to standard tables of bond values now in general nationwide use by financial institutions and insurance companies, will be more than the interest rate on the bonds or other indebtedness funded or refunded thereby, or exceed three (3%) per cent per annum, provided that except as to bonds heretofore contracted to be sold no bonds shall be sold or exchanged hereafter until the municipality has first advertised for bids at a public sale in the manner prescribed by Section 17 of Chapter 196, Laws of 1927 or acts amendatory thereof; provided, further, that it shall be unlawful for any municipality as herein defined or for the governing body thereof, to issue any bonds for any purpose under this act without first being authorized so to do by a vote of the qualified electors of such municipality, which election shall be held and conducted as

provided in Chapter 196 of the Session Laws of 1927 or acts amendatory thereof, excepting, however, that this proviso shall not apply to funding bonds which have been contracted to be sold by any such municipality prior to January 1, 1941. The officers may use the proceeds of bonds sold to purchase the outstanding bonds, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all bonds or other indebtedness surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, an equal value of outstanding bonds or other indebtedness shall be surrendered and cancelled. Insofar as any exchanges are made, the outstanding obligations shall be taken at not more than face amount with accrued interest and the bonds delivered shall be valued at not less than the face amount with accrued interest.

§ 4. It is expressly provided that no funding or refunding bonds may be issued hereunder unless approved by a vote of the people of the "municipality" as provided by Chapter 196, laws of 1927 and acts amendatory thereto.

§ 5. In all proceedings had or taken hereunder no attorney fees, brokerage or other fees, or commission of any kind shall be paid to any person, firm or corporation for assisting in the proceedings, or in the preparation of the bonds, or in negotiating the sale thereof.

§ 6. 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.

Filed March 26, 1941.

CHAPTER 205

H. B. No. 71—(Olson of Barnes)

POWER OF MAYORS

An Act to amend and re-enact Section 3576, Compiled Laws of 1913, relating to the power of the mayor to keep the peace.

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

§ 1. AMENDMENT.] That Section 3576, Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 3576. POWER TO KEEP THE PEACE.] He shall have power,

when necessary, to call on each male inhabitant of the city over the age of 18 years to aid in enforcing the laws and ordinances of the city.

Approved February 18, 1941.

CHAPTER 206

H. B. No. 176—(Shure and Smart)

PARK DISTRICT TAX LEVIES FOR AIRPORTS

An Act to Amend and Re-enact Section 6 of Chapter 235 of the Session Laws of the State of North Dakota for the year 1929 as Amended by Chapter 176 of the Session Laws of 1939, Relating to Park District Tax Levies and Providing for a Levy by Park Districts Owning and Maintaining Air Ports Purchasing or Acquiring Lands for Air Ports and for Operating and Maintaining the Same; and Declaring an Emergency.

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

§ 1. AMENDMENT.] Section 6 of Chapter 235 of the Session Laws of the State of North Dakota for the year 1929, as amended by Chapter 176 of the Session Laws of 1939, be and the same hereby is amended and re-enacted to read as follows:

§ 6. PARK DISTRICT TAX LEVIES.] Park district taxes shall be levied by the park commission at the annual budget meeting of the commission on the fourth Wednesday of July of each year or within ten days thereafter. In levying park district taxes the park commission shall be limited by the amount necessary to raise to meet appropriations included in its annual budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and provide a sinking fund to pay and discharge the principal thereof at maturity. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, shall not exceed such amount as will be produced by a levy of 2 mills on the dollar of the net taxable assessed valuations of the district for the current year;

Provided further that any park district owning and operating an airport may levy an additional tax, regardless of the foregoing limitations and in addition to the levies hereinbefore provided for, of not to exceed two (2) mills on the dollar of the net taxable assessed valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land heretofore acquired for said air port and for operating and maintaining the same.

Provided further, that park districts having a population of more than twenty thousand as shown by the last United States census may levy for general park purposes for the fiscal year beginning July 1, 1941 and also for the fiscal year beginning July 1, 1942, an additional one-half mill on the dollar of the net taxable assessed valuation of the district for each of said years.

§ 2. EMERGENCY.] Since the present law makes no provision for a special tax for the operation and maintenance of air ports by park districts, or for emergency levies for park districts having a population of more than twenty thousand, therefore, this act is declared to be an emergency measure and the same shall be in full force and effect from and after its passage and approval.

Approved March 7, 1941.

CHAPTER 207

S. B. No. 68—(Committee on State Affairs)

PENSIONS FOR CITY EMPLOYEES

An Act Creating pensions for disabled or retired City employees, other than policemen, their widows, and children under sixteen years of age; and widows of City employees who die in the service and their children under sixteen years of age; in cities now or hereafter having a population of 10,000 or over by the last official census, Federal or State; and providing for a fund out of which such pensions shall be paid; and for the establishment of a Pension Board for the management, control and distribution of such fund, and declaring an Emergency.

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

§ 1. CITY EMPLOYEE PENSION FUND.] Any City now or hereafter having a population of 10,000 inhabitants or over according to the last official census, Federal or State, and having adopted a Civil Service for City employees, may annually levy a tax of not more than one mill, in addition to any other levy authorized by law for general purposes for the purpose of creating a City Employee Pension Fund.

Whenever there is a sufficient balance in said fund to meet any proper or legitimate charges that may be made against the same, such City shall not be required to levy a tax for this purpose.

All the moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations and devises for the benefit of such fund shall constitute a fund to be known and designated as a City Employee Pension Fund.

§ 2. BOARD OF TRUSTEES: OFFICERS.] The Executive Officer of the City, with the City Treasurer and the City Attorney of such Cities shall be ex-officio members of and shall constitute the Board of Trustees for the management of such fund. The executive officer of the City shall be President and the City Treasurer, Treasurer of such Board, and the faithful performance of the duties of the Treasurer shall be secured by his official bond as City Treasurer. Such Trustees shall not receive any compensation for their services as members of said Board.

§ 3. INVESTMENT OF SURPLUS.] The Board shall have power to invest any surplus left in such fund at the end of the fiscal year, but no part of the funds realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be limited to interest-bearing bonds of the United States, of the State of North Dakota, of any County, Township, or Municipal Corporation of the State of North Dakota. All such securities shall be deposited with the Treasurer of the Board of Trustees for safe keeping.

§ 4. GIFTS, DEVISES, OR BEQUESTS.] Such Board may take by gift, grant, devise or bequest any money or property, real or personal, or other thing of value for the benefit of said funds; and when so received, shall become a part of the pension fund as herein established.

§ 5. MEMBERSHIP FEE — ASSESSMENTS.] Every full-time municipal employee shall be required to pay to the Treasurer of said fund a membership fee to be fixed by the Board of Trustees not exceeding five dollars (\$5.00) and shall also be assessed and be required to pay annually an amount equal to two per cent (2%) per annum upon the amount of the annual salary paid to him, which assessment shall be deducted and retained in equal, monthly installments out of the salary for such employees.

§ 6. WHO ENTITLED TO PENSION. CONDITION.] Any appointed, full-time employee of such City, except members of the police force, who shall have served 20 years or more as an employee and shall have reached the age of 60 years; or who shall while employed by such City become mentally or physically, totally and permanently disabled for discharging his duties, shall be entitled to be retired and upon retirement shall be paid out of the Pension Fund of such city a monthly pension not to exceed sixty per cent (60%) of the amount of the average salary received by him monthly during his employment up to the date he actually retired from such service as provided for in the plan adopted, but in no event shall such pension exceed the sum of \$100.00 per month. If any member shall have served twenty years (20) in such City but shall not have reached the age of sixty (60) years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty (60) years.

Provided further that no employee nor the dependents of any employee of such City shall be eligible for a pension unless such employee shall have been on active duty with the City for a period of ten (10) years regardless of age of such employee, unless the retirement of such employee shall be caused by mental or physical impairment received in line of duty totally and permanently disabling such employee.

Provided further that whenever the amount realized from the levies, assessments and fees as herein provide (provided) for shall not be sufficient to meet the demands of the withdrawels due to such retirement, then and in that event the Board of Trustees shall in their judgment apportion among the said employees entitled to a pension such amount as is available in said pension fund.

Provided further that any employee, who has been in the service of the City for a period of five (5) years and has for such period contributed into the employee's pension fund and who shall voluntarily and while in good standing as an employee of said City leave the employment of said City, shall upon application be entitled to a refund of fifty per cent (50%) of the amount contributed by said employee upon such retirement.

§ 7. MILITARY SERVICE.] Any employee of a City who resigns therefrom to serve in the army, navy or marine reserve, or marine corps, of the United States, or as a member of the United States army and navy reserve, or shall have been selected for training under the Selective Service provision of the Federal government and has returned with an honorable discharge from such service, shall have the period of such service included as part of his period of service to such City.

§ 8. TOTAL AND PERMANENT DISABILITY—HOW DETERMINED.] The question of total and permanent disability shall be determined by the Trustees upon the concurring report of at least two out of three physicians designated by the Board of Trustees to make a complete physical examination of the employee. After any employee shall become entitled to be retired, such right shall not be lost or forfeited by discharge or for any other reason except conviction for felony.

§ 9. RETIRED MEMBERS ASSIGNED FOR LIGHT DUTY.] The Chief Executive of such City may assign any employee of such City, retired or drawing pensions under the provisions of this Chapter, to the performance of light duties in the work of such City.

§ 10. PENSIONS—WIDOW—CHILDREN—DEPENDENTS.] Upon the death of any acting or retired City employee leaving a widow, dependent husband or minor children, or dependent father or mother surviving him, there shall be paid out of said funds as follows:

- (1) To the surviving widow or husband so long as she or

he remains unmarried and of good moral character, forty dollars (\$40.00) per month.

(2) If there be no surviving widow or husband, or upon the death or re-marriage of such widow or husband, then to the dependent father and mother, if both survive, or to either dependent parent, if one survives, forty dollars (\$40.00) per month.

(3) To the guardian of each surviving child under sixteen years of age, ten dollars (\$10.00) per month.

The aggregate of all such payments shall not exceed the amount provided for in the plan and in no event more than sixty per cent (60%) of the amount of the average salary of such employee at the time of his death or retirement, or the maximum amount provided for in this act. Provided, however, that the benefits provided by this Section shall be subject to the following definitions: The term "widow" or "husband" shall mean only such surviving spouse of a marriage contracted prior to retirement of deceased employee from active service, or of a marriage of a retired employee contracted prior to the date this Act takes effect. The term "child" and "children" shall mean only the surviving issue of a deceased active or retired employee, or the child or children legally adopted by a deceased employee prior to his retirement from active service, or by an employee now retired prior to the date this Act takes effect. The masculine pronoun used in this Act shall include the feminine.

§ 11. EXEMPTION.] All pensions paid under the provisions of this Chapter shall not be subject to assignment and shall be exempt from liability for debts of the person to or on account of whom the same is paid, and shall not be subject to seizure upon execution or other process.

§ 12. RE-EXAMINATION OF RETIRED EMPLOYEES.] The Board of Trustees created hereunder shall have power, at any time, to cause any employee of such City retired by reason of physical or mental disability to be brought before it and again examined by three competent physicians appointed by the Board of Trustees to discover whether such disability yet continues and can be improved and whether such retired employee should be continued on the pension roll, and shall have power to examine witnesses for the same purpose. The question of continued disability or ability to perform regular or light duties shall be determined by the concurring report of at least two of the three examining physicians. Such employee shall be entitled to reasonable notice that such examination will be made, and to be present at the time of the taking of any testimony, shall have the right to examine the witnesses brought before the Board and to introduce evidence in his own behalf. All witnesses shall be examined under oath, which may be administered by any member of such Board. Any employee having reached the retirement age, or being physically or mentally unfit to continue in the

services of the City, shall upon request from the Executive Officer of said City government retire from active service and the Board of Trustees shall make provisions for the payment of the pensions herein provided for.

§ 13. DECISION OF BOARD.] The decision of such Board upon such matters shall be final and conclusive, in the absence of fraud, and no appeal shall be allowed therefrom. Such disabled employee shall remain upon the pension roll unless and until reinstated in service by reason of such examination.

§ 14. MONEYS DRAWN—HOW PAID—REPORT.] All pensions paid and all moneys drawn from the pension fund under the provisions of this Chapter shall be upon warrants authorized by the appropriate Board of Trustees and issued by the Treasurer of such Board, which warrants shall designate the name of the person and the purpose for which payment is made. The Treasurer's annual report shall show the receipts and expenditures of each fund for the preceding fiscal year, the money on hand, and how invested. Such report shall be made to the Board of Trustees and shall be filed with the City Auditor.

§ 15. HOW ACT SHALL BECOME OPERATIVE.] The provisions of this Act shall become operative in any City qualified under the provisions of this Act by the adoption by the governing body of such City of a plan substantially setting forth the provisions of this Act and executed by the employees of such City at the time of the adoption of the pension plan herein provided for. After the adoption of the plan by this Act provided for by any City and concurred in by the employees, all employees thereafter employed by such City, shall be bound by the provisions of the said plan without further action on the part of the City government or the City employees.

Provided, however, that when said plan has been in operation in such city for a period of five years or more, it shall then be determined by the governing body of said city that the plan as adopted is not desirable or workable, then the governing body of such city may upon a two-thirds vote of the members present adopt a resolution submitting the question of the continuance of said plan to the voters of said city at any general or special city election.

Provided further, that upon a petition signed by a majority of the employees of such city requesting that the plan be discontinued, then the governing body of said city shall submit such question to the voters of said city. The question to be voted upon shall be, "shall the city employees' pension plan be continued?" If the voters of said city shall by a majority vote determine that the plan be discontinued, then such pension plan shall be discontinued in such city and the governing body thereof, shall proceed to liquidate such pension fund created thereunder, by discontinuing payments of any and all pensions and by refunding to the employees or their heirs the pro

rata share of such fund remaining as said employees have paid into such fund, and shall further transfer to the general fund of the city such proportion of the city share in such fund derived from taxes not expended for pensions.

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

Approved February 21, 1941.

CHAPTER 208

H. B. No. 156—(Boulden, Benno, Fitch and Fleck)

POLICE PENSION AMENDMENT

An Act to amend and re-enact Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937 as amended by Chapter 177 of the Session Laws of North Dakota for the year 1939, Relating to Pensions for Policemen and Dependents in Cities now, or Hereafter, Having a Population in Excess of Ten Thousand (10,000) Inhabitants.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937, as amended by Chapter 177 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 1. POLICE PENSION FUND.] Any city now or hereafter having a population in excess of ten thousand (10,000) inhabitants, according to the last official census, Federal or State, and having an organized paid police department, may annually levy a tax of not more than one-quarter of one mill, in addition to any other levies authorized by law for general purposes, for the purpose of creating a policemen's pension fund.

Provided, further, that cities in which a police retirement system based upon actuarial tables shall be established by law, may levy for the police pension fund a total tax of not more than one-half mill in addition to any other levies authorized by law for general purposes.

Provided, further, that in the event a one-half mill levy, as hereinbefore provided for, together with contributions from beneficiaries and funds received from other sources as herein provided, shall be found to be inadequate or insufficient for the purpose of establishing a retirement system based upon actuarial tables, the governing body of such municipality shall, in order to establish such

a system upon an actuarial basis, have the power and it is hereby authorized to decrease the benefits hereinafter provided for; to extend the age at which retirement shall commence; to increase the amount of the contributions from beneficiaries; to limit the classes of beneficiaries; and to restrict the benefits payable to beneficiaries who may not have served twenty-two years in such department.

Whenever there is a sufficient balance in said fund to meet any proper or legitimate charges that may be made against the same, such city shall not be required to levy a tax for this purpose.

All moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations, and devises for the benefit of such fund shall constitute a fund to be known and designated as a policemen's pension fund.

PROVIDED further, that in the event the provisions of the Federal Social Security Act shall be by the United States Congress extended to municipal employees, the governing body of any municipality may, and it is hereby authorized, to take all steps necessary to qualify its employees subject to terms of this act for benefits under the retirement provisions of such act. In such event the benefits received under and by virtue of any pension plan established under the provisions of this act shall be reduced by the benefits received under the Federal Social Security Act.

Provided further, that where any beneficiary, under a retirement system established under the provisions of this Act, shall be retired by reason of physical or mental disability and shall by reason thereof be entitled to benefits or awards under the provisions of the Workmens' Compensation Law for the State of North Dakota, the benefits or awards to which such beneficiary would be entitled under the provisions of the retirement plan herein provided for, shall be decreased in an amount equal to those received under the Workmens' Compensation Act.

Provided, further, that no member of such police department who shall become mentally or physically unable to perform his duties, nor any of his dependents, shall be entitled to retire and to receive benefits under this act unless he shall have been on active duty with the department for a period of ten years, or unless such mental or physical impairment was received in line of duty and permanently disabled such member.

Approved March 17, 1941.

CHAPTER 209

S. B. No. 69—(Committee on State Affairs)

REFUNDING ACT, SPECIAL IMPROVEMENT WARRANTS
IN CITIES AND VILLAGES

An Act to amend Sections 1, 3 and 4 of Chapter 207 Session Laws of 1935, relating to refunding special improvement warrants and declaring an emergency.

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

§ 1. That Section 1 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 1. Any city or village having valid outstanding special improvement warrants issued under Article 20 of Chapter 44 Political Code Compiled Laws of 1913, or acts amendatory thereof or supplementary thereto, may issue refunding special improvement warrants for the purpose of extending the maturity thereof, or for the purpose of reducing the rate of interest, or for more nearly equalizing the general taxes which the city or village may be or become obligated to levy for discharging deficiencies in the funds on which such warrants are drawn, whenever any of said warrants are past due or are redeemable, either at the option of the city or village or with the consent of the holders thereof, and there is not sufficient money in the improvement funds on which the warrants are respectively drawn for their payment.

§ 2. That Section 3 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 3. Refunding warrants may be sold for cash in such manner as the governing body may direct and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants but no such sale or exchange shall be made at less than par and accrued interest. Refunding warrants may be issued from time to time as the original warrants mature or are called for payment and redemption, or may be sold to pay, or exchanged for, warrants which are not due by agreement with the holders thereof. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange for refunding warrants and may, but need not, provide that such agreement shall be effective when the holders of not less than seventy-five per cent of said warrants shall have entered into said agreement. Provided further that any city or village issuing refunding warrants under this act may incur and pay reasonable expenses incidental thereto for printing, and legal fees, and all such expenses shall be payable solely out of moneys in the special improvement fund or funds from which the refunded warrants are payable or out of moneys derived from

the sale of warrants drawn on the fund or funds which the refunding warrants are payable.

§ 3. That Section 4 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 4. Refunding warrants shall be made payable from a special fund created for that purpose. Such special fund may be created as a single consolidated fund for warrants issued to refund warrants of more than one district, or separate special funds may be created for warrants issued to refund warrants of each respective district. In either case, the warrants refunded shall not be cancelled, but shall be retained by the city or village as an asset of the fund from which the refunding warrants are payable. The special improvement fund or funds from which the refunded warrants are payable shall be continued, and payments therefrom shall be made on the warrants drawn thereon in the same manner as though none of such warrants had been refunded. All payments made on principal and interest of refunded warrants shall be credited to the fund from which the appropriate refunding warrants are payable and shall be applied in payment of principal and interest on the refunding warrants in the manner prescribed by the resolution or authorizing their issuance. It shall be the duty of the city or village to preserve and enforce, for the security of the refunding warrants, all rights and duties which constituted security for the refunded warrants. Among the rights and duties so to be preserved shall be the duty of the governing body of the city or village to levy a tax for the payment of any deficiency in the special improvement fund, and such tax shall be levied at the date of maturity of the last maturing warrant of the original issue, but may be payable in the years and amounts required to pay principal of and interest on the refunding warrants as the same become due.

§ 4. EMERGENCY.] Whereas, many cities and villages have outstanding special improvement warrants which are callable for redemption on interest payment dates occurring prior to July 1, 1941, and whereas there is no assurance that the present low rates of interest on municipal borrowings will continue for any considerable period, 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 February 15, 1941.

CHAPTER 210

H. B. No. 186—(Fleck, Storman and Olson of Barnes)

TAX LIMITATION OF CITIES

An Act to Amend and Re-enact Sub-section (b) of Section 5 of Chapter 235 of the Session Laws of North Dakota for the Year 1929, as Amended and Re-enacted by Chapter 297 of the Session Laws of North Dakota for the Year 1931, and as Amended and Re-enacted by Chapter 208 of the Session Laws of North Dakota for the Year 1935, and as Amended and Re-enacted by Chapter 175 of the Session Laws of North Dakota for the Year 1937, Relating to Tax Limitations of Cities.

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

§ I. AMENDMENT.] That Sub-section (b) of Section 5 of Chapter 235 of the Session Laws of North Dakota for the year 1929, as amended and re-enacted by Chapter 297 of the Session Laws of North Dakota for the year 1931, and as amended and re-enacted by Chapter 208 of the Session Laws of North Dakota for the year 1935, and as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for the year 1937, be and the same is hereby amended and re-enacted to read as follows:

(b) The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of fourteen mills on the net taxable assessed valuation of property in the city, provided that in cities supporting bands or public libraries an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for these purposes; provided further, that in cities supporting bands, public libraries and airports a levy, in addition to the above 14 mills, but not to exceed three mills on the net taxable assessed valuation of property in such city may be made for these purposes.

Approved March 15, 1941.

NORTH DAKOTA

CHAPTER 211

S. B. No. 175—(Bond, Gronvold, Stucke and Watt)

NORTH DAKOTA BLUE BOOK

An Act to amend and re-enact Sections 92 and 93 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to the printing and distribution of the Legislative Manual or North Dakota Blue Book.

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

§ 1. AMENDMENT.] That Section 92 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, be amended and re-enacted to read as follows:

§ 92. Blue Book to be Printed for Distribution.] The Secretary of State shall cause to be printed a sufficient number of Blue Books for distribution to the members of the legislative assembly, state institutions, elective and appointive state officers, the county auditor of each county, public libraries and state high schools.

§ 2. AMENDMENT.] That Section 93 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 93. Procedure for Distribution of Blue Book.] The Secretary of State shall furnish and distribute, transportation collect, the Legislative Manual or Blue Book as follows: one copy to each member of the legislative assembly; two copies to the State Historical Society; two copies to the State Law Library; two copies to the State Agricultural College; two copies to the State University; one copy to each public institution maintained by the state; one copy to each elective and appointive state officer; one copy to each of the county auditors; one copy to each state high school; one copy to each public library in the state; one copy to each Supreme Court Justice; and one copy to each District Court Judge. Provided that such Legislative Manual or Blue Book shall not contain more than three hundred pages, and the number to be printed not to exceed two thousand copies. The Secretary of State shall be authorized to sell the remaining copies of said Legislative Manual or Blue Book to individuals at cost, plus a handling charge not to exceed twenty-five per cent of said cost, the proceeds from which shall be covered into the General Fund of the State. The printing and binding of the Legislative Manual known as the North Dakota Blue Book shall be let as are other classes of state printing upon competitive bidding to the lowest bidder.

Approved March 22, 1941.

CHAPTER 212**H. B. No. 12—(Gackle, By Request)**

BRICK PLANT STATE PENITENTIARY

An Act to Authorize the Board of Administration to Dismantle the Brick Plant at the State Penitentiary and to Dispose of or Use the Materials and Equipment thereof in the Penitentiary, and Repealing Certain Sections;

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

§ 1. The Board of Administration is hereby authorized and empowered to direct the Warden of the Penitentiary to tear down and dismantle the Brick Plant at the Penitentiary and to use the materials thereof in the Penitentiary and also to use or dispose of the equipment thereof.

§ 2. REPEAL.] That Sections 11270, 11271, and 11273 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 190 of the Laws of North Dakota for the year 1915, be and the same are hereby repealed.

Approved February 4, 1941.

CHAPTER 213**H. B. No. 142—(State Affairs Committee)**

CAPITOL TELEPHONE EXCHANGE

An Act to Empower the Board of Administration to Establish, Maintain and Operate a Central Telephone Exchange in the State Capitol Building, to Prescribe Rules and Regulations for the Operation and Maintenance of the Same, and Making an Appropriation Therefor.

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

§ 1. The Board of Administration is hereby authorized and directed to establish, maintain and operate a central telephone exchange in the State Capitol building.

§ 2. All state offices and all of the departments and agencies of state government housed in the Capitol Building shall use such central telephone exchange for all telephone service when such exchange is established by said Board. All offices, departments and agencies of state government and state institutions not housed in the Capitol Building but located in the counties of Burleigh or Morton may be included in such Capitol telephone exchange if the head of

such office, department or institution and the Board of Administration shall jointly determine such service to be advantageous to such office, department, agency or institution.

§ 3. The Board of Administration shall have power to make and prescribe all necessary rules and regulations for the use, management, control and operation of said telephone exchange, consistent with the provisions of this act.

§ 4. The Board of Administration shall not be responsible for the collection or payment of tolls for long distance telephone calls, but each office, department, agency or institution, shall pay said tolls directly to the telephone company furnishing such service out of its appropriation for said purpose.

§ 5. That all monies appropriated to the Board of Administration for the establishment, operation and maintenance of such central telephone exchange shall be used, audited and disbursed in the same manner as other appropriations are expended for the maintenance and operation of other services now furnished in the Capitol building.

§ 6. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$19,360.40, or so much thereof as may be necessary, for the purpose of carrying out the provisions of this act, for the biennium beginning July 1, 1941, and ending June 30, 1943, to-wit:

1. For its establishment -----	\$ 150.00
2. For its operation and maintenance -----	16,210.40
3. For salaries -----	3,000.00

Total -----	\$19,360.40

§ 7. Whereas the appropriations for the various officers, departments and agencies have been passed or recommended for passage for the ensuing biennium and said appropriations have provided for the payment of local telephone service and departmental switchboard operating expense for the several departments; and

Whereas this act makes an appropriation to the Board of Administration for the operation and maintenance of telephone service in the State Capitol building; and

Whereas this would result in a double appropriation for said purpose;

It is therefore hereby provided that during the first biennial period after the taking effect of this act, the Board of Administration shall make a monthly charge to each officer, department or agency for telephone service during the preceding month, and said charge shall be paid by said officer, department or agency in the same manner and out of the same fund or funds as local telephone service and departmental switchboard expenses have heretofore been paid and said payments shall be credited to the State General Fund.

Approved March 12, 1941.

CHAPTER 214

H. B. No. 137—(Bolmeier, Fuglestad and Sharpe)

CENTRAL MAILING BUREAU

An Act to Empower the Board of Administration to Establish, maintain and operate a Central Mailing Bureau in the Capitol Building, for the use of State Officers, Departments or Agencies, and to Prescribe Rules and Regulations for the General Use and Management of the Same; and Establishing a Board of Administration Postage Revolving Fund; and Making an Appropriation for the Establishment, Maintenance and Operation of the Same.

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

§ 1. The Board of Administration is hereby empowered and directed to establish, maintain and operate a Central Mailing Bureau in the State Capitol Building. Said Board shall have authority to prescribe such reasonable rules and regulations as may be necessary for the prompt and efficient dispatch of all mail.

§ 2. All State Officers, Departments or Agencies housed in the Capitol Building shall deliver all official mail originating in the Capitol Building, unstamped, to said Central Mailing Bureau and shall comply with the regulations prescribed for the delivery of outgoing mail to said Mailing Bureau.

§ 3. The foregoing section shall not apply to such Officers, Departments or Agencies which are prohibited by State or Federal Law from disclosing mailing lists which are by law made confidential.

§ 4. The Board of Administration may, in its discretion, exempt those departments where it is determined that it would not be practical or economical for said department to use said central mailing bureau, because of the unusual weight, kind or volume of mail dispatched by said department.

§ 5. Said Board shall provide a suitable room and employ a mailing clerk and an assistant mailing clerk, if necessary. It shall also purchase Postage Meter Machines and such other equipment, materials and supplies as are necessary for the purpose of carrying out the provisions of this Act.

§ 6. All mail dispatched through said bureau shall have stamped or printed thereon by the meter machine the following words, "Official Mail State of North Dakota."

§ 7. To provide funds for the advance payment of postage there is hereby created in the office of the State Treasurer a fund to be known and designated as "Board of Administration Postage Revolving Fund" in the sum of Ten Thousand (10,000) Dollars. The Board of Administration may draw upon said fund for the

advance payment of postage for the use of said Central Mailing Bureau, and all collections from the several offices, departments and agencies, for postage used by the same, shall be paid into said fund.

It is further provided that the total amount of said fund shall be available July 1, 1941, and that the provisions of Chapter 12 of the Session Laws of 1937 shall not apply to said fund.

§ 8. The Mailing Clerk, or such other person as may be designated by the Board of Administration, shall under the direction of said Board, keep an accurate and complete records of all postage used by each officer, department or agency for mail dispatched through said Central Mailing Bureau, and shall present monthly or oftener to each such Officer, Department or Agency a bill or voucher in the form now prescribed by law, for the amount of postage used and after same has been approved by the Auditing Board the same shall be credited to the Postal Revolving Fund of the Board of Administration out of the postage appropriation of said Officer, Department or Agency.

§ 9. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$17,361.60 or so much thereof as may be necessary for the biennium beginning July 1, 1941, and ending June 30, 1943, to-wit:

Salaries for Clerks -----	\$ 4,000.00
Equipment, material and supplies -----	2,800.00
Meter Rent -----	561.60
For Postage Revolving Fund -----	10,000.00

Total -----	\$17,361.60

Approved March 14, 1941.

CHAPTER 215

S. B. No. 55—(Committee on Appropriations)

CONTINGENT FUND, STATE INSTITUTIONS

An Act to amend and re-enact Section 276 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 97 of the Laws of North Dakota for the year 1919 relating to the Contingent Fund at state institutions.

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

§ 1. AMENDMENT.] Section 276 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 97 of the Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

§ 276. CONTINGENT FUND.] The Board of Administration may permit a contingent fund, not to exceed, in any institution under its control, ten thousand (\$10,000) Dollars to remain in the hands of the managing officer of such institution, from which expenditures may be made in case of actual emergency requiring immediate action to prevent loss or danger to the institution or the inmates thereof. A full, minute and itemized statement of every expenditure made during the month from such fund, shall be submitted by the proper officer of said institution of the board, under such rules and regulations as may be by said board established. If necessary, the board shall make proper requisition upon the State Auditor for a warrant on the State Treasurer to secure the said Contingent Fund for each institution.

Approved March 17, 1941.

CHAPTER 216

S. B. No. 184—(Solberg, Blank and Young)

CREATION OF GOVERNMENTAL SURVEY COMMISSION

An Act to create a Governmental Survey Commission; providing for the number of its members; their appointment and qualifications; the term of office and filling of vacancies; providing for its organization; prescribing its powers and duties; providing for an appropriation; and

Whereas, Since Statehood and the creation of County and local governments many changes have occurred in economic, political and social conditions that have not been properly recognized and reflected in and by statutory enactments and amendments; and

Whereas, It is recognized that a considerable amount of departmental and institutional duplication of functions and services exists that is not consistent with economical administration of the business of the State or its sub-divisions; and that wasteful and extravagant practices in government are exacting amounts of revenue to the extent that a tax burden of the citizens is becoming excessive; and

Whereas, It is desirable and necessary that a complete, comprehensive survey be made of each and every State office, department, institution, commission and agency to ascertain ways and means of eliminating duplication in activities of departments and institutions and to ascertain possibility of consolidation and elimination of offices, departments, institutions, commissions and agencies without jeopardizing or curtailing any of the necessary functions or desirable services performed by the State or its subdivisions, and generally to invoke greater economy and efficiency in the conduct of our governmental affairs; and

Whereas, the accounting practices of the State and its subdivisions are in many respects obsolete, conflicting and inadequate, and there is the need of revision of the same, and the installation of modern bookkeeping systems; and

Whereas, It is found desirable and necessary that a complete, comprehensive and definite plan be prepared and proposals for governmental reform be submitted for action thereupon by the Legislative Assembly of the State of North Dakota,

Therefore,

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

§ 1. There is hereby established a Governmental Survey Commission consisting of the Governor, one member of the House of Representatives, and one member of the Senate, of the Twenty-seventh Legislative Assembly; said legislative members shall be selected by a roll call vote of the members of the branch of the Legislative Assembly from which they are chosen, prior to the adjournment of the present session of said Twenty-seventh Legislative Assembly. The Governor shall be Chairman of the Commission.

§ 2. The members of the Commission shall hold their offices until the next regular Session of the Legislature and until their successors are appointed. In the event of a vacancy, from any cause whatsoever, such vacancy shall be filled by appointment by the Governor of a citizen and elector of the State.

§ 3. Upon the written call of the Governor and within thirty days after the effective date of this Act, the Governmental Survey Commission shall meet in the office of the Governor and shall thereupon adopt rules and regulations governing the call and conduct of its meetings; compensation to be paid to its employees; and such other matters as may be proper and necessary to effectuate the organization and conduct of the affairs and business of the Commission. A majority of the members present in person shall constitute a quorum for the transaction of business at any meeting of the Commission.

§ 4. Within thirty days after the organization meeting of the Commission, the Commission shall appoint an Executive Secretary of the Governmental Survey Commission. He shall be a citizen and elector of the State of North Dakota. The Executive Secretary shall receive such monthly compensation as the Commission shall set and determine at its organization meeting.

§ 5. The Commission shall appoint and employ an accountant and such other clerical and other assistants as may be necessary for the transaction of its official business and discharge of the duties imposed upon it.

§ 6. All meetings of the Commission shall be public and shall be held in the office of the Governor in the State Capitol. Permanent minutes of all meetings shall be kept and the same shall show the substance of important official business transacted.

§ 7. Legislative members of the Commission shall be entitled to their actual traveling and other expenses and, in addition, compensation of five dollars per day while actually engaged in the work of the Commission.

§ 8. It shall be among the duties of the Governmental Survey Commission

(a) To investigate and examine the functions, duties, activities and services of the various State offices, departments, institutions, commissions, industries, boards and bureaus and of the Counties and subdivisions of the State; and to make a comprehensive and constructive study and review of the organization, structure and operations of the entire State government and of every department, institution, commission and other agency of the State government, for the purpose of developing and recommending a program of improvement and economy to include such changes as will serve to simplify and modernize the organization and procedures of the State Government and will aid in the securing of the maximum return in public services for each dollar of state expenditure.

(a1) To study reports prepared from investigations for governmental reorganization in other states and consider reform measures advocated in such reports.

(b) To cooperate with the Code Commission of the State of North Dakota and any and all other survey and fact finding commissions or boards for the purpose of examining statutes and constitutional provisions and recommending repeal, modification or extension thereof;

(c) To prepare and submit to the Legislative Assembly, with recommendations and reports, definite proposals by means of prepared Bills and Constitutional amendments for the purpose of:

(1) Eliminating unnecessary offices, departments, institutions, commissions, boards and bureaus of the State, counties and subdivisions;

(2) Consolidating the activities and functions of inter-related offices, departments, boards, institutions, commissions, boards and bureaus of the State, counties and subdivisions so as to eliminate duplication of services and expense;

(3) Correlating the working, service and functions of the various divisions of the State Government;

(4) Simplifying the structures of the governments of the State, counties and subdivisions;

(5) Installing efficient and economical methods of operation and administration of the affairs of the State and local governments;

(6) Discarding outmoded methods, overly expensive services, unnecessary appendages and enlarged functions of the State and local governments;

(7) Formulating public policy on questions of importance to the citizens of the State.

§ 9. The Governmental Survey Commission shall have full power and authority:

(1) To hire and employ such persons as the Commission shall determine necessary to discharge its duties. It shall fix and pay the compensation of all persons employed by it; provided, however, that the amount of money disbursed for compensation of its agents and employees and for other expenses, including travel, office supplies, postage, telephone, and other expenses, shall not exceed the amount herein appropriated. All claims for compensation and actual expenses must be itemized and approved by the Chairman and must be duly presented to the State Auditing Board for audit and payment in the manner provided by law.

(2) To examine the affairs, operations, offices, plant, equipment, records and files of any agency or officer of the State Government and, to the extent deemed necessary for the purposes of this Act, of any County, municipality or other local government; and it shall be the duty of the officers and employees of the State and of the local governments to afford the Governmental Survey Commission, and its authorized representatives, access to all premises under their jurisdiction and full opportunity to examine their records and files, and to furnish them with such information and reports as they possess or which may be required relating to any matter subject to inquiry under this Act. The Governmental Survey Commission may hold hearings at such places as it may deem desirable and may administer oaths and take testimony under oath.

(3) To accept funds or services from any individual or group, public, private or governmental, which will aid the Commission in its work.

§ 10. POWERS AND DUTIES OF COMMISSION IN REGARD TO ACCOUNTING.] In addition to the foregoing powers and duties, the following powers and duties are hereby imposed in connection with the accounting practices of the State and its subdivisions:

(a) To make a survey of the books and records of each and all funds administered by State officials under the laws of this State, and of the methods of accounting employed in connection therewith, such survey to be independent and not in conjunction with any other examination required by law or otherwise.

(b) To present to the advisory board consisting of the Governor, State Examiner, Attorney General, three others to be chosen by the Governor, who shall be a representative of the School of Accounting of the University of North Dakota and two finance officers of political subdivisions, prior to December 1, 1942, a complete and detailed report of the condition of each department of the State government, of each institution, and of each fund administered

by State officials under the laws of the State; said report shall contain a list of the state securities and their appraised value, in the possession of each department, each institution and each fund administered by State officials under the laws of the State; said report shall include also an inventory on a date certain of all public property of the State of North Dakota including the State house at Bismarck, all penal, charitable and educational institutions of the State and all personal property belonging to the State, with a detailed appraisal of the value of such public property.

(c) To make careful research into the business methods, systems of records and accounts, bookkeeping and making of reports of the various State officers, and all penal, charitable, industrial and educational institutions of the State and custodians of funds administered by State officials.

(d) To investigate into the business methods, systems of records and accounts, bookkeeping and making of reports of the officials of all political subdivisions; such investigations of the methods and practices of the State and its local subdivisions to be exercised to the end that economy and efficiency shall be exercised, and that full, complete, accurate and uniform reports and statistics be obtained, and the interests of the public fully protected.

(e) When such researches and examination shall have been made, the commissioners appointed under this Act shall make a report in detail to the Advisory Board of their work; formulate systems of uniform bookkeeping and accounting for the charitable and penal institutions of the State; formulate a system of uniform bookkeeping and accounting for the institutions of higher education of the State; and to recommend a system of reporting for the political subdivisions of the State, which shall be uniform for each type of political subdivision.

(e1) In formulating systems of uniform bookkeeping and accounting the commission is prohibited from recommending the use of copyrighted forms or systems except such forms or systems as may be copyrighted by the State of North Dakota.

(f) In connection with the said report said commission shall present blank books and forms to be used in connection with the bookkeeping and accounting of the different departments of the State, its institutions, charitable, penal, industrial, and educational; and present illustrative forms of records for the various types of political sub-divisions, which will enable the officials to prepare efficiently and economically the reports referred to in the preceding sub-section.

§ II. ESTABLISHMENT OF UNIFORM ACCOUNTING SYSTEMS.]
The governor shall submit such report and proposed bookkeeping and accounting systems and forms to the Advisory Board. After due consideration and recommendations from said Advisory Board, the said Commission is hereby authorized and empowered to require systems of accounting, bookkeeping and reports installed in all de-

partments and institutions of the State and to require uniform reports from political sub-divisions. The form of such systems shall be as near uniform for the departments, uniform for the institutions of higher education, uniform for the other institutions, and uniform for each type of political sub-division, as may be practicable. The use of each uniform system of accounting, bookkeeping and reporting shall begin at a certain future date to be fixed by the order of the Governor, but not later than July 1, 1943. All officers whose duty it is to purchase blanks, account books and records under the present system of accounts and laws governing the same are hereby empowered and directed to procure blanks, books and records which shall have become necessary to the uniform systems which shall have been adopted; provided, however, that those political sub-divisions whose accounting systems are substantially in accordance with the systems provided under this Act shall be exempted from having to install a new accounting system.

§ 12. INVESTIGATION OF AUDITS.] Said Commission, appointed under this Act, shall be empowered and directed to investigate the laws and their application to audits made or required of State Officers, departments, institutions, and of the fiscal officers of local sub-divisions. On or before December 1, 1942, said commission shall make a report of such investigation to the Governor, with recommendations, to the end that each and every officer, department, board, bureau, institution or commission of the State and every fiscal officer of its local sub-divisions, who receives, collects, or disburses any public money, shall have his or its affairs properly audited at least annually by the State Examiner or by some competent and disinterested person or persons approved by the Commission created by Section 3 of this act; and to the end that the results of such audits shall be readily available to the people of the State of North Dakota.

§ 13. This Act being necessary to insure scientific research, planning and direction in the preparation and presentation of a constructive and definite governmental reform, uniform accounting and utilization of physical resources, program shall be liberally construed to effect the purposes hereof.

§ 14. There is hereby appropriated for the Governmental Survey Commission out of any monies in the State treasury not otherwise appropriated the sum of Twenty-six Thousand (\$26,000.00) Dollars, or so much thereof as may be necessary to carry out the provisions of this Act. For said purpose there is hereby created a special Fund to be known as the "Governmental Survey Commission Fund" and that all monies appropriated by the Legislature for the Governmental Survey Commission shall from time to time be credited to said special Fund and shall be disbursed only for the payment of the administrative expenses of said Commission in the manner prescribed by this Act.

Approved March 17, 1941.

CHAPTER 217

H. B. No. 179—(Committee on Military Affairs)

HOUSING AUTHORITY ACT, 1941

An Act to authorize housing authorities to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities who would not otherwise be able to secure such dwellings within the vicinity thereof; to limit the initiation of the development of such projects until December 31, 1943; to authorize housing authorities to cooperate with or act as agent of the Federal Government in the development and administration of such projects of the Federal Government, to acquire or lease such projects and to sell certain projects to the Federal Government; to authorize public bodies to assist such projects of housing authorities and of the Federal Government; and to declare an emergency.

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

§ 1.] It is hereby found and declared that the national-defense program involves large increases in the military forces and personnel in this State, a great increase in the number of workers in the vicinity of already established industries and the bringing of a large number of workers and their families to the vicinity of new defense industries in the State; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this State which impedes the national-defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national-defense activities in this State and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national-defense program in this State. It is further declared to be the purpose of this Act to authorize housing authorities to do any and all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national-defense activities.

§ 2.] Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, but

no housing authority shall initiate the development of any such project pursuant to this Act after December 31, 1943.

In the ownership, development or administration of such projects, a housing authority shall have all the rights, powers, privileges and immunities that such authority has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act, and housing projects developed or administered hereunder shall constitute "housing projects" under the Housing Authorities Law, as that term is used therein; provided, that during the period (herein called the "National-Defense Period") that a housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within its area of operation (as defined in the Housing Authorities Law), or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the national-defense program in this State and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national-defense activities, any project developed or administered by such housing authority (or by any housing authority cooperating with it) in such area pursuant to this Act, with the financial aid of the Federal Government (or as agent for the Federal Government as hereinafter provided), shall not be subject to the limitations provided in Section 10 and the second sentence of Section 9 of the Housing Authorities Law; and provided further, that, during the National-Defense Period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the National-Defense Period, any such projects owned and administered by a housing authority shall be administered for the purposes and in accordance with the provisions of the Housing Authorities Law.

§ 3.] A housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the Federal Government in the development or administration of projects by the Federal Government to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and may undertake the development or administration of any such project for the Federal Government. In order to assure the availability of safe and sanitary housing for persons engaged in national-defense activities, a housing authority may sell (in whole or in part) to the Federal Government any housing project developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing

authority shall prescribe and shall include provision for the satisfaction of all debts and liabilities of the authority relating to such project.

§ 4.] Any city, county or other public body shall have the same rights and powers to cooperate with housing authorities, or with the Federal Government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities that such city, county or other public body has for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income.

§ 5. This act shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act and for a housing authority to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the State. A housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the Federal Government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and to effectuate the purposes of this Act.

§ 6. (a) "Persons engaged in national-defense activities", as used in this Act, shall include: enlisted men in the military and naval services of the United States and employees of the War and Navy Departments assigned to duty at military or naval reservations, posts or bases; and workers engaged or to be engaged in industries connected with and essential to the national-defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Persons of low income", as used in this Act, shall mean persons or families who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project), to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(c) "Development" as used in this Act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition,

financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the Federal Government.

(d) "Administration", as used in this Act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the Federal Government.

(e) "Federal Government", as used in this Act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(f) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the Federal Government with respect to the exercise of powers hereunder in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1943.

(g) "Housing Authority", as used in this Act, shall mean any housing authority established or hereafter established pursuant to the Housing Authorities Law (Chapter 102, Laws of 1937, and any amendment thereto).

§ 7.] The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a housing authority.

§ 8.] Notwithstanding any other evidence of legislative intent it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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

Approved March 8, 1941.

CHAPTER 218

S. B. No. 63—(Stucke, Braun and Brant)

LEGISLATIVE LOBBYING

An Act to regulate the practice of lobbying requiring certain information to be filed relative to lobbyists and providing penalty for the violation thereof.

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

§ 1. CORRUPT MEANS TO INFLUENCE LEGISLATION: DISCLOSURE OF INTEREST.] Any person who shall, directly or indirectly, give or agree or offer to give any money or property or valuable thing or any security therefor to any person, for the service of such person or of any other person in procuring the passage or defeat of any measure before the legislature or before either house or any committee thereof, upon the contingency or condition of the passage or defeat of such measure, or who shall receive, directly or indirectly, or agree to receive any such money, property, thing of value or security therefor for such service, upon any such contingency or condition, or who, having a pecuniary or other interest, or acting as the agent or attorney of any person in procuring or attempting to procure the passage or defeat of any measure before the legislature or before either house or any committee thereof, shall attempt in any manner to influence any member of such legislature for or against such measure, without first making known to such member the real and true interest he has in such measure, either personally or as such agent or attorney, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

§ 2. LOBBY REGISTRY.] Every person, corporation or association which employs, for any valuable consideration, any person to act as counsel or agent to promote or oppose in any manner, the passage by the legislature of any legislation affecting the pecuniary interest of any individual, association or corporation as distinct from those of the whole people of the state, or to act in any manner as a legislative counsel or agent in connection with any such legislation, shall, within one week after the date of such employment, cause the name of the person so employed or agreed to be employed, to be entered upon a legislative docket as hereinafter provided. It shall also be the duty of the person so employed to enter or cause to be entered his name upon such docket. Upon the termination of such employment such fact may be entered opposite the name of any person so employed either by the employer or employee.

§ 3. LEGISLATIVE DOCKET.] The secretary of state shall prepare and keep a legislative docket in conformity with the provisions of this act. In such docket shall be entered the names of all counsel

or agents employed for a consideration for any of the purposes set forth in Section 2 hereof. In such docket shall be entered the names and business address of the employer or employers, the name, residence and occupation of persons employed, the date of employment or agreement therefor, the length of time the employment is to continue, if such time can be determined, and the special subject or subjects of legislation, if any, to which the employment relates. Such docket shall be a public record and open to the inspection of any citizen upon demand, at any time during the regular business hours of the office of the secretary of state. A copy of all information herein required to be furnished to the secretary of state, shall also be given to the clerk of the house of representatives and another copy thereof, to the clerk of the senate if the legislature is in session at the time of furnishing such information to the secretary of state.

§ 4. ADDITIONAL ENTRIES.] Any person, corporation or association employing any legislative counsel or agent shall, whenever further subjects of legislation are introduced or arise which such counsel or agent is to promote or oppose, make or cause to be made additional entries opposite his or its name in the appropriate docket, stating such special employment and specifically referring to the petitions, orders, bills or other subjects of legislation to which the same relates, and such entries shall also be made opposite the names of such counsel or agents, in such manner that such entries shall show all the subjects of legislation in relation to which any counsel or agent is employed. No person shall appear as counsel before any committee of the legislature or of either branch thereof, or act as agent in respect to any legislation coming within the terms of section 2, unless his name appears upon the docket of legislative counsel or agent as employed in respect to such matter as above provided. No person, private or public corporation or association shall, directly or indirectly, employ any person as legislative counsel or agent in respect to any legislation coming within the terms of section 2, unless the name of such person is duly entered on the legislative docket as provided by sections 2 to 7. No person shall be employed as a legislative counsel or agent for a compensation dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with the action of the legislature, or of either branch thereof, or of any committee thereof. No person whose name is entered on the docket of the legislative counsel shall render any service as legislative counsel or agent otherwise than by appearing before a committee, as aforesaid, and by doing work properly incident thereto, or by giving legal advice in the case of regular legal counsel of corporations or associations, unless his name is also entered on the docket of legislative agents.

§ 5. FILING AUTHORITY.] Legislative counsel and agents required to have their names entered upon the legislative docket shall file with the secretary of state within ten days after the date of

making such entry a written authorization to act as such, signed by the person or corporation employing them.

§ 6. PENALTY.] Any person, corporation or association violating any provision of sections 2 to 7, shall for such offense be fined not less than two hundred dollars nor more than five thousand dollars. Any person employed as legislative counsel or agent who shall fail to comply with any provision of sections 2 to 7, or who shall act as legislative counsel or agent contrary to the provisions of sections 2 to 7, shall be fined not less than one hundred dollars nor more than one thousand dollars, and shall be disbarred from acting in the capacity of a legislative counsel or agent for the period of three years from the date of such conviction. It shall be the duty of the attorney general, upon information, to bring prosecutions for the violation of the provisions of sections 2 to 7.

§ 7. MUNICIPALITIES EXEMPT.] Sections 2 to 6 shall not apply to any municipality or other public corporation.

Approved March 7, 1941.

CHAPTER 219

H. B. No. 334—(Johnson of Richland, Bolmeier)

PRINTING OF BILLS, LEGISLATIVE SEALS

An Act to Amend and Re-enact Chapter 186 of the Session Laws of North Dakota for 1937, relating to the Introduction and Printing of Bills and Providing for an Official Seal for Each Branch of the Legislative Assembly.

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

§ 1. AMENDMENT.] That Chapter 186 of the Session Laws of North Dakota for 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 1. SEAL. INTRODUCTION OF BILLS.] The Secretary of State is hereby directed to present to the Secretary of the Senate and the Clerk of the House of Representatives an official seal at the opening of each legislative session. Four copies of all bills introduced shall be presented to the desk at the time of introduction and every page of each bill introduced shall be impressed with said seal. The lines of the typewritten copies of bills introduced shall be numbered and such lines shall not exceed 65 spaces in length.

§ 2. BILLS TO BE PRINTED; HOW.] Five hundred copies of each bill or concurrent resolution shall be printed unless otherwise ordered by motion or resolution of either branch of the Legislative

Assembly. Bills and concurrent resolutions to amend the Constitution shall be numbered consecutively and be printed on first class white print paper of the basis of 24 x 36 inches, weighing 35 pounds to the ream in ten point Roman type with a single ten point space between each line, the printed pages to be 30 picas wide and 50 picas long. The numbering and the lines in the printed bill shall correspond to the numbering and the lines of the typewritten copy. A calendar of bills and resolutions introduced and referred shall be printed daily for the use of the members of the Legislative Assembly and for distribution. Such calendar shall be printed on 20 pound white sulphite paper, set solid in eight point type, two or three columns twelve ems wide, in pages of sufficient length to contain a brief synopsis of each bill or resolution introduced and referred on that day, the number of each bill or resolution, the name of the person introducing the same, the name of the committee to whom referred, the number of each bill that day passing either branch of the Legislative Assembly and messaged to the other, and the statement of the final disposition of any bill or resolution on that day made. The synopsis of bills and resolutions to be so printed in such calendar, and such other matter to be printed therein as hereinbefore provided, shall be edited by a clerk to be employed for such purpose by the branch of the Legislative Assembly in which such bill or resolution is introduced or in which the action respecting such measure is had. Such synopsis or statement of any bill or resolution, as published in such calendar, shall not exceed ten printed lines in length. Such daily calendar shall be distributed and mailed in such number and manner as by resolution of either branch of the Legislative Assembly determined. Copies of every bill or resolution shall be furnished for the files of each member of the Legislative Assembly, and may be procured by any person by applying either in person or in writing to the bill clerk of the branch of the Legislative Assembly in which such bill or resolution originated.

Approved March 14, 1941.

CHAPTER 220

H. B. No. 337—(Johnson of Richland and Bolmeier—Delayed Bills Committee)

PRINTING OF JOURNALS

An Act to Amend and Re-enact Section 53, Chapter 3, Article 4, Political Code, Compiled Laws of 1913, Relating to the Printing of Journals of Each Branch of the Legislative Assembly.

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

§ 1. AMENDMENT.] That Section 53, Chapter 3, Article 4, Political Code, Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 53. JOURNALS TO BE PRINTED HOW.] The Journals of the Legislative Assembly shall be printed on first class print paper of the basis of 24 x 36, weighing 35 pounds to the ream, eight point type set solid, in lines twenty-one ems pica long, and there shall be no rules or slugs set between sub-headings or paragraphs. The printed page shall be forty-three ems pica in length. The Journals shall be delivered daily for the use of the members of the Legislative Assembly, and nothing shall be charged for composition or correction, or reimposition of the same matter for the bound journals, nor shall extra charge for composition be made when extra or additional copies are ordered printed. Copies of the journals of any day may be procured by application made personally or in writing to the bill clerk of either branch of the Legislative Assembly. One thousand copies only of the Journal of each Branch of the Legislative Assembly shall be printed, unless otherwise ordered by Resolution of either branch of such Legislative Assembly.

Approved March 17, 1941.

CHAPTER 221

H. B. No. 289—(Committee on Military Affairs)

MILITARY CODE

An Act to enact a new military code for the State of North Dakota to conform to the National Defense Act of June 3, 1916 as amended by later Acts of Congress, and Repealing Chapter 35 of the Political Code, Compiled Laws, State of North Dakota, being Sections 2347 to 2442, both inclusive, and Repealing Chapter 187, Session Laws of 1915; Chapters 3 and 159, Special Session Laws of 1919; Chapter 241, Session Laws of 1923; Chapter 42, Session Laws of 1925; and Chapter 213, Session Laws of 1935, Chapter 182, Session Laws of 1939; Emergency.

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

THE MILITARY CODE

TITLE I. COMPOSITION, ORGANIZATION AND CONTROL GENERALLY.

§ 1. PERSONS SUBJECT TO MILITARY DUTY, EXCEPTIONS.] All able-bodied male citizens and able-bodied males of foreign birth who have declared their intention to become citizens, who are more than eighteen or less than forty-five years of age, and who are residents of this State, shall constitute the militia, subject to the following exemptions:

- a. Persons exempted by the Laws of the United States.
- b. Persons exempted by the Laws of this State.

§ 2. COMPOSITION OF THE NATIONAL GUARD OF NORTH DAKOTA.] The North Dakota National Guard shall consist of the regularly enlisted and enrolled militia between the ages of eighteen and forty-five years, organized, armed and equipped as hereinafter provided, and of commissioned officers between the ages of twenty-one and sixty-four years, and shall be comprised of such units, with the approval of the Governor of North Dakota, as the War Department of the United States may allocate and designate.

§ 3. ARTICLES OF WAR.] The Articles of War governing the Army of the United States, as are now or hereafter in effect, are hereby adopted as a part of this code, so far as the same are applicable and not modified by this code. Offenses committed while on duty may be tried and punished by a courtmartial lawfully appointed, after such duty has terminated, and if found guilty the accused shall be punished according to the Articles of War and the rules and regulations governing the United States Army, and within the limits prescribed by Federal law for courtmartial in the National Guard, and within the limits prescribed by this code. In any case in which the offense charges is also made an offense by the civil law of this State, the officer whose duty it is to approve such charge may,

in his discretion, order the person charged to be turned over to the civil authorities for trial. Whenever reference is made to the Articles of War, to the military service or to the Army of the United States, such reference shall be deemed to include the military service of this State. The intent of this code and all acts of this State affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all acts of this State shall be construed to effect this purpose.

§ 4. MILITARY FORCES—GENERAL DEFINITIONS.] The military forces of this State shall consist of those persons subject to military duty in the militia as defined in the Constitution of the State, and those persons subject to duty in the National Guard as defined in the National Defense Act of the United States.

When used in this Act, the following words, terms, and phrases shall have the following meanings:

The word "militia" shall mean the forces provided for in the Constitution of North Dakota.

The militia of the State shall be divided into two classes: the active and the reserve militia. The active militia shall consist of the organized and uniformed military forces of the State, which shall be known as the North Dakota National Guard; the reserve militia shall consist of all those liable to service in the militia, but not serving in the National Guard of the State.

The term "National Guard" shall mean that part of the military force of the State that is organized, equipped and federally recognized under the provisions of the National Defense Act of the United States as the "National Guard of the United States and the State of North Dakota." It shall also include the term "National Guard of the State of North Dakota."

The word "company" as used in this Act shall be understood and construed to include a company of infantry, engineers, signal corps, a flight of the air service, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this State, including a permanent detachment.

The word "battalion" applies in like manner to "squadron" of cavalry, and of the air service.

The term "active service" shall be understood and construed to be service on behalf of the State, in case of public disaster, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, or under martial law, or at encampments, whether ordered by State or Federal authority, or upon any other duty requiring the entire time of the organization or person, except when called or drafted into the Federal service by the President of the United States.

The term "on duty" shall include periods of drill and such other

training and service as may be required under State or Federal law, regulations, or orders.

The terms "in service of the United States" and "not in the service of the United States," used herein, shall be understood to mean and be the same as such terms are used in the National Defense Act of Congress, approved June third, nineteen hundred sixteen (June 3, 1916), and amendments thereto.

§ 5. COMMANDER IN CHIEF.] The Governor of the State, by virtue of his office, shall be commander in chief of the militia of the State, except of such portion as may at times be in the service of the United States. Whenever the Governor is unable to perform the duties of commander in chief, the senior officer of the line of the National Guard present for duty in the State shall command the militia of the State. No armed military force from another state, territory or district shall be permitted to enter the State for the purpose of doing military duty therein, without the permission of the Governor, unless such force is part of the United States Army or is acting under the authority of the United States.

§ 6. STAFF OF THE GOVERNOR—HOW SELECTED.] The staff of the Governor shall consist of the Adjutant General, who shall be the chief of staff, with rank of Brigadier General; the Assistant Adjutant General, who shall be assistant chief of staff, and nine aides, with the rank of Lieutenant Colonel. The aides shall be detailed at the pleasure of the Governor, from the active, reserve, or retired commissioned personnel of the National Guard, Officers' Reserve Corps, or the regular army on duty in the State, with the rank then held by them or last held by them; or from the public at large. Such appointments of aides are to be made, held, and exercised in accordance with the customs of the service.

§ 7. POWER OF THE GOVERNOR IN CASE OF INVASION, ETC.] The Governor shall have power, in case of insurrection, invasion, tumult, riot or breach of the peace, or imminent danger thereof, to order into the active service of the State any part of the National Guard that he may deem proper. When the National Guard of this State or a part thereof is called forth under the constitution and laws of the United States, the Governor shall order out for service the remaining troops or such part thereof as may be necessary, and if the number available be insufficient, he shall order out such part of the reserve militia as he may deem necessary. During the absence of organizations of the National Guard in the service of the United States their state designations shall not be given to new organizations.

§ 8. SEIZURE OF PROPERTY BY GOVERNOR AUTHORIZED.] The Governor as commander-in-chief of the military forces of this State is hereby authorized and empowered to take any measure necessary to prevent or avert any impending disaster or calamity which threat-

ens to destroy life or property in this State, or which may entail loss of life or property or result in great suffering or hardship among the people of this State; and in the event of any strike or threatened strike or lockout or threatened lockout of the employees of any coal mine or public utility threatening to endanger the life and property of the people of this State, in any such event he shall have the power and authority to commandeer and take for use during any such emergency any coal mine or public utility, together with the machinery, equipment and appurtenances of any such coal mine or public utility which may be necessary to save life or property; and he shall have power and authority to employ all help necessary for operating any such coal mine or public utility; with power and authority to make and enter into all contracts for the operation of any such coal mine or public utility, and to purchase any and all material necessary for operating any such coal mine or public utility, and with power to sell and distribute the products or services of any such mine or public utility.

§ 9. USE OF STATE FACILITIES OR OFFICES.] The Governor is further authorized to use any of the facilities or offices of the State when required to take over and use any such coal mine or public utility; and may command the services of the state militia or the state constabulary.

§ 10. PROCLAMATION OF STATE OF INSURRECTION.] Whenever any portion of the militia is employed in aid of the civil authority, the Governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county or city in which the troops are serving, or any specified portion thereof, to be in a state of insurrection.

§ 11. RELIEF FROM CIVIL OR CRIMINAL LIABILITY. SECURITY FOR COSTS.] Members of the National Guard or militia ordered into active service of the state by any proper authority shall not be liable, civilly or criminally, for any act or acts done by them while on duty. When a suit or proceeding shall be commenced in any court by any person against any officer of the militia, for any act done by such officer in his official capacity in the discharge of any duty under this act, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting or instituting the suit or proceeding to file security for the payment of the costs that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence. In case the plaintiff shall be nonsuited, or have a verdict or judgment rendered against him, the defendant shall recover treble cost. Active service under this Act shall be deemed to be service in case of or to prevent insurrection, riot or invasion, under order of the commander-in-chief, communicated through the proper military channels.

§ 12. THE ADJUTANT GENERAL, DUTIES, SALARIES, EXPENSES.] The Adjutant General, who shall have been a federally recognized commissioned officer of the National Guard for a period of at least three years immediately preceding his appointment by the Governor, shall have his office at the State Capital, and he shall be in control of the military department of the State. He will perform such duties as pertain to the Adjutant General and other chiefs of staff departments, under the regulations and customs of the United States Army. He will superintend the preparation of all returns and reports required by the United States from the State, and will perform all of the duties prescribed for him in this military code.

a. He shall keep a register of all of the officers of the militia and National Guard of the State, and keep in his office all records and papers required to be kept and filed therein, and make a report on or before the thirty-first day of December in each year to the Governor, including a detailed statement of all of the expenditures for military purposes during that year.

b. He shall, at the expense of the State, when necessary, cause the military law, the general regulations of the State, and Articles of War of the United States, to be printed, indexed and bound in proper and compact form and distributed to each unit or separate headquarters and to each commissioned officer of this State at the rate of one copy to each, and to each commissioned officer and headquarters he shall issue one copy of the necessary text books and of such annual reports concerning the militia as the Governor may direct.

c. He shall cause to be prepared and issued all necessary blank books, blanks, forms and notices required to carry into full effect the provisions of this chapter. All such books and blanks shall be and remain the property of the State.

d. The seal now used in the office of the Adjutant General shall be the seal of his office, and shall be delivered by him to his successor.

e. The Adjutant General may have the necessary clerks, instructors, and caretakers, and employees, and as many laborers as may be required from time to time.

f. In order that the National Guard of the State may receive the benefit of the funds provided by Congress, it shall be the duty of the Adjutant General of the State to submit a plan of proposed field or camp service of instruction prepared by the commanding officer of the National Guard for the ensuing year, with an estimate of funds required for payment, subsistence and transportation of the portion of the National Guard participating therein, said estimate to furnish the details and to be made out in the form required by instructions from the Secretary of War.

g. He shall make such regulations relating to the preparation of reports and returns, and to the care and preservation of property

for military purposes, whether belonging to the State or to the United States, as in his opinion the conditions demand, such regulations to be operative and in force when promulgated in the form of general orders, circulars or letters of instruction.

h. All military property of the State which, after proper inspection, shall be found unsuitable for the use of the State, shall, under the direction of the Governor, be disposed of by the Adjutant General at public auction after suitable advertisement of the sale, daily for ten days, in at least one newspaper published in the English language in the city or county where the sale is to take place; or the same may be sold at private sale when so ordered by the Governor. He shall bid in the property or suspend the sale whenever, in his opinion, better prices may or should be obtained. He shall, from time to time, render to the Governor a just and true account of the sales made by him, and shall expend the proceeds of the same in the purchase of other military property, as the Governor may direct. He shall be responsible for all arms, ordnance, accoutrements, equipments, and other military property which may be issued to the State by the Secretary of War in compliance with law; and it shall thereafter be his duty to prepare return of said arms and other property of the United States at the times and in the manner requested by the Secretary of War. He shall, upon the order of the Governor, turn into the ordnance department of the United States Army the rifles, carbines, bayonets, bayonet scabbards, gun slings, belts and such other necessary accoutrements and equipments, the property of the United States and now in possession of the State, which may be replaced from time to time, by new arms, equipments, etc. sent by the United States in substitution therefor, and cause the same to be shipped under the instructions from the Secretary of War, to the designated arsenal or depot at the expense of the United States, and when the National Guard of the State shall be fully armed and equipped with standard service magazine arms, and the standard equipment and accoutrement of the United States Army, he shall cause all the remaining arms, equipments, etc., the property of the United States and in possession of the State, to be transferred and shipped as above directed.

i. He shall issue and cause to be issued all military property and make purchase for that purpose. No military property shall be issued to persons or organizations other than those belonging to the National Guard of the State of North Dakota, except to such portions of the reserve militia as may be called out by the Governor. Purchases of property not exceeding one hundred dollars in value shall be made in such manner as the Adjutant General shall direct. If such purchase requires an expenditure exceeding one hundred dollars, and not exceeding five hundred dollars, he shall procure written proposals to furnish such property from at least two parties, and shall purchase such property from the lowest responsible bidder. If such purchase shall require the expenditure of a sum exceeding

five hundred dollars he shall publicly advertise, for not less than ten days, for sealed proposals for the furnishing of such property. Such proposals shall be publicly opened by the Adjutant General at the place, day and hour designated in such advertisement. The Adjutant General shall, if the Governor approve, make contract with the lowest responsible bidder to furnish such property. All proposals and contracts made under the authority hereby conferred shall be filed in the office of the Adjutant General. The Adjutant General is authorized and directed whenever, in his opinion, it shall be to the interest of the State to require a party who shall agree or contract to furnish such property, to give bond to the people of the State in such sums and with such surety as he shall direct, conditioned for the faithful performance of such agreement or contract. In case default is made, such bond shall be prosecuted by the attorney general and all moneys recovered shall be applied by the Adjutant General to the benefit of the National Guard. All property purchased under the authority hereby granted shall be inspected by an inspector or an officer detailed for that purpose by the commanding officers of the National Guard, and no payment shall be made therefor until it shall appear by the certificate of such officer that such property is of the kind and quality specified in such agreement or contract. In case of insurrection, invasion, tumult, riot, breaches of the peace or imminent danger, or other exigency, the Governor may, upon the certificate of the commanding officer of the National Guard, temporarily suspend the operation of this paragraph and direct the Adjutant General to purchase such military property as may be required in open market. He shall report such action, with the reason therefor, and a statement of the property purchased and the prices paid therefor, to the legislature at its next session.

j. He shall render annually to the Governor a statement in detail, showing the acquisition and disposition of all clothing, ordnance, arms, ammunition and other military property on hand or issued.

k. He shall keep in his office a list of the retired officers of the organized militia, showing their age, military experience and training. He shall annually request the commandant of cadets of the agricultural college and state university to furnish him with the names of two graduates qualified to act as officer, and shall request from any other state educational institution that maintains an efficient military department, the name of one graduate similarly qualified. The names of the persons so reported to him, together with any others designated by the War Department of the United States, shall be added to the list of persons eligible for appointment as officers.

l. The salary of the Adjutant General shall be \$2,400 per annum, which, with the necessary expenses incurred in conducting his office and clerk hire, furniture, light, fuel, postage and other office expenses, shall be paid from the general fund by warrants

drawn by the State Auditor on the State Treasurer, on the order of the Governor.

m. The term of office of the Adjutant General shall be six years, commencing July 1, 1941. He may be removed from office in accordance with the provisions of this act.

§ 13. ASSISTANT ADJUTANT GENERAL.] There shall be an Assistant Adjutant General of the State who shall be appointed by the Governor, upon the recommendation of the Adjutant General. He shall have such rank as is consistent with Federal Law and regulations, and at the time of his appointment shall be a commissioned officer of the National Guard of North Dakota with not less than five years' military service in the armed forces of this State or of the United States, at least three of which shall have been commissioned service, and he shall have reached the grade of captain. He shall serve in the office of the Adjutant General and aid him by performing such duties as the Adjutant General may assign him. In the absence or disability of the Adjutant General, he shall perform the duties of that office as acting Adjutant General.

§ 14. U. S. PROPERTY AND DISBURSING OFFICER.] The Governor of the State shall appoint, designate or detail, subject to the approval of the Secretary of War, an officer of the National Guard of the State, who shall be regarded as the accountable property and disbursing officer of the United States, in addition to any other duties he may be required to perform. He shall receipt for and be accountable for all funds and property belonging to the United States in possession of this State and shall make such returns and reports concerning the same as may be required by the Secretary of War. Upon requisition by the Governor of the State, the Secretary of War may pay to the property and disbursing officer so much of its allotment out of the annual appropriation for the support of the National Guard of this State as in the judgment of the Secretary of War may be necessary. Before entering upon the performance of his duties as property and disbursing officer, he shall give good and sufficient bond to the United States in such amount as the Secretary of War may require, for the faithful performance of his duties, and for the safekeeping and proper disposition of the federal property and funds intrusted to his care. He shall render through the War Department such accounts of Federal Funds intrusted to him for disbursement as may be required by the Treasury Department. He shall, after having qualified as property and disbursing officer, receive pay for his services at a rate to be fixed by the Secretary of War. Under such regulations as may be prescribed by the Secretary of War, the property and disbursing officer accountable for public moneys may intrust money to other officers of the National Guard for the purpose of having them make disbursements as this agent, and the officers to whom money is intrusted, as well as the officer intrusting the same to him, shall be held pecuniarily responsible there-

for to the United States, and the agent officer shall be subject for his official misconduct to all the liabilities and penalties prescribed by law in like cases for the officer for whom he acts as agent.

§ 15. PAYMASTER GENERAL.] The Governor of the State, upon the recommendation and advice of the Adjutant General, shall appoint, designate or detail from among the officers of the National Guard of this State a paymaster general, who before entering upon the discharge of his duties shall file in the office of the Adjutant General a good and sufficient bond, payable to the State of North Dakota, in a penal sum of not less than ten thousand dollars, approved by the Governor, for the faithful performance and for the safekeeping and proper disposition of all state funds intrusted to his care.

1. The paymaster general shall from time to time file with the State Auditor a written requisition, approved by the Adjutant General, for such amount of money standing to the credit of the National Guard on the books of the State Auditor or State Treasurer as may be deemed necessary to draw in order to pay indebtedness incurred or about to be incurred.

2. Immediately upon the filing in his office of said requisition, the State Auditor shall draw a warrant on the State Treasurer for the amount named in said requisition and forward the same to the paymaster general.

3. The paymaster general from funds available to him shall make such payments for and on behalf of the National Guard of this State as the law and regulations pursuant thereto permit and authorize, upon such payrolls, vouchers or other statements of account as the transaction requires.

4. He shall keep a full and complete record of all transactions involving the payment of state funds, sufficient to show clearly the amount paid, the payee, the services or supplies involved, the allotments made and balances remaining to his credits. Such record shall be open for inspection at all times by the Adjutant General or his duly designated assistant or a duly appointed representative of the Governor, as commander in chief. It is hereby made the duty of the public examiner to examine the books and accounts of the paymaster general at least once each year, and upon said examination to deliver to the paymaster general a certificate as to the correctness of the same. The examiner shall at the same time forward a copy of said certificate to the Adjutant General.

5. The paymaster general under the general direction of the Adjutant General shall act as purchasing agent for the National Guard of the State of North Dakota for the purchase, rental, acquisition and payment for such services, stores and supplies as may be required and authorized.

6. No funds appropriated by the legislature for the mainten-

ance of the National Guard of this State shall be drawn except upon the requisition of the paymaster general. He shall file at least quarterly with the State Auditor receipts for all state funds paid out by him, signed by the parties receiving payment, and shall file with the Adjutant General an annual financial report, showing all receipts and disbursements.

7. The paymaster general shall receive such pay as may be prescribed by the tables of organization of the office of the Adjutant General of North Dakota.

§ 16. STATE STAFF.] The number and grade of officers and enlisted men in the State Staff corps and detachment shall be as prescribed by Federal law and regulations, but in case of war, invasions, insurrection, riot or imminent danger thereof, the Governor may temporarily increase such force to meet such emergency. All officers of state staff corps and detachment appointed shall have had previous military experience and shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by an efficiency board or a court martial, as the exigencies of the case may warrant, legally convened for that purpose, and vacancies among said officers shall be filled by appointment from the officers of the National Guard, or from other classes eligible by Federal law or regulations.

§ 17. LEGAL ADVISER OF THE COMMANDER IN CHIEF, ETC.] The attorney general of the State shall be the legal adviser of the Governor, of the Adjutant General and of the armory commission.

§ 18. AUDIT AND PAYMENT OF ACCOUNTS.] No officer of the militia shall incur any expense whatsoever to be paid by the State, except such as are authorized in this chapter, without first obtaining the authority of the Governor. In extreme emergencies, however, the commanding officer of any organization or detachment of the National Guard may make purchases of such necessities as are absolutely required for the immediate use and care of his command. A report of such action, containing a statement of the articles purchased and the price thereof, must be made forthwith through the channel of the Adjutant General. The commander in chief of the State shall be the auditor of all accounts for property purchased by the Adjutant General, and the copies of the orders or contracts under which such purchases are made shall be filed in the office of the paymaster general. All other military accounts payable by the State shall be audited by the Adjutant General. Military accounts thus audited shall be paid by the paymaster general of the State from the proper appropriation made by the legislature, upon the warrant of the auditor.

§ 19. ORGANIZATION.] The strength and organization of units of the National Guard shall be as prescribed by such regulations

and orders of the War Department of the United States as are now in force or shall be promulgated by proper authority from time to time.

TITLE 2. COMMISSIONED OFFICERS

§ 20. QUALIFICATIONS OF OFFICERS.] Officers of the National Guard shall not be commissioned as such unless they shall have been selected from the classes of persons having the qualifications prescribed by Federal law, and shall have taken and subscribed to the oath of office prescribed by Congress.

§ 21. EXAMINATIONS.] Any person hereafter appointed and commissioned an officer of the National Guard shall successfully pass such tests as to his physical, moral, and professional fitness as shall be prescribed by Federal law. The examination to determine such qualifications for commissions shall be as prescribed by Federal law.

Officers shall be commissioned by the Governor, and the commission shall designate the arm or branch of service in which commissioned. Officers will be assigned or reassigned to duty in the various regiments or lesser separate organizations by the immediate commander thereof.

§ 22. OFFICERS MAY RESIGN.] Commissioned officers may resign in such manner and under such circumstances as may be prescribed by Federal regulations.

§ 23. COMMISSIONS MAY BE VACATED.] At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board as provided by Federal law, or upon the recommendation of an efficiency board, or pursuant to sentence of a court martial. Officers of the said Guard rendered surplus by the disbandment of their organization shall be disposed of as provided by Federal law. Officers may, upon their own application, be placed in the reserve as may be authorized by Federal law.

§ 24. RETIREMENT AND DISCHARGE.] Any officer of the National Guard who has reached the age of sixty-four years shall be placed upon the retired list by the Governor. Any commissioned officer who shall have served for the continuous period of eight years in the military service of the State as a commissioned officer, may, at his own request, be placed upon the retired list with an advance in grade, and withdrawn from active service and command by the Governor. Any commissioned officer who has become or shall hereafter become disabled, and incapable of performing the duties of his office, shall be withdrawn from active service and command and placed upon the retired list. Any commissioned officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall be placed upon the retired list upon the recommendation of his commanding

officer or the recommendation of an inspecting officer. Such retirement shall be by the order of the Governor, and shall be subject to the provisions of this chapter. Before making such order, a board of not less than five commissioned officers, one of whom shall be a surgeon, shall be appointed, whose duty it shall be to determine the facts as to the nature and cause of the incapacity of such officer as appears disabled, or unfit, or incompetent from any cause to perform military service, and whose case shall be referred to it. No officer whose grade or promotion would be affected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Such board is hereby invested with the powers of courts of inquiry and courts-martial, and whenever it finds an officer incapacitated for actual service shall report such fact to the Governor, stating cause of incapacity, whether from disability, unfitness or incompetency, and, if he approves such find, such officer shall be placed upon the retired list as provided in this article. The members of the board shall, before entering upon the discharge of their duties, be sworn to an honest and impartial performance of their duties as member of such board. No officer shall be placed upon the retired list by the action of such board without having had a full and fair hearing before the board if, upon due notice, he shall demand it. It shall not be necessary to refer any case for the action of the board arising under this section, unless the officer designated to be placed upon the retired list shall, within twenty days after being notified that he will be so retired, serve on the Adjutant General a notice in writing that he demands a hearing and examination before such board. Boards for the National Guard shall be appointed by the Governor. Vacancies created by the operation of this section shall be filled in the same manner as other vacancies.

§ 25. DISCIPLINE.] The discipline (which includes training) of the National Guard shall conform to the system which is now or may hereafter be prescribed by the Congress of the United States.

§ 26. FEDERAL OATH FOR OFFICERS.] Commissioned officers of the National Guard of the State of North Dakota shall take and subscribe to the following oath of office: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of North Dakota, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of North Dakota; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____ in the National Guard of the United States and of the State of North Dakota upon which I am about to enter, so help me God."

§ 27. RETIRED OFFICER SUBJECT TO ORDERS OF COMMANDER IN CHIEF ONLY.] The officers on the retired list shall only be subject to detail for duty by orders from the commander in chief, and he shall cause to be issued such orders as he may deem necessary detailing them for duty upon boards of officers for military purposes, courts-martial, and courts of inquiry, and for such other military duties as in his judgment may be advisable. When, however, officers on the retired list are detailed for active duty, other than upon boards of officers, courts-martial, and courts of inquiry, they shall only be entitled to the rank which properly belongs to the office the duties of which they are detailed to perform. When the duty ends, or the detail is canceled, the officer shall again return to the retired list, with his former retired rank. A roster of all officers on the retired list shall be kept in the Adjutant General's office.

TITLE 3. ENLISTED FORCE

§ 28. ENLISTMENTS.] Any man who is a citizen of the United States or has declared his intention to become a citizen, if more than eighteen and less than forty-five years of age, able-bodied, free from disease, of good character and temperate habits, may be originally enlisted in the National Guard of this State, under the restrictions of this article for a term of not less than three years and as provided by National Guard regulations promulgated by the Secretary of War.

§ 29. PERIODS OF ENLISTMENT AND REENLISTMENT.] Original enlistments in the National Guard shall be for a period of three years, and subsequent enlistments for periods of one year or three years each.

§ 30. CONTRACT AND OATH OF ENLISTMENT.] Men enlisting in the National Guard of the State of North Dakota shall sign an enlistment contract and subscribe to the following oath of enlistment: "I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19____, as a soldier in the National Guard of the United States and of the State of North Dakota, for the period of three (or one) year____, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of North Dakota, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the United States and of the Governor of the State of North Dakota, and of the officers appointed over me according to law and the rules and Articles of War."

§ 31. TRANSFERS.] Enlisted members of the National Guard removing from one location to another in the State may be transferred from one unit to another within the same regiment upon recommendations of the respective unit commanders concerned and

approval of the commanding officer of the regiment. Transfers between regiments will be made only upon approval of the Adjutant General.

§ 32. DISCHARGE OF ENLISTED MEN.] An enlisted man discharged from service in the National Guard, except when drafted into the military service of the United States shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the regular army, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the President may prescribe.

TITLE 4. NATIONAL GUARD RESERVE

§ 33. ESTABLISHMENT AND ORGANIZATION.] Subject to such rules and regulations as the President may prescribe, a National Guard Reserve shall be organized in this State, and shall consist of such organizations, officers, and enlisted men as the President may prescribe, or members thereof may be assigned as reserves to an active organization of the National Guard.

§ 34. ENLISTMENTS.] Men duly qualified for enlistment in the active National Guard may enlist in the National Guard Reserve for a period of one or three years, under such regulations as the Secretary of War shall prescribe, and on so enlisting they shall subscribe to the following enlistment contract and take the oath therein specified: "I do hereby acknowledge to have voluntarily enlisted this ----day of -----, 19---, as a soldier in the National Guard of the United States and of the State of North Dakota, to serve in the Reserve thereof, or in the active National Guard of the United States and said State if transferred thereto, for a period of one (or three) year--, unless sooner discharged by proper authority, and I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of North Dakota, and that I will serve them honestly and faithfully against all their enemies whomsoever and that I will obey the orders of the President of the United States and the Governor of the State of North Dakota, and of the officers appointed over me according to law and the rules and Articles of War."

§ 35. TRANSFER FROM RESERVE TO ACTIVE LIST AND VICE VERSA.] Under such regulations as the Secretary of War may prescribe, enlisted men of the active National Guard may be transferred to the National Guard Reserve; likewise, enlisted men hereafter enlisted in or transferred to the National Guard Reserve may be transferred to the active National Guard, provided that no enlisted men shall be required to serve under any enlistment for a longer time than the period for which he enlisted in the active National Guard or National Guard Reserve, as the case may be.

§ 36. METHOD OF DRAFTING RESERVES FOR SERVICE.] When-

ever it shall be necessary to call out any portion of the reserve militia for active duty, the Governor shall direct his order to the Adjutant General, who, upon receipt of same, shall forthwith cause to be drafted by lot, by mustering officers detailed for that duty from the National Guard, as many of the reserve militia, or accept as many volunteers as are required by the Governor, and the Adjutant General shall forthwith forward to the Governor a list of persons so drafted or accepted as volunteers.

§ 37. PUNISHMENT FOR FAILURE TO APPEAR.] Every member of the militia ordered out, or who volunteers, or is drafted under the provisions of this Act, who does not appear at the time and place designated by his commanding officer, the Adjutant General or mustering officer, within twenty-four hours of such time, or who does not produce a sworn certificate of physical disability from a physician in good standing, showing his disability to appear, shall be taken as a deserter and dealt with as prescribed in the Articles of War of the United States.

TITLE 5. PAY AND ALLOWANCES

§ 38. PAY AND ALLOWANCES OF RESERVISTS ON ACTIVE DUTY.] Members of the National Guard Reserve, officers and enlisted men, when engaged in field or coast defense training with the active National Guard, shall receive the same Federal pay and allowances as those occupying like grades on the active list of said Guard when likewise engaged; provided further, that, except as otherwise specifically provided in this title, no commissioned or enlisted reservist shall receive any pay or allowance out of any appropriation made by Congress for National Guard Purposes.

§ 39. PAY, ALLOWANCES AND DUTIES OF OFFICERS.] Every commissioned officer of the National Guard not salaried as such shall receive from the State while engaged in any service ordered by the Governor, pay and allowances, at the rate allowed by law to officers of similar rank and length of service in the United States Army.

Where the officers of the National Guard are convened by the Governor at an annual meeting of instruction, other than camp or active service, or where they are detailed under orders from Regimental Headquarters for the purpose of holding a quarterly inspection outside of their own station, they shall be allowed, for traveling and incidental expenses, the sum of four dollars per day, while traveling within the State, and six dollars per day for travel outside of the State.

§ 40. PAY AND ALLOWANCES OF ENLISTED MEN.] When called into active service by the Governor, each enlisted man of the National Guard shall receive pay at the rate now or hereafter provided for enlisted men of similar grades, rating and term or enlist-

ment in the National Guard of the United States, and in addition thereto the sum of one dollar and fifty cents (\$1.50) per day, besides transportation, shelter and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and legal fines or forfeitures may be deducted from the members' pay, provided, that pay at annual encampment shall be such as is allowed by Federal law.

§ 41. ALLOWANCES FOR OFFICERS.] Commissioned officers shall receive annually the sum of twenty dollars to assist in uniforming and equipping themselves. Each commissioned officer shall receive an initial allowance of twenty dollars, payable immediately upon his receipt of Federal recognition.

§ 42. EXEMPT FROM POLL TAX.] Each member of the North Dakota National Guard shall be exempt from the payment of poll tax, and any person who has served at least ten years as a member of the National Guard and who has an honorable discharge shall be forever exempt from the payment of poll tax.

§ 43. PAY OF OFFICERS SERVING ON BOARDS, COMMISSIONS AND COURTS.] All officers detailed to serve on any board or commission ordered by the Governor, or under his authority by the commanding officer of the National Guard, or on any court of inquiry, or court martial, ordered by proper authority in pursuance of any provision of this chapter, shall be paid a sum equal to one day's duty pay for each day actually employed on such board or court, or engaged in the business thereof, or in traveling to and from same. The sum shall in no case exceed ten days pay and actual traveling expenses and subsistence, unless, upon application of the President of the court-martial, or the presiding officer of the board, the officer appointing the court or board has authorized such court or board to sit for a longer period, or in case of such court martial, the Governor or the officer ordering such court has authorized such court to sit for a longer period than ten days. An officer detailed to serve on a court martial shall be paid for each day actually employed therein, engaged in the business thereof, or in traveling to and from the same, and traveling expenses and subsistence when such court shall be held at a place other than the city or town of his residence.

§ 44. PAY OF OFFICERS AND ENLISTED MEN ASSIGNED TO SPECIAL DUTY.] Any commissioned officer assigned to special duty by the Governor or under his authority shall be paid duty pay for the time actually employed, and his necessary traveling expenses and subsistence, when such payment is authorized by the Governor. Judge advocates shall be paid for services in bringing any suits provided for in this chapter, and for services in actions or proceedings by habeas corpus, certiorari or otherwise, such compensation as shall be approved by the Governor. All staff officers shall be paid duty pay for special service ordered by competent authority with the approval

of the Governor. Enlisted men, on duty under orders of the Governor, but not at the time serving with troops, shall receive the same rate of pay as is herein provided for the National Guard when called into active service by the Governor, and their actual traveling expenses and subsistence.

§ 45. PAY AND ALLOWANCES FOR DUTY WITH REGULAR ARMY.] National Guard officers assigned to duty with the regular army shall, while so assigned, receive the pay and allowances authorized by Federal law.

§ 46. ADMINISTRATIVE FUNCTION PAY OF OFFICERS.] In addition to pay provided in this title, officers commanding organizations less than a brigade and having administrative functions connected therewith shall, whether or not such officers belong to such organizations, receive such pay as the Federal law provides for the faithful performances of such administrative functions, under such regulations as the Secretary of War may prescribe.

TITLE 6.

PENALTIES, PROHIBITIONS AND PRIVILEGES

§ 47. RESPONSIBILITY FOR EFFICIENCY.] The officer commanding the National Guard may cause those under his command to perform any military duty and shall be responsible to the Governor for the general efficiency of the National Guard and for the drill, instruction, small arms and artillery practice, movements, operations and care of the troops. Commanding officers of organizations shall be responsible to their immediate commanders for the equipment, drill, instruction, movements and efficiency of their respective commands. All commissioned officers and enlisted men shall be responsible to their immediate commanding officers for prompt and unhesitating obedience, proper drill and the preservation and proper use of the property of the State or organization in their possession.

§ 48. BONDS OF OFFICERS.] Each officer to whom there shall be issued, or who shall be accountable for arms, equipment, uniforms, and any other State or United States property for military uses, or who shall have the control, custody or disbursement of state or military funds, shall, before the delivery to him of such arms, equipment, and other State or United States property, and the receipt of such funds, execute and deliver to the Adjutant General a bond therefor, with sureties to be approved by the Governor, and payable to the State, in such amount as may be fixed by the Governor, conditioned for the proper care, use and return in good order, wear, use and unavoidable loss and damage excepted, of all such state and United States property, and the proper care and faithful disbursement and accounting of all funds coming into the hands of such officer. Upon the violation of any of the conditions of such bond, action thereon shall be brought by the Adjutant General on behalf of the State,

and any recovery thereon shall be credited to the National Guard funds of the State. It shall be the duty of the Attorney General of the State to prosecute all actions upon such bonds.

§ 49. FALSE CERTIFICATE OR RETURN.] Any officer or soldier of the National Guard who knowingly makes any false certificate of muster or false return of Federal or State property or funds in his possession shall be guilty of a misdemeanor.

§ 50. MISUSE OF FUNDS OR PROPERTY.] Any officer or soldier of the National Guard who wilfully neglects or refuses to apply all money, in his possession drawn from the paymaster general, to the purpose for which such money was appropriated or who fails or refuses to account for or return any State or Federal property or funds in his possession, shall be guilty of the crime of embezzlement by bailee and punished accordingly.

§ 51. STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON DUTY.] All officers and employees of the State, or a subdivision thereof, or a municipality therein, who are members of the National Guard, or members of the Officers' Reserve Corps of the United States of America, or who shall be subject to call or induction into the Federal service by the President of the United States, or who shall volunteer for such service, shall, when ordered by proper authority to active non-civilian service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

§ 52. JURISDICTION OUTSIDE OF OCCUPIED TERRITORY.] Troops occupying a military district established under martial law, may, if necessary, pursue, arrest and subpoena persons wanted in said military district, anywhere within the State of North Dakota.

§ 53. SERVICE OF PROCESS.] All peace officers of the State shall serve process and execute the orders of a military court in the same way and to the same extent as corresponding instruments of civil courts.

TITLE 7. MILITARY COURTS

§ 54. KINDS OF MILITARY COURTS.] The military courts of this State for the National Guard shall be:

- (a) Courts of Inquiry
- (b) General Courts-Martial
- (c) Special Courts-Martial
- (d) Summary Courts-Martial

§ 55. POWERS.] The military courts of this State shall be constituted like, have cognizances of the same subjects, and possess like powers, except as to punishment, as similar courts provided for by the laws and regulations governing the Army of the United

States, and the proceedings of courts of inquiry and courts-martial of the National Guard shall follow the forms and modes of procedure prescribed for said similar courts.

§ 56. COURTS OF INQUIRY.] Courts of inquiry shall consist of not less than three officers of at least equal grade with the officer in regard to whom the court is ordered. Courts of inquiry may be ordered by the Governor or by the Commanding General to examine into the nature of any transaction of or accusation or imputation against any officer or enlisted man. The courts shall, without delay, report to the officer ordering it the adduced, a statement of the facts, and, when required, an opinion thereon.

§ 57. GENERAL COURTS-MARTIAL.] General courts-martial may be convened by order of the Governor. Such courts shall have power to impose fines not exceeding two hundred dollars; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of non-commissioned officers to the ranks; or any two or more of such punishments may be combined in any sentence imposed by such courts.

§ 58. SPECIAL COURTS-MARTIAL.] The commanding officer of each garrison, fort, post, camp or other place, brigade, regiment, detached battalion, or other detached command may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Special courts-martial shall have power to try any person subject to the military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial shall have the same powers of punishment as to general courts-martial except that fines imposed by such courts shall not exceed one hundred dollars.

§ 59. SUMMARY COURTS-MARTIAL.] The commanding officer of each garrison, fort, post or other place, regiment or corps, detached battalion, company or other detachment may appoint for such place or command a summary court to consist of one officer, who shall have power to administer oaths and to try the enlisted men of such place or command for breaches of discipline and violations of laws governing such organizations; and said court when satisfied of the guilt of such soldier may impose fines not exceeding twenty-five dollars for any single offense; may sentence non-commissioned officers to reduction to the ranks; may sentence to forfeiture of pay and allowances. The proceedings of such courts shall be informal and the minutes thereof shall be the same as prescribed for summary courts of the Army of the United States.

§ 60. SENTENCE TO CONFINEMENT.] All courts-martial, including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed; provided, that such sent-

ences of confinement shall not exceed one day for each dollar of fine authorized.

§ 61. SENTENCES TO BE APPROVED.] No sentence of any court-martial shall become effective until approved by the convening authority; no sentence of dismissal from the service or dishonorable discharge imposed by a court-martial shall be executed until approved by the Governor.

§ 62. WARRANTS, SUBPOENAS, ATTACHMENT.]

(a) Presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such person shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order and to issue warrants for the arrest and confinement for conviction (convicted) persons, and any other warrant, writ or process which may be necessary to enable any such court to carry into full effect the powers vested in such court by the laws of the United States and of this State.

(b) Presidents of courts of inquiry, courts-marital, and summary court officers shall have power to issue subpoenas duces tecum and to enforce the attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in civil courts.

§ 63. COMMITMENT PENDING TRIAL.] Whenever an accused person shall have been arrested for failure to appear before a court-martial for trial as herein provided for, the president of the court-martial or summary court officer to whom the charges have been referred for trial may issue a warrant to the civil officer making the arrest for the commitment of such person to prison or jail pending trial. In all such cases, the accused shall be admitted to bail, the amount of bail fixed, and the surety or sureties thereon approved, by the President of the court martial or the summary court officer issuing the warrant. In default of bail, such person shall be confined pending trial; provided, that no person shall be kept in prison or jail pending trial for more than five days.

§ 64. EXECUTION OF PROCESS BY CIVIL OFFICERS.]

(a) All processes and sentences of said courts shall be executed by such civil officers of the State as are herein prescribed.

(b) All processes, writs, and warrants of said court shall be directed to and executed by any sheriff, member of the State police or any other officer or member of the police department of any municipality, or any other ministerial officer of any county or municipality, and shall be similar in form to like processes, writs, or warrants issued by civil courts, or in such form as may from time to time be prescribed by the Governor in regulations issued by him. It shall

be the duty of all officers to whom such process, writ or warrant may be directed to execute the same and make return thereof to the officer issuing the same.

(c) The keepers and wardens of all city or county jails shall receive the persons committed to them by a military court, and shall confine them in accordance with the direction of said court.

§ 65. FINES.] All fines imposed by sentence of the aforementioned courts shall be collected by the presiding officer and remitted without delay to the Adjutant General, who will remit them immediately to the State Auditor with a statement of the source from which collected. All sums thus collected as fines shall be credited to the general fund for maintenance of the National Guard and expended as authorized therefor; provided, further, that such portion of the sentence imposed by the aforementioned courts as prescribes confinement shall be executed in such county jails as the reviewing authority may direct, and the expenses of such confinement shall be borne by the State of North Dakota. A commitment in writing shall be executed by the presiding officer of the court to the sheriff or jailer where temporary restraint is deemed necessary, but where the confinement is the result of the confirmed action of the reviewing authority an official copy of the order publishing the sentence of the court shall be furnished the sheriff or jailer. The presiding officer is empowered to accept a bond for the delivery of the accused upon demand after the final action of the court, and pending the action of the reviewing authority, when his jurisdiction terminates. This bond will not be accepted in capital cases, nor for a less sum than twice the amount involved; provided, further, that the sentence of any court-martial shall not, in time of peace, exceed that prescribed by the president for like offenses, and that these substitutes obtain; one day's confinement for one dollar forfeiture or the reverse.

§ 66. INDEMNITY FOR ACTION OF MILITARY COURT.] No action or proceedings for damages shall be prosecuted or maintained against a member of a military court, or persons acting under its authority or reviewing its proceedings on account of the approval, or imposition or collection of any fine or other penalty, or the execution of any warrant, writ or other process of a military court.

§ 67. REPORTER AND WITNESS FEES.] (a) Any witness subpoenaed to appear before any military court shall receive the same fees as are provided by law for witnesses appearing in a civil court.

(b) The reporter of any court shall be paid for stenographic services the same fees as are provided by law for similar services in civil courts.

§ 68. PAYMENT OF FEES.] (a) Fees for services of civil officers shall be the same as provided by law for services in civil courts. Costs will be levied and disbursed by the court. Records of

all levies and disbursements being kept in the headquarters of the organization concerned.

§ 69. CHARGES TO BE PAID BY THE STATE.] All witness fees, court costs, and pension awards incident to or the result of the operation of a military tribunal or board shall be paid by the State Treasurer from the general funds available upon appropriate voucher submitted thru the channels of the Adjutant General's office, after approval by the Adjutant General and the Governor.

TITLE 8. ARMORIES

§ 70. BOARD OF ARMORY SUPERVISORS.] The Governor shall appoint a board of Armory Supervisors which shall consist of the Adjutant General, and four other officers from the active, inactive, or retired commissioned personnel of the National Guard. The board shall meet at such times and places as are ordered by the Governor. The four officers so appointed shall serve at the pleasure of the Governor. The board shall, for each unit of the National Guard, fix the maintenance and rent allowance to be paid by the State for other than state-owned armories and shall acquire, contract, erect, purchase, sell, maintain, repair and alter state-owned armories subject to the laws made and provided therefor. Such board may lease property to be used for armory purposes, said lease to extend for any period but not to exceed fifteen years.

§ 71. DUTY OF COMMANDING OFFICER.] The commanding officer of each company, troop, or battery, 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 room shall be under the exclusive control of the commanding officer.

§ 72. USE OF ARMORIES.] The use of armories for the regular meetings or functions of those patriotic societies or recognized Military Service Men's Organizations holding charters from Congress or incorporated in this State shall be granted by the Armory Board or officer in charge of any armory at such times and under such circumstances as not to interfere with the use of the armory for military purposes by the company or companies quartered therein, subject to the armory rules and regulations as are in force governing the use of such armories.

TITLE 9. PENSIONS FOR DISABILITY, HOSPITAL TREATMENT FOR INJURIES, ETC.

§ 73. PENSIONS.] Every member of the militia or National Guard who shall be wounded or disabled while in the service of the State in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection or imminent danger thereof, or whenever called upon in aid of the civil authorities, shall be taken care of

and provided for at the expense of the State, and every such member who shall be wounded or disabled or has been so disabled in the performance of any actual service of this State within ten years preceding the application for a pension under this act (chapter) in cases of riots, tumults, breach of the peace, resistance to process, invasion, insurrection or imminent danger thereof, or whenever called upon in aid of the civil authorities, or while engaged in any lawfully ordered parade, drill, encampment or inspection, shall upon proof of the fact, as hereinafter provided, be placed on the roll of invalid pensioners of the State, and shall receive out of any moneys in the treasury of the State not otherwise appropriated, upon the audit of the Adjutant General and approval of the Governor, the like pension or reward that persons under similar circumstances receive from the United States; and in case of any wound, injury or disease causing death, then the widow or minor children of such member of the militia shall receive such pension and reward from the time of receiving the injuries on account of which such pension or reward is allowed.

§ 74. PROOF REQUIRED, STRIKING FROM ROLL.] Before the name of any person is placed upon the roll under this article proof shall be made, under such regulations as the Adjutant General may from time to time prescribe, that the applicant is entitled to such pension. The Adjutant General, with the approval of the Governor, shall cause to be stricken from the pension roll the name of any person whenever it appears by satisfactory proof that such name was put upon such roll through false or fraudulent (fraudulent) representations. The Adjutant General, with the approval of the Governor, may increase or reduce or withdraw any pension, according to right and justice and the practice in the United States Veterans Administration.

§ 75. PENSION EXAMINERS AND EXAMINING BOARDS.] The Adjutant General is authorized to appoint pension examiners, whose duty it shall be to inquire into the merits of any claim for pay and care and pension, whether pending or adjudicated, and any person so appointed shall have power to administer oaths, to orally examine witnesses, to issue subpoenas and to take affidavits and depositions in the course of such examinations. The Adjutant General shall further appoint examining boards, consisting of not more than three medical officers of the National Guard, who shall under his direction make such examination of claimant as he shall require, and certify the result in such form as he shall prescribe, and any person adversely affected by the report of one medical officer shall be entitled to an examination upon his request before a board consisting of three medical officers.

§ 76. PAY AND CARE WHEN INJURED OR DISABLED IN SERVICE.] A member of the National Guard who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, in-

surrection or invasion, or whenever ordered by the Governor, commanding officer of the National Guard, or called in aid of the civil authorities, receive an injury or incur or contract any disability or disease by reason of such duty or assembly therefor, or who shall without fault or neglect on his part be wounded or disabled while performing any lawfully ordered duty which shall temporarily incapacitate him from pursuing his usual business or occupation shall, during the period of such incapacity, receive the pay provided by this chapter and actual necessary expenses for care and medical attendance. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed upon the application of the member claiming to be so incapacitated by the commanding officer of the highest unit in the State to which such member is attached. Such board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers and punish their failure to do so, as is possessed by a general court-martial. The findings of the board shall be subject to the approval of the officer convening it when the claim is payable by a county, and in all other cases to the approval of the commanding officer of the National Guard. The reviewing officer may return the proceeding of the board for revision and for taking further testimony. The amount found due such member by said board to the extent that its findings are approved by the reviewing officer thereof, shall be a charge against and be paid in the manner provided in this chapter, by the county in which such duty was rendered, in every case where a county is by this chapter made liable to pay for the performance of military duty. In all other cases such sums shall be paid by this State, in like manner as other military accounts are paid.

TITLE 10. MISCELLANEOUS PROVISIONS.

§ 77. MEDAL OF MERIT. LONGEVITY MEDALS.] The Governor is hereby authorized to present in the name of the legislative assembly of the State of North Dakota a military medal, to be known as the Medal of Merit, bearing a suitable inscription and ribbon, all of which shall be of suitable military design to any member or former member of the North Dakota National Guard who in the discharge of his military duties distinguishes himself by extraordinary heroism or devotion to duty. The award of a Medal of Merit shall be made by a Board of Awards, consisting of the Adjutant General and senior officers of regiments or separate organizations of the National Guard of the State of North Dakota to be instituted by General Order of the Adjutant General's Office, prescribing rules and regulations for its meetings and method of procedure.

Not more than one Medal of Merit shall be awarded to any one person; nor shall any medal be awarded or presented to any person whose service subsequent to the recommendations for award shall not have been honorable. For each succeeding citation a person

to whom a Medal of Merit shall have been previously awarded or presented shall be entitled to wear, as the Adjutant General of the State may direct, a metal device attached to the ribbon of such Medal of Merit. In the event of the death of a person to whom a Medal of Merit has been awarded, presentation shall be made to the nearest next of kin.

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 five, ten, fifteen and twenty years, respectively, and for a like service hereafter.

§ 78. EXEMPTION FROM CIVIL PROCESS.] No person belonging to the active militia of the State shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

§ 79. RIGHT OF WAY. FREEDOM FROM INTERFERENCE.] Commanding officers of any portion of the National Guard parading or performing any military duty in any street or highway to yield the right of way; provided, the carriage of the United States mail, the legitimate functions of the police and the progress and operations of hospital ambulances and fire departments and apparatus of the insurance patrol shall not be interfered with thereby. All others who shall hinder, delay or obstruct any portion of the National Guard wherever parading or performing any military duty, or who shall attempt so to do, shall be guilty of a misdemeanor.

§ 80. FREE PASSAGE THROUGH TOLL GATES, ETC.] Any person belonging to the military forces of the State, going to or returning from any parade, encampment, drill or meeting which he may be required by law to attend, shall together with his conveyance and military property of the State in his charge be allowed to pass free through all toll gates and over all toll bridges and ferries, if he is in uniform or presents an order for duty or certificate of membership in the National Guard.

§ 81. EXEMPTION FROM JURY DUTY.] Every member of the National Guard shall be exempt from all jury duty, provided, he shall furnish the certificate of his immediate commanding officer that he has performed the duties required of him for the year immediately preceding a summons to act as a jurymen, and every such member who shall have received a full and honorable discharge shall be exempt forever after from all jury duty.

§ 82. UNLAWFUL CONVERSION OF MILITARY PROPERTY.] Unlawful wearing of uniforms and devices indicating rank. Any person who shall secretly sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the National Guard, or in any manner pawn or pledge any arms, uniforms, equipments, or other

military property issued under the provisions of this chapter, and any person who shall wear any uniform or any device, strap, knot or insignia of any design or character used as a designation of grade, rank or office, such as are by law or by general regulation duly promulgated, prescribed for the use of the National Guard or similar thereto, except members of the Army and Navy of the United States and the National Guard of this or any other State, members of Associations wholly composed of soldiers honorably discharged from the service of the United States and members of the order of Sons of Veterans shall be guilty of a misdemeanor, and in addition thereto shall forfeit to the people of this State one hundred dollars for each offense, to be sued for in the name of the people by a judge-advocate. All moneys recovered by an action or proceeding under this section shall be paid to the Adjutant General, who shall apply the same to the use of the National Guard.

§ 83. TRESPASSERS AND DISTURBERS TO BE PLACED IN ARREST.] The commanding officer upon any occasion of duty may place in arrest during continuance thereof any person who shall trespass upon the camp ground, parade ground, armory or other place devoted to such duty, or shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or returning from any duty.

§ 84. MILITARY PARADES BY UNAUTHORIZED BODIES PROHIBITED.] No body of men other than the regularly organized units of the National Guard and militia and the troops of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this State. No city or town shall raise or appropriate any money toward arming or equipping, uniforming or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers honorably discharged from the service of the United States or members of the order of Sons of Veterans may parade in public with firearms on Decoration Day or upon the reception of any regiments or companies of soldiers returning from such service, and for the purpose of escort duty at the burial of deceased soldiers; and students in educational institutions where military science is a prescribed part of the course of instruction, may, with the consent of the Governor, drill and parade with firearms in public under the superintendence of their teachers. This section shall not be construed to prevent any organization authorized to do so by law from parading with firearms, nor to prevent parades by the National Guard of other states. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

§ 85. DUTIES BY TITLE OF OFFICE.] The duties assigned to an officer by title in this chapter shall devolve, in case of absence on

disability by command of the officer named, upon the line officer next in rank, except as otherwise provided in this chapter.

§ 86. RULES AND REGULATIONS.] The Governor is hereby authorized to make such rules and regulations as he may deem expedient, but such rules and regulations shall conform to this chapter, and, as nearly as practicable, to those governing the United States Army, and when promulgated shall have the same force and effect as the provisions of this chapter. Such rules and regulations shall not be repealed, altered, amended or added to, except by the commanding officer of the National Guard, with the approval of the Governor. The rules and regulations in force at the time of the passage of this chapter shall remain in force until new rules and regulations are approved and promulgated.

§ 87. CUSTOM AND USAGE OF THE UNITED STATES ARMY.] All matters relating to the organization, discipline and government of the National Guard, not otherwise provided for in this act, or in the general regulations, shall be decided by the custom and usage of the United States Army or Navy, respectively.

§ 88. SAVINGS OF RIGHTS ACCRUED.] All contracts, pensions, commissions, leases, agreements and similar actions taken, made or entered into under the previous statutes on this subject, which by their nature, custom or usage were continuing in effect are hereby ratified and confirmed.

§ 89. EFFECT OF PARTIAL INVALIDITY.] If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 90. REPEAL.] Sections 2347 and 2448, both inclusive, being Chapter 35 of the Political Code Compiled Laws, State of North Dakota for the year 1913, and Chapter 187, Session Laws of 1915; Chapters 3 and 159, Session Laws of 1917; Chapter 5, Session Laws of 1919; Chapter 43, Special Session Laws of 1919; Chapter 241, Session Laws of 1923; Chapter 42, Session Laws of 1925; and Chapter 213, Session Laws of 1935, together with all acts amendatory thereof and all other acts or parts of acts repugnant to and inconsistent herewith are hereby repealed.

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

Approved March 12, 1941.

CHAPTER 222

S. B. No. 98—(Committee on Appropriations)

MILL AND ELEVATOR AUDITS

An Act to provide for an annual audit of the affairs of the North Dakota Mill and Elevator Association as of the 30th day of June in each year, and such other audits as may be deemed necessary by the Industrial Commission, and repealing conflicting portions of prior acts.

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

§ 1. The books, records, accounts, inventories, stocks of merchandise, supplies, equipment and all affairs of the North Dakota Mill and Elevator Association shall be audited and examined once in each year by the State Board of Auditors and State Examiner in co-operation, said audit to be made as soon as possible after the 30th day of June in each year. Said audit and the report thereof shall fairly and accurately disclose the actual condition of said Mill and Elevator Association as of the 30th day of June of that year. Profits and losses shall be computed only on such contracts and commitments, or parts thereof, as shall have been completed on said date, and no estimates or forecasts shall be made as to the probable loss or gain on transactions to be fulfilled after said date. Inventories of grains, supplies and stocks on hand shall be computed at the market price of said date. The foregoing shall not be construed to prohibit said report from disclosing the actual obligations and commitments of said Association on existing unfilled contracts, and the consideration and prices fixed in said contracts, if, in the judgment of said auditors, the same shall be necessary to a complete audit; but it is the intention hereof that said report shall constitute a factual report of existing conditions, and, to the fullest extent possible, all estimates, forecasts and probabilities shall be eliminated therefrom. Copies of such audit report upon completion shall be filed with The Industrial Commission, The Manager of the Mill and Elevator, with the State Board of Auditors, and the State Examiner, and a Consolidated Balance Sheet and Operating Statement made public.

§ 2. The Industrial Commission shall have authority to direct such other unexpected or unscheduled audits at such times and by such auditor as it shall deem proper to protect the interests of the State.

§ 3. REPEAL.] All provisions of law providing for audits of the North Dakota Mill and Elevator Association by the State Board of Auditors, the State Examiner, or other auditors, are hereby repealed insofar as audits of the said Association are concerned.

Approved February 20, 1941.

CHAPTER 223**H. B. No. 231—(Wolf of Morton and Johnson of Cass)****CONSTRUCTION PUBLIC BUILDINGS**

An Act to amend and re-enact Section 4 of Chapter 195 of the Session Laws of 1929 relating to the opening of bids, award of contract, and bond required for public buildings.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 195 of the Session Laws for the year 1929 be and is hereby amended and re-enacted to read as follows:

§ 4. OPENING BIDS. AWARD OF CONTRACT AND BOND REQUIRED.] At the time and place specified in said notice, the board of administration, county commissioners, city commission, city council, board of park commissioners, school district officials or village trustees, as the case may be, shall publicly open and read aloud all bids received, and may reject all bids or award the contract to the lowest and best bidder; provided that if the low bidder has not been a resident of the State of North Dakota for at least one year preceding the date of the filing of his bid, the contract shall be awarded to the lowest qualified bidder who has been a resident of the State of North Dakota for at least one year preceding the date of the filing of his bid providing such bid does not exceed the bid of the low bidder by more than five (5) per cent. The particular board or body concerned, shall require of the contractor to whom the contract is awarded, a bond complying with Chapter 92 of the Civil Code of North Dakota for the year 1913 as amended.

The particular board or body concerned shall have the power to reject any and all bids and may advertise anew in accordance herewith, until a satisfactory bid is received.

Approved March 20, 1941.

CHAPTER 224

H. B. No. 76—(Sellens and Bergesen)

VACANCIES IN PUBLIC OFFICES

An Act to Amend and Re-enact Section 683 of the Compiled Laws of the State of North Dakota for 1913, Relating to Creation of Vacancies in Public Offices; Repealing Acts in Conflict Herewith, and Declaring and Emergency.

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

§ 1. AMENDMENT.] That Section 683 of the Compiled Laws of the State of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 683. Vacancies, how caused. Every office shall become vacant on the happening of either of the following events:

1. Death of the incumbent.
2. His insanity judicially determined.
3. His resignation.
4. His removal from office.
5. His failure to discharge the duties of his office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by reason of his service in the Army, Navy, or Marine Corps of the United States, by sickness or by other unavoidable cause, provided, however, no remuneration on account of such office shall be paid to the absentee during such absence, and such office shall in all cases become vacant upon the termination of the term for which he was elected or appointed.
6. His failure to qualify as provided by law.
7. His ceasing to be a resident of the state, district, county, or township in which the duties of his office are to be discharged, or for which he may have been elected.
8. His conviction of a felony or of any offense involving moral turpitude or a violation of his official oath.
9. His ceasing to possess any of the qualifications of office prescribed by law.
10. The decision of a competent tribunal declaring void his election or appointment.

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

§ 3. 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 4, 1941.

CHAPTER 225

H. B. No. 119—(Joint Committee on Refunding State Indebtedness)

STATE CAPITOL BUILDING REFUNDING CERTIFICATES

An Act Authorizing the Industrial Commission to issue State Capitol Building refunding certificates for the purpose of securing funds with which to pay outstanding State Capitol Building certificates, prescribing the conditions thereof, manner of sale and the payment thereof.

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

§ 1. The Industrial Commission is hereby authorized and empowered to issue certificates of indebtedness bearing interest at the rate of Two (2) per cent per annum, payable annually or semi-annually, to be known as "State Capitol Building Refunding Certificates", for the purpose of providing funds with which to pay outstanding State Capitol Building Certificates issued under Section 14, Chapter 205, Session Laws of 1931, and Acts amendatory thereof, and accrued interest thereon, and such refunding certificates shall be exempt from taxation.

§ 2. The aggregate amount of such refunding certificates shall not exceed \$200,000.00. They shall mature at such time or times as the Industrial Commission shall determine; but none shall mature in more than ten years from the date of issue. Such refunding certificates shall be in such denominations and form as the Industrial Commission shall determine but shall show on their face the purpose for which they are issued, the time of maturity, shall contain a reference to this Act, and shall be made payable at the office of the State Treasurer.

§ 3. Such certificates shall be signed by the Governor and the State Auditor, who shall keep a proper register thereof and who shall deliver them to the State Treasurer. They shall be attested by the Secretary of the Industrial Commission.

§ 4. The Industrial Commission shall sell such refunding certificates to the highest bidder, but for not less than par. Such refunding certificates shall be delivered by the State Treasurer to the purchaser only on payment to the State Treasurer for the amount for which they are sold. The proceeds derived from the sale of such refunding certificates shall be placed in the State Capitol Building Fund and shall be used only for the payment of outstanding State Capitol Building Certificates and accrued interest thereon.

§ 5. The principal and interest of such refunding certificates, when due, shall be paid by the State Treasurer on warrant of the State Auditor from the funds of the State Capitol Building Fund; and sufficient of such funds shall be set aside to meet the maturing

refunding certificates each year and interest thereon when such refunding certificates and interest shall mature. Such refunding certificates shall constitute a first charge upon the funds in the State Capitol Building Fund; and the liability of the State shall be limited to the faithful and ratable application to the payment thereof, of such funds.

Approved February 24, 1941.

CHAPTER 226

H. B. No. 215—(Smart)

TRANSFER LANDS IN ROLETTE COUNTY TO THE UNITED STATES OF AMERICA

An Act Authorizing the Governor and the Secretary of State, Acting in the Name of, and on Behalf of, the State of North Dakota, to Transfer and Convey, Without Consideration, Certain Lands in Rolette County, Now Held by and in the Name of the State of North Dakota in Trust for the Use and Benefit of the International Peace Garden, Inc., a New York Corporation, to the United States of America for Use as a Customs Port of Entry to the United States from the Dominion of Canada, and Declaring an Emergency.

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

Whereas, By Chapter 211 of the Session Laws of North Dakota for the year 1935, the Governor of the state of North Dakota was authorized, empowered and directed, for and on behalf of the State of North Dakota, to accept from International Peace Garden, Inc., a New York corporation, a deed of conveyance in trust upon certain trust conditions therein contained; and whereas, certain lands in Rolette County were conveyed by said International Peace Garden, Inc., a New York corporation, pursuant to the provisions of said Chapter 211, and said lands are now held by the State of North Dakota in trust as in said chapter provided; and

Whereas, the United States of America is now desirous of obtaining a portion of said lands so held as and for a United States Customs Port of Entry; and

Whereas, said International Peace Garden, Inc. is willing that a portion of said lands be conveyed to the United States of America for the purpose aforesaid; and

Whereas, it is deemed to be for the best interests of said International Peace Garden, Inc., and of all concerned that such a Customs Port of Entry be established on said lands and that such purpose would be in furtherance of such trust;

Now, Therefore, Be it hereby Enacted:

§ 1. CONVEYANCE AUTHORIZED.] The Governor of the State of North Dakota, and the Secretary of State of said State hereby are authorized, empowered and directed to convey to the United States of America without consideration, by deed of conveyance, without warranty, duly executed in the name of the State of North Dakota by the Governor, such execution to be attested by the Secretary of State, under the Great Seal of the State of North Dakota, such conveyance to be confirmed by proper corporate action of said International Peace Garden, Inc., a New York corporation, the following lands, being a portion of said lands, to-wit:

All that tract or parcel of land lying and being in Lot One of Section 25, Township 164 North, Range 73 West of the Fifth Principal Meridian of North Dakota, described by metes and bounds as follows: Commencing at a point 40 feet due west of the intersection of the International Boundary Line and section line bounding the east side of said Lot One, being 40 feet due West of the Northeast corner of said Lot One; thence due West along the International Boundary Line a distance of 150 feet; thence at right angles due South a distance of 801.8 feet; thence at right angles due east a distance of 150 feet; thence at right angles due North along a line 40 feet due West of the center of the section line along the east side of said Lot One, a distance of 800 feet, to the point or place of beginning; together with the improvements thereon, lying and being in Rolette County, North Dakota.

§ 2. EMERGENCY.] Whereas the erection of suitable buildings for said Port of Entry cannot be undertaken by the United States until good title to the site therefor can be obtained, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after the passage and approval thereof.

Approved March 17, 1941.

CHAPTER 227

H. B. No. 141—(Sharpe, Fleck, Benno and Nelson of Morton)

STATE BOARD OF ELECTRICIANS

An Act to Amend and re-enact Section 578b1 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913; Section 578b2 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 139 of the Session Laws of 1927; Sections 578b3, 578b4, 578b5, 578b6, 578b7 and 578b8; and declaring an emergency.

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

§ 1. AMENDMENT SECTION 578b1; BOARD CREATED.] The State Board of Electricians is hereby created which shall consist of three members appointed by the Governor for periods of 2, 4, and 6 years respectively, and the State Insurance Commissioner who shall be ex-officio member and Secretary of said Board. The three members appointed shall consist of one Master Electrician, one Journeyman Electrician and one Moving Picture machine operator. The Master Electrician appointed shall have been a resident of the State of North Dakota for the last past three years and shall have been actively engaged as a Master Electrician for the said period of time. The Journeyman so appointed shall have been engaged as a Journeyman in the State of North Dakota and shall have resided therein for a period not less than three consecutive years last past, and the Moving Picture Operator so appointed shall be a projectionist who has resided in, and been engaged in his profession within the State of North Dakota for the last past three consecutive years. Vacancies on said Board shall be filled in the same manner and from the same classification as the retiring member.

The Board shall select from its membership a President and Treasurer, prescribe rules for the management of its affairs; shall adopt a seal and may make reasonable rules and regulations. Each member shall receive \$5.00 per day for actual services rendered and in addition thereto, his necessary and actual expenses incurred in the discharge of his duties.

The Board shall meet at the Capitol for its annual meeting during the month of January of each year and at any other times or places within the State upon ten days notice given by the President for the purpose of conducting examinations and performing such other duties as may be brought before them.

§ 2. SECTION 578b2, AMENDMENT. CLASSIFYING ELECTRICIANS.] That Section 578b2 of the Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

There shall be three classes of licenses, Master, Journeyman,

and Moving Picture Machine Operator. For the purpose of this Act, the term Master Electrician shall be construed to mean a person having the necessary qualifications, training, experience and technical knowledge to properly plan, lay out and supervise the installation and repair of electrical wiring, apparatus and equipment for electric light, heat and power in accordance with the standard rules and regulations governing such work. The term Journeyman Electrician for the purpose of this Act shall be construed to mean a person having the necessary qualifications, training, and technical knowledge to wire and install and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work. The term Moving Picture Machine Operator for the purpose of this Act shall be construed to mean a person having the necessary qualifications, training and experience to operate Moving Picture Machines and switchboards in buildings, parts of buildings or enclosures used for public assemblages.

Every person, partnership, company, corporation or association, that undertakes or offers to undertake with another to plan, lay out, supervise, install or make additions, alterations or repairs in the installation of wiring, apparatus or equipment for electric light, heat or power for a fixed sum, price, fee, percentage or other consideration shall apply to the Board for License. The Board shall examine the applicant and if he be found upon technical and practical examinations to be possessed of the required knowledge and skill and to be versed in the laws of electricity, shall issue a license to the applicant in the class for which he has been examined; such license shall be signed by the President and Secretary of the Board, attested by the seal and shall be valid for one year. License may be renewed without examination upon the payment of the proper fee. If the licensee fails to renew his license for a period of five consecutive years or more, he may be required to appear for re-examination. The Board may upon the recommendation of one Master Electrician and two Journeyman electricians, issue a permit for a Journeyman electrician to engage in his trade until the next meeting of the Board for the examination of applicants and such permit shall not be renewable.

Employees of Public Utilities engaged in the manufacture and distribution of electrical energy shall not be required to hold a license to engage in such work as directly pertains to the manufacture and distribution of electrical energy, provided, however, for the purposes of this Act, such exemption shall terminate at the first point of service attachment except for the installing or testing of electric meters and measuring devices and the maintenance of their service. Employees of telephone, telegraph and radio communication services shall not be required to hold licenses to engage in such work as directly pertains to such services. Every license or permit holder shall report his licensing and renewals thereof to the electrical inspector, if any there be, in the city or village in which he operates,

and any license or permit issued hereunder may be revoked after hearing and for cause.

§ 3. SECTION 578b3, AMENDMENT. EXPENSES OF THE BOARD.] That Section 578b3 of the Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

All reasonable and necessary expenses incurred in conducting of the business of the Board shall be allowed and paid for by the Board.

§ 4. SECTION 578b4, AMENDMENT, LICENSES.] That Section 578b4 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

Licenses shall be issued for a period of one year. Every applicant for examination for a Master's license shall pay an application fee of \$15.00 and an annual license fee of \$7.00. He shall take oath and submit written evidence that he has had three years experience in his trade before taking the examination. If a partnership, company or corporation applies for a license, an officer or manager thereof shall make the application, take the oath, and submit evidence as to experience before taking the examination. An applicant for a Journeyman's license shall pay an examination fee of \$7.00 and annual license fee thereafter of \$3.00 per year. He shall take oath and submit written evidence that he has had three years experience in installing and repairing electrical wiring, apparatus and equipment. Applicants for Moving Picture Machine Operator License shall pay an examination fee of \$5.00 and an annual license fee of \$3.00 thereafter. He shall take oath and submit written evidence that he has had two years experience in the line of work for which he requests a license.

No contract, agreement or undertaking with another for the installation of electrical wiring or the installation of electrical parts of other apparatus or equipment, shall be entered into by anyone not a Master Electrician.

Before receiving a license as Master Electrician the applicant shall execute and deposit with the Board a surety bond in the sum of \$1,000.00 conditioned upon the faithful performance of all electrical work undertaken by him and for the strict compliance with all the provisions of this Act and the requirements of the Board, and in the cities requiring bond by virtue of city ordinances, such bonds shall not supercede the bond herein provided for.

Every person doing electrical work as provided for herein shall report the same to the Secretary of the State Board upon blanks furnished by this Board for such purpose, except in cities maintaining inspection service.

§ 5. SECTION 578b5, AMENDMENT. EXCEPTIONS.] That Section 578b5 of the 1925 Supplement to the Compiled Laws for North Dakota for 1913, shall be amended and re-enacted to read as follows:

Nothing in this Act shall prevent a person from serving as an apprentice under a licensed Master Electrician, and no Master Electrician shall allow an apprentice to work on any installation without personal supervision of a licensed electrician.

§ 6. SECTION 578b6. AMENDMENT. PROVIDING FOR INSPECTION.] That Section 578b6 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

The Board shall have jurisdiction over and provide inspection for all electrical installations now in use or to be made hereafter. All electrical wiring, apparatus or equipment shall comply with the rules and regulations of this Board, the Public Service Commission, the Insurance Commission and the State Fire Marshal under authority of the State statutes and in conformity of the approved methods of construction for safety to life and property. The regulations laid down in the National Electrical Code and the National Electrical Safety Code as approved by the American Engineering Standards Committee shall be prima-facie evidence of such approved methods provided, however, that nothing herein contained shall prohibit any municipality from making more stringent requirements. No electrical installation shall be connected for use until proof has been furnished to the person, firm or corporation supplying electrical energy that the regulations above cited have been complied with. Inspectors authorized by the Board may condemn installations hazardous to life and property and may order service thereto discontinued, provided, however, that such action may not be taken except after notice to the owner and subject to the right of appeal to the Board by the owner. No condemned installation shall be reconnected for service until proof has been furnished that the installation has been brought up to the required standard.

Cities may make provisions for inspection of all electrical work done within their corporate limits. City inspectors shall register their names with the Board within ten days after their appointment. Fees may be charged by the Board to cover the cost of inspection, such fees to be paid to the Board by the Master Electrician responsible for the installation. All fees from any source shall be used solely for conducting the duties of the Board and for furthering the improvement of electric work within the State. The Board shall file an annual report with the Governor as provided by law.

§ 7. SECTION 578b7. AMENDMENT. PENALTY.] That Section 578b7 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

Any person who shall undertake or offer to undertake for a valuable consideration installation or repair of electrical wiring, apparatus, or equipment without having complied with the terms of this Act or who shall violate any of the provisions hereof, shall be

guilty of a misdemeanor and shall be punished by a fine not less than \$25.00 or more than \$100.00 or by a jail sentence of 30 days or both. It shall be the duty of the Board to prosecute any violation of the provisions of this Act reported or found by it or its inspectors.

§ 8. SECTION 578b8, AMENDMENT. PROVISIONS OF THIS ACT SEVERABLE.] That Section 578b8 of the 1925 Supplement to the Compiled Laws of 1913 for North Dakota, be amended and re-enacted to read as follows:

The sections and provisions of this Act are severable and it is the intention to confer the whole or any part of the powers herein, and if any section or provision or part thereof is for any reason held to be unconstitutional, void or inoperative, it is the intention hereof that the remaining sections or parts thereof shall remain in full force and effect.

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

Approved March 8, 1941.

CHAPTER 228

S. B. No. 102—(Raschko and Blank)

STATE ENGINEER, APPOINTMENT AND DUTIES

An Act Relating to the appointment, powers and duties of the State Engineer, to amend and re-enact Section 8239 of the Compiled Laws of North Dakota for the year 1913 as amended and re-enacted by Section 1 of Chapter 224 of the Session Laws of 1929 and to repeal Section 8240 of the Compiled Laws of 1913 as amended and re-enacted by Section 2 of Chapter 224 of the Session Laws of 1929.

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

§ 1. AMENDMENT.] That Section 8239 of the Compiled Laws of 1913 as amended and re-enacted by Section 1 of Chapter 224 of the Session Laws of North Dakota for the year 1929, is hereby amended and re-enacted so as to read as follows:

§ 8239. STATE ENGINEER, APPOINTMENT, DUTIES, POWERS, QUALIFICATIONS, SALARY.] There shall be a State Engineer, who shall be a technically qualified and experienced hydraulic engineer and who shall also be an experienced irrigation engineer, to be appointed by the State Water Conservation Commission. He shall serve as Secretary and Chief Engineer of the Commission. The Commission shall fix his salary and shall allow him actual and necessary traveling expenses while away from his office in the discharge of his

official duties. He shall hold office for such term as the Commission may determine. He shall not engage in private practice but shall devote all of his time to the duties and requirements of his office.

Whenever the Board of University and School Lands shall request the State Engineer to investigate any particular tract of land granted to the state under the Enabling Act for the purpose of determining whether or not it is coal-bearing land within the meaning of the Constitution, it shall be his duty to do so and report his conclusions and finding to the board, but in making such investigations and reports, he shall whenever practicable call to his assistance, and consult with, the Dean of the School of Mines (College of Mining and Engineering) of the State University and the Professor of Geology at the Agricultural College.

§ 2. That all the powers now conferred and all duties now imposed by law upon the State Engineer shall be assumed, exercised and discharged by the State Engineer appointed by the State Water Conservation Commission and that any petitions, applications, surveys, reports, orders or other documents shall be filed in the office of the State Engineer, all such instruments shall hereafter be filed in the principal office of the State Water Conservation Commission in the City of Bismarck, where they shall be kept on file under the control and supervision of the State Engineer appointed by the State Water Conservation Commission.

§ 3. REPEAL.] That Section 8240 of the Compiled Laws of 1913 as amended and re-enacted by Section 2 of Chapter 224 of the Session Laws of North Dakota for 1929 be, and the same is hereby, repealed.

Approved March 13, 1941.

CHAPTER 229

H. B. No. 202—(Bergesen, Beede and Haugland)

NORTH DAKOTA STATE FARM

An Act Providing for the Establishment and Government of a Correctional Institution, to be Known as the North Dakota State Farm, Providing for the Commitment and Transfer of Prisoners Thereto, and Their Care and Supervision Therein; Making an Appropriation for the Establishment and Maintenance of said Institution; Repealing All Acts or parts of Acts in Conflict herewith.

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

§ 1. There is hereby established, under the provisions of this Act, a correctional institution for male violators of the law, to be known as the North Dakota State Farm.

§ 2. Upon the taking effect of this Act, the Board of this State which now has, or may hereafter have, the control and supervision of the penal institutions of this State, shall take over the buildings and equipment of the Camp for Transients which was established by the Federal Emergency Relief Administration near the City of Bismarck, and which has been transferred by said Administration to the State of North Dakota as contemplated by Senate Concurrent Resolution A-1, passed by the 25th Legislative Assembly.

§ 3. Said buildings shall be utilized for shelter and the administrative purposes of said State Work Farm, and the said board is hereby authorized to lease the premises upon which said buildings are situated, and lands in that vicinity to be used in connection with the work of said farm.

§ 4. The said board shall have full charge and control of said work farm and the buildings and equipment incident thereto; it shall appoint and employ a superintendent and other necessary help, and prescribe their duties and fix their compensation. The said board may assign to said farm, in any capacity, persons employed in connection with the operation of any other institution under the control and supervision of said board. Such person or persons may be so assigned either for full time or part time work, and, in the judgment of said board, the compensation of said persons may be continued to be paid and charged as it was before they were so assigned to work at said work farm.

§ 5. The laws relating to the government and management of the North Dakota state penitentiary, so far as the same may be applicable and not by this Act otherwise provided and not inconsistent with the purposes of this Act, shall in all respects apply to the government and management of the State Farm as to the duties and authority of the Board and its employes (employees) used at said State Farm. The said board in charge of such work farm may establish and adopt and enforce proper rules and regulations for the control and administration of said work farm and the prisoners committed thereto.

§ 6. It is recognized by all, that idleness is a curse and that the confinement of persons in idleness in jails or other penal institutions, has a deleterious effect, whereby both the individual and society are the losers, and as a result, many cities, counties, and states have established work farms for the purpose of giving to the persons confined, healthful, useful employment, under circumstances tending to rebuild and make them into useful citizens. It shall be the purpose of the state work farm to employ the prisoners committed or transferred thereto, in manual labor, and said farm shall be administered along the lines of a work farm for the purpose of assisting in the rehabilitation of the prisoners committed thereto, and with the purpose of furnishing to them labor, instruction, and super-

vision that will accomplish the purpose sought in this Act. The said board is hereby authorized to provide for such labor, instruction, and supervision for the persons committed to said farm.

§ 7. The cost of transportation of persons committed to the state farm for the commission of a felony, shall be paid by the State of North Dakota out of the fund appropriated for the payment of transportation for persons committed to the State Penitentiary, and the cost of transportation of persons committed to said farm for misdemeanors, shall be paid by the County from which the person is committed, and the sheriff or said county shall receive, mileage and fees, not to exceed the sum of five cents (\$.05) per mile for the miles actually and necessarily traveled in such transportation. The cost of care and keep of persons committed to the state farm for the commission of a felony shall be paid by the State of North Dakota out of the fund appropriated for such purpose for persons committed to the State Penitentiary and the cost of care and keep of persons committed to said farm for misdemeanors, shall be paid by the county from which the person is committed at the rate of seventy-five cents (\$.75) per day per person.

§ 8. When such state farm shall be equipped with facilities sufficient, in the opinion of the board having charge thereof, to receive prisoners, such board shall notify the Governor, and upon such notification, the Governor shall, by proclamation, declare the state farm ready to receive prisoners; and thereafter all judges of District Courts, and County Courts of increased jurisdiction, may commit thereto, so far as the capacity of the institution will permit, all male persons who otherwise would be committed to the County jail or to the State Penitentiary for violation of any criminal law of this State, and where the sentence is not less than thirty (30) days nor more than one year.

§ 9. The board shall have full power and authority, in the case of any prisoner committed to said State Farm for the commission of a felony, to transfer such prisoner to the State Penitentiary, and vice versa, if in the judgment of the board, such transfer is advisable. The laws relating to compensation, the merit system, good time and extra good time, and the imposition of penalties for misconduct provided by law for persons imprisoned in the State Penitentiary, shall be applicable to persons committed to the State Work Farm, except in so far as they may be inconsistent with the provisions of this Act.

§ 10. For the purpose of establishing and operating said work farm and maintaining persons committed thereto and providing necessary facilities for affording them work, and carrying out the other provisions of this Act, there is hereby appropriated for the use of said board in charge of said work farm, out of the fund of the State Treasury, the sum of Ten (\$10,000.00) thousand dollars

for the two (2) fiscal years commencing on July 1st, 1941 and ending June 30, 1943.

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

Approved March 22, 1941.

CHAPTER 230

H. B. No. 143—(Committee on Military Affairs)

NORTH DAKOTA STATE GUARD

An Act to Provide for the Organization, Equipping, Maintenance, and Use of the North Dakota State Guard, and Providing Rules and Regulations governing the same; Emergency.

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

§ 1. AUTHORITY AND NAME.] Whenever fifty per centum of the National Guard of this State is in active Federal service, the Governor by proclamation is hereby authorized to organize, equip, and maintain within the State, during such period, under such rules, regulations and limitations as may be prescribed by the Secretary of War, or by this Act, such military force as he may deem necessary for the proper defense of the State. Such force shall be composed of commissioned officers and such able-bodied male citizens as shall volunteer for service therein, and shall be known as the North Dakota State Guard. Such force shall have a distinctive uniform.

§ 2. ORGANIZATION, EQUIPMENT, AND MAINTENANCE.] The Governor is hereby authorized to prescribe rules and regulations not inconsistent with this Act and in conformity with regulations prescribed by the Secretary of War, governing the enlistment, organization, equipment, administration, pay, training, and disciplining of such force, all of which, so far as practicable, shall conform to the regulations governing the National Guard of the State. Units of such force shall be organized only at places to which National Guard units are allocated. The total strength of such force shall not exceed one half the allotted strength of the National Guard of the State on June 1, 1940.

The acceptance of any gift, donation, gratuity, or any thing of value by such force or any member thereof, from any individual, firm, association or corporation by reason of such membership is hereby prohibited, unless expressly authorized by the Legislature.

§ 3. REQUISITIONS, ARMORIES, AND QUARTERS.] The Governor is hereby authorized to requisition from the Secretary of War

such arms, ammunition, equipment and funds, as may be made available for such force. The Governor may allot to such force or designated units or detachments thereof, the facilities of such State armories, school buildings, or other State premises, equipment and property as may be available.

§ 4. USE WITHOUT THE STATE.] Such force shall not be required to serve outside the boundaries of this State, except:

(a) Upon the request of the Governor of another state, the Governor of this State may, in his discretion, order any portion or all of such force to assist the military or police forces of such other states who are actively engaged in defending such state; such force may be recalled by the Governor at his discretion.

(b) Any organization, unit, or detachment of such force upon order of the officer in command may continue in fresh pursuit of insurrectionists, saboteurs, enemy or enemy force, beyond the border of this State into any other state, until they are apprehended or captured, provided such other state shall have given authority by law for such pursuit by such force of this State. Any such person who shall be apprehended or captured in such other state by organization, unit or detachment by the force of this State shall without unnecessary delay be surrendered to the military or police force of the state in which he was taken or to the United States, but such surrender shall not constitute a waiver by this State of its right to extradite or prosecute such person for any crime committed in this State.

§ 5. PERMISSION TO FORCES OF OTHER STATES.] Any military force or organization, unit or detachment thereof, of another state which is in fresh pursuit of insurrectionists, saboteurs (saboteurs), enemy or enemy force, may continue such pursuit into this State until the military or police force of this State or the force of the United States have had a reasonable opportunity to take up the pursuit, or to apprehend or capture such persons; any such person who shall be captured or arrested by the military force of such other state while in this State shall, without unnecessary delay, be surrendered to the military or police force of this State, to be dealt with according to civil law. This Section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, and nothing in this Section shall be deemed to repeal any of the provisions regarding the fresh pursuit of criminals.

§ 6. FEDERAL SERVICE.] Nothing in this Act shall be construed as authorizing the North Dakota Guard or any part thereof to be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall, by reason of his enlistment or commission in such force, be exempt from military service under any law of the United States.

§ 7. CIVIL GROUPS.] No civil organization, society, club, post,

order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such force as an organization or unit.

§ 8. OATH OF OFFICE.] Commissioned officers of the North Dakota State Guard shall take and subscribe to an oath of office which shall be substantially the same as that prescribed for commissioned officers of the National Guard.

§ 9. ENLISTMENTS.] Any man who is a citizen of the United States or has declared his intention to become a citizen, if more than eighteen and less than fifty years of age, able-bodied, free from disease, of good character and temperate habits, may be enlisted in the North Dakota State Guard for a period not exceeding one year. No person shall be enlisted who has been expelled or dishonorably discharged from any military or naval organization of this State or of the United States. Nothing herein contained shall preclude re-enlistments.

§ 10. CONTRACT AND OATH OF ENLISTMENT.] Men enlisting in the North Dakota State Guard shall sign an enlistment contract and subscribe to an oath, both of which shall be substantially the same as that prescribed for enlisted men of the National Guard.

§ 11. ARTICLES OF WAR; FREEDOM FROM ARREST; JURY DUTY.]

(a) Whenever such force or any part thereof shall be ordered out for active service, the Articles of War of the United States applicable to the members of the National Guard of this State in relation to courts martial, their jurisdiction, and the limitation of punishment, and rules and regulations prescribed thereunder shall be in full force and effect with respect to the North Dakota State Guard.

(b) No officer or enlisted man of such force shall be arrested on any warrant, except for treason or felony while going to, remaining at, or returning from the place where he is ordered to attend for military duty. Every officer or enlisted man of such force shall, during his service therein be exempt from service upon any jury.

§ 12. SEVERABILITY.] If any provision of this Act is held invalid or unconstitutional, such holding shall not affect other provisions of this Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 13. EMERGENCY.] This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after the date of its passage and approval.

Approved March 4, 1941.

CHAPTER 231

H. B. No. 102—(Levin)

ESTABLISHMENT OF STATE INDUSTRIAL ALCOHOL PLANT
An Act to Establish a State Industrial Alcohol Plant; Providing for the
Management Thereof, and Making an Appropriation Therefor;
Constitutionality.

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

§ 1. PURPOSES AND FUNCTIONS.] For the purpose of encouraging and promoting the welfare of agriculture, and to avoid the great losses resulting from the waste of certain farm products, the Industrial Commission is authorized and empowered to establish and equip, at a point to be determined upon by the said Commission, a suitable plant to be known as the State Industrial Alcohol Plant, for the manufacture, production and sale of industrial alcohol for commercial uses, by the use, processing and disposition of surplus and/or unmarketable agricultural products, including grains, tubers, vegetables, and particularly potatoes, wheat, corn, barley and rye.

§ 2. MANAGEMENT.] The Industrial Commission shall have full authority to employ a manager and such other employees as may be necessary for the operation of said plant, and fix their compensation.

§ 3. APPROPRIATION.] There is hereby appropriated for the establishment, operation and maintenance of the said State Industrial Alcohol Plant out of the general funds of the State the sum of \$25,000.00, or as much thereof as may be needed, to be used and expended, for the purposes aforesaid under the direction of the Industrial Commission.

§ 4. CONSTITUTIONALITY.] If any section, subsection, clause sentence or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Approved March 22, 1941.

CHAPTER 232

H. B. No. 307—(Myers, Schwartz, Lillehaugen, Ohnestad, Halvorson)

STATE PUBLIC PRINTING

An Act to Amend and Re-enact Section 3176 of the Compiled Laws of North Dakota for 1913, Relating to State Public Printing, Voucher for Printing and What to Contain.

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

§ 1. AMENDMENT.] That Section 3176 of the Compiled Laws of North Dakota for 1913, be amended and re-enacted to read as follows:

§ 3176. PUBLIC PRINTING TO BE DONE IN THE STATE. VOUCHER FOR PRINTING, WHAT TO CONTAIN.] All state, county and other public printing, binding and blank book manufacturing, blanks and other printed stationery shall be done only by established and qualified printing and publishing houses that shall have been established and in continuous business in this state not less than one year, except as in this section otherwise provided, and where practicable shall be awarded to established institutions in the county for which such printing is required; provided, that the rates charged for such printing, binding, blanks and other supplies shall not exceed (by) more than ten per cent the sum or sums the same class and quality of work can be secured for from publishing houses outside the state. In case any board or official empowered to secure public printing and binding as provided herein, shall ascertain that there exists any combination, agreement or understanding by and between two or more publishers or publishing houses in this state, directly or indirectly fixing the prices to be charged for the printing mentioned in this section, or where prices in excess of the maximum rates prescribed herein are charged, then and in that event the provisions of this section shall not apply and officers and boards empowered to secure public printing in relation to which any such combination, agreement or understanding as mentioned herein exists, (from publishing houses outside the state.) Every voucher for public printing and binding mentioned in this section shall have thereon or attached thereto a duly verified affidavit setting forth that the prices charged are reasonable and just and in accordance with law; that no agreement, combination or understanding exists with any other person, firm or corporation in the printing and publishing business, fixing the charges therein for such printing and binding, and that no agreement or understanding exists by which a division of any portion of the amounts charged has been or is to be made, either directly or indirectly, with any board or member thereof, or any person or official authorized or empowered to secure public printing mentioned in this section. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Approved March 14, 1941.

CHAPTER 233

H. B. No. 75—(Bergesen and Swanson)

UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION
An Act Providing that the State of North Dakota May Enter Into a Compact with any of the United States for Mutual Helpfulness in Relation to Persons Convicted of Crime or Offenses Who May be on Probation or Parole; Providing Certain Terms Thereof; Saving Clause.

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

§ 1. The Governor of This State is hereby authorized and directed to execute a compact on behalf of the State of North Dakota with any of the United States legally joining therein in the form substantially as follows:

A COMPACT.] Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An Act Granting the Consent of Congress to any two or more States to enter into Agreements or Compacts for Cooperative effort and Mutual Assistance in the Prevention of Crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending

state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identify of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of state party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this contract.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

§ 2. If any section, sentence, subdivision or clause of this act is for any reason held invalid or to be unconstitutional, such decision shall not effect the validity of the remaining portion of this act.

§ 3. This act may be cited as the Uniform Act for Out-of-State Parolee Supervision.

Approved February 21, 1941.

PHOTOGRAPHY

CHAPTER 234

H. B. No. 131—(Shure, Beede and Aker)
(Special Committee on Code Revision)

USE OF PHOTOGRAPHY IN MAKING COUNTY RECORDS

An Act Authorizing the Use of Photography in the Making of Permanent County Records.

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

§ 1. That whenever it shall be deemed expedient by the board of county commissioners to use photography in the making of permanent county records, such use is hereby authorized, and when permanent photographic or photostatic copies of any instrument, document, or decree which are required to be recorded are thus made, such copies may be filed and kept instead of the record books or records of instruments or documents required by any provision of the laws of this State.

Approved February 18, 1941.

PROCEDURE

CHAPTER 235

S. B. No. 130—(Thatcher and Kehoe)

PROCEEDINGS TO ESTABLISH CITIZENSHIP

An Act Defining Citizens of the State of North Dakota; providing for a Judicial Proceeding for the Establishment of Citizenship for the State of North Dakota; And Repealing Section 13 of Chapter 1 of the 1913 Compiled Laws of the State of North Dakota.

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

§ 1. WHO ARE CITIZENS.] The citizens of the State are all persons who are citizens of the United States of America and who are bona fide residents of the State of North Dakota.

§ 2. PROCEEDING TO ESTABLISH CITIZENSHIP AUTHORIZED.]

Any citizen of the State of North Dakota may maintain a proceeding in accordance with this Act in the district court of the county in which he resides for the purpose of establishing the fact that he is a citizen of the State of North Dakota.

§ 3. HOW PROCEEDING INSTITUTED; CONTENTS OF PETITION.] Such proceeding shall be instituted by the filing of a petition with the clerk of the district court of the county in which the petitioner resides setting forth:

1. That the petitioner is a resident of and resides within the State of North Dakota;
2. That the petitioner is a citizen of the United States of America;
3. The place and date of birth of the petitioner;
4. If the petitioner was born within the United States of America, whether or not the parents of the petitioner were transient aliens or alien public ministers or consuls;
5. If the petitioner was born without the boundaries of the territorial United States of America, facts sufficient to show that the petitioner is a citizen of the United States of America, and the basis upon which citizenship rests.

§ 4. NOTICE TO BE GIVEN BY CLERK OF THE DISTRICT COURT.] Upon the filing of a petition of the kind described in this Act, the Clerk of the district court with whom such petition is filed shall issue a notice under the seal of the said district court fixing the time and place for the hearing upon such petition. Such notice shall be published in the official newspaper of the county for three successive weeks, the last publication to be at least ten days before the time set for the hearing. A copy of such notice and of such petition shall be served upon the Attorney General of the State of North Dakota and upon the state's attorney of the county of which the petitioner is a resident at least thirty days before the time set for the hearing. Proof of the publication and service required by this section shall be filed in the office of the clerk of the district court on or before the date set for the hearing on such petition.

§ 5. HEARING; WHO MAY APPEAR; DUTY OF ATTORNEY GENERAL AND STATE'S ATTORNEY.] Any citizen of the State of North Dakota may appear at the hearing provided for in this Act and shall be heard in favor of or in opposition to the petition. The Attorney General, if he has reason to believe that the petitioner is not a bona fide citizen of the State of North Dakota or of the United States of America, shall appear at the hearing in opposition to the petition. The Attorney General, if he has any doubt relative to the citizenship of the petitioner, shall secure any information required for such hearing from any department of the Government of the United States of America. The state's attorney of the county in

which the proceeding is pending shall appear at any hearing on a petition filed under the provisions of this Act.

§ 6. JUDGMENT.] If, after the hearing, the court is satisfied that the petitioner is a bona fide citizen of the State of North Dakota, it shall make appropriate findings of fact and conclusions of law and shall order a judgment to that effect and such judgment shall be entered in the office of the clerk of the district court upon such order. If the court is not satisfied that the petitioner is a bona fide citizen of the State of North Dakota, it shall make appropriate findings of fact and conclusions of law and shall order the entry of a judgment denying the petition and a judgment shall be entered upon such order reciting the dismissal and denial of the petition. A judgment establishing the citizenship of a petitioner shall be entitled to full faith and credit in the same manner as any other judgment of the courts of this State.

§ 7. APPEAL.] The petitioner may appeal to the Supreme Court of the State of North Dakota from a judgment of the district court denying his petition for the establishment of citizenship. Notice of such appeal must be served upon the Attorney General of the State of North Dakota and upon the state's attorney of the county of which the petitioner is a resident. The Attorney General or the state's attorney of the county of which the petitioner is a resident may appeal to the Supreme Court of the State of North Dakota from a judgment of the district court establishing citizenship. Notice of such appeal shall be given to the petitioner. An appeal under this section must be taken within thirty days after the entry of a judgment establishing citizenship or denying and dismissing the petition for the establishment of citizenship and shall be heard by the Supreme Court in the same manner as other appeals from actions tried by the district court without a jury. If the appeal under this section is taken by the Attorney General or state's attorney, no appeal bond shall be required.

§ 8. REPEAL.] Section 13 of Chapter 1 of the 1913 Compiled Laws of the State of North Dakota is hereby repealed.

Approved March 17, 1941.

CHAPTER 236
H. B. No. 297—(Bergesen)

DESCENT OF HOMESTEAD ESTATE AND EXEMPTION

An Act to Amend and Re-enact Section 5631 of the 1913 Compiled Laws of North Dakota, Relating to Descent of Homestead Estate and Exemption; Repealing Section 5632 of the 1913 Compiled Laws of North Dakota.

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

§ 1. AMENDMENT.] That Section 5631 of the 1913 Compiled Laws of the State of North Dakota relating to descent of homestead estate and exemptions, is hereby amended and re-enacted to read as follows:

§ 5631. DESCENT AND DISTRIBUTION OF REAL PROPERTY SUBJECT TO HOMESTEAD ESTATE.] The real property subjected to such homestead estate shall, subject to the full satisfaction of such estate, descend and be distributed in the same manner as real property not subject to a homestead estate, or as directed in the decedent's will after the payment of the decedent's debts.

§ 2. REPEAL.] That Section 5632 of the 1913 Compiled Laws of North Dakota, be and the same are hereby repealed.

Approved March 14, 1941.

CHAPTER 237
S. B. No. 123—(Morgan of Richland & Kehoe)

REAL ESTATE CONVEYANCE BY ADMINISTRATORS

An Act to amend and re-enact Section 8793 of the Compiled Laws of North Dakota, relating to petition for conveyance of real estate sold on contract, and contents of petition and decree, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 8793 of the 1913 Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 8793. PETITION FOR SUCH CONVEYANCE, CONTENTS OF AND DECREE.] On the presentation of a verified petition by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated,

all persons interested in the estate must be cited as in other cases. If after all full hearing and examination of the facts and circumstances of the claim, the court is satisfied that petition should be granted, a decree must be made authorizing and directing the executor or administrator to execute a conveyance thereof to the petitioner, and such conveyance must be executed accordingly. Such petition may also be presented by the executor or administrator of the estate of the person who had contracted in writing to make such conveyance.

§ 2. 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 14, 1941.

CHAPTER 238

S. B. No. 103—(Kehoe, Olson of Mountrail and Fowler)
(Special Committee on Code Revision)

SUPREME COURT, POWER AND PROCEDURE

An Act Recognizing the Rule Making Powers of the Supreme Court; Providing that Existing Statutes of Procedure shall be Continued in Effect as Rules of Court Until Altered by the Supreme Court; Providing that Procedural Statutes Exist as Rules of Court; Authorizing the Supreme Court to Amend Rules Promulgated by it and Statutes Governing Procedure; Permitting the Supreme Court to Make New Rules; Providing for Hearings on Rules Before the Same are Promulgated by the Court; Providing for the Making of a Complaint to the Supreme Court Against Rules and for Hearing on Such Complaint; Providing for Giving Notice of the Effective Date of the Rules Promulgated by the Court; and Authorizing the Supreme Court to Make Rules Governing the Practice of Law and for the Admission, Disbarment, Discipline, and Reinstatement of Attorneys at Law.

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

§ 1. SUPREME COURT HAS POWER TO MAKE RULES OF PRACTICE AND PROCEDURE.] The Supreme Court of North Dakota has the power to make all rules of pleading, practice, and procedure which it shall deem necessary for the administration of justice in all civil and criminal actions, remedies, and proceedings in any and all courts of the state and for the method of taking, hearing, and deciding appeals to the courts from all decisions of public officers, boards, commissions, departments, and institutions exercising quasi judicial functions, in any case where an appeal from any such decision is allowed by law.

§ 2. SUPREME COURT MAY MAKE RULES GOVERNING PRACTICE OF LAW.] The Supreme Court may make all necessary rules for the admission, disbarment, discipline, and reinstatement of attorneys at law to practice the profession of law in this state, and for the restraint of persons unlawfully engaging in the practice of law.

§ 3. STATUTES REGULATING PROCEDURE EFFECTIVE AS RULES OF SUPREME COURT.] All statutes relating to pleadings, practice, and procedure in civil or criminal actions, remedies, or proceedings, now existing or hereafter enacted by the Legislative Assembly, shall have force and effect only as rules of court and shall remain in effect unless and until amended, or otherwise altered by rules promulgated by the Supreme Court.

§ 4. LIMITATION ON POWER TO MAKE RULES.] No rule promulgated under this act shall in any manner abridge, enlarge, or modify the substantive rights of any litigant.

§ 5. NOTICE OF RULES TO BE PROMULGATED: RIGHT OF INTERESTED PERSONS TO BE HEARD.] No new rule shall be promulgated by the court until it first shall have given sixty days notice of intention so to do by filing such proposed new rule, or amendment, in the office of the Clerk of the Supreme Court and by publishing notice of the filing of the same, indicating its proposed purpose in general terms and fixing a time and place when the Supreme Court will afford any person interested an opportunity to appear and be heard with reference to the adoption of the same. Such notice shall be given by publishing the same once each week for two successive weeks in a newspaper of general circulation published at Bismarck, North Dakota, the first publication to be at least sixty days before the date fixed for such hearing, and in such other manner as the Court may prescribe.

§ 6. COMPLAINTS AGAINST RULES; WHEN HEARING REQUIRED.] Whenever at least five lawyers from each judicial district in the state shall join in a complaint against any rule or statute relating to pleading, practice, or procedure, setting forth the alleged defect in the old rule and the amendment or proposal for its improvement, or shall join in a petition proposing any new rule and showing necessity therefor, the Supreme Court shall fix a time and place for hearing the same and shall give notice in the same manner as provided in this act for notice of intention to adopt a new rule. In such cases, the court shall not hold more than two hearings in each year, and in its discretion, may join in one notice and hearing several complaints or petitions.

§ 7. NOTICE OF ADOPTION OF RULES; PUBLICATION OF NOTICE; FILING OF RULE.] No new rule shall become effective until the Supreme Court shall have made an order in writing adopting the same, shall have caused the same to be signed by the Chief Justice and at-

tested by the Clerk under the seal of the Court, and shall have filed the same in the office of the Clerk of the Supreme Court and given notice thereof as hereinafter prescribed. Upon the filing of any such rule, the Clerk of the Supreme Court shall prepare and certify copies thereof and forward one to the office of the clerk of the district court of each organized county of the state by registered mail with return receipt requested and shall publish notice of the adoption of such rule once in a newspaper of general circulation published at Bismarck, North Dakota. Such publication shall be made within ten days after the mailing of said certified copies. Such notice shall state the date of the mailing of the said copies and the purpose of the rule in general terms, and shall specify that such rule may be inspected at the office of any clerk of the district court in the state. Notice of adoption of several rules may be given at one time and in the same published notice. The clerk shall file proof of such mailing and publication of the notice with the original record of such rule. The Clerk shall mail a copy of each rule adopted by the Supreme Court under the provisions of this act to each district judge, judge of a county court with increased jurisdiction, and to each attorney who has been currently licensed to practice law in this state. The Supreme Court may make any additional provisions for publication or notice of the promulgation of any rule as to it may seem advisable or necessary.

§ 8. EFFECTIVE DATE OF RULES PROMULGATED BY COURT.] A rule promulgated by the Supreme Court under the provisions of this act shall become effective on the sixtieth day after the mailing of the certified copies by the Clerk as above provided unless the Supreme Court, in its order, shall fix a longer term before the effective date of such rule, in which case the date so fixed shall be the effective date of such rule.

§ 9. DUTY OF CLERK OF DISTRICT COURT.] The clerk of the district court of each county, upon the receipt of a certified copy of any rule as provided in this act, shall file it and endorse upon it the date of its filing, and shall notify the Clerk of the Supreme Court in writing of the date of its receipt and filing. He shall register and index such rule, and the same shall thereafter remain available to public inspection in his office.

Approved March 6, 1941.

CHAPTER 239

H. B. No. 203—(Bergesen)

ADMINISTRATION OF TRUSTS

An Act to Amend and Re-enact Section 20, of Chapter 250 of the Session Laws of North Dakota for the year 1935, relating to the Administration of Trusts.

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

§ 1. AMENDMENT.] Section 20. of Chapter 250 of the Session Laws of North Dakota for the year 1935. is hereby amended and re-enacted to read as follows:

§ 20. EXPENSES AND NECESSARY FEES ALLOWED.] The trustee shall be allowed all necessary expenses in the care, management and settlement of the trust estate, and for his services such fees as are hereinafter provided for; but when the instrument by which the trust is created makes some other provision for the compensation of the trustee that shall be the full compensation for his services. No compensation shall be allowed for attorney fees rendered to such trustee unless the same has been so performed by or under the direction of an attorney at law, who is a resident and admitted to practice in this state.

When there is no provision in the instrument made for the compensation of a trustee for his services, such compensation shall be fixed and allowed by the judge of the district court who has supervision of the administration of such trust, and shall be no more than in the judgment of the court will reasonably compensate him for such services as may have been rendered: Reasonable attorney fees shall be allowed by the court unless the instrument creating the trust specifies what shall be paid and allowed for legal services, and in that case the attorney fees provided for therein shall be allowed and no more.

Approved March 4, 1941.

CHAPTER 240

S. B. No. 108—(Kehoe, Fowler, and Olson of Mountrail. Special Committee on Code Revision.)

ADMINISTRATIVE AGENCIES UNIFORM PRACTICE ACT

An Act to prescribe uniform rules of practice for administrative agencies from the determination of which an appeal to the Court is provided; and to provide a uniform method of reviewing determinations of administrative agencies by the Courts.

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

§ 1. DEFINITION OF TERMS.] For the purposes of this act:

1. "Administrative agency" or "the agency" shall mean and include any officer, board, commission, bureau, department, or tribunal other than a court, having state-wide jurisdiction and authority to make any order, finding, determination, award, or assessment which has the force and effect of law and which by statute is subject to review in the courts of this state;

2. "Rules and regulations" shall mean and include rules, regulations, and orders, and amendments thereto, of general application issued by any officer, board, commission, bureau, or department interpreting, regulating the application of, or regulating the procedure with, the statutes which they are charged respectively with administering. Such term shall not apply to rules or regulations adopted or orders made by an administrative agency relating solely to the internal operation of the agency, nor to rules or regulations adopted or orders made relating to the management, admission, expulsion, or graduation of students from educational institutions, nor to rules or regulations adopted or orders made relating to the management, confinement, discipline, or release of inmates of any penal or charitable institution:

3. "Person" shall include individuals, associations, partnerships, and corporations.

§ 2. RULE MAKING POWER OF AGENCY.] Every administrative agency shall have the authority to promulgate and from time to time to amend or repeal reasonable rules and regulations in conformity with the provisions of any statute administered or to be administered, enforced or to be enforced, by such agency and to prescribe methods and procedure required in connection therewith. Every rule or regulation proposed by any administrative agency, before being adopted, shall be submitted as to its legality, and the Attorney General shall promptly furnish his opinion as to the legality of any such proposed rule or regulation.

§ 3. FILING OF RULES AND REGULATIONS; EFFECT OF RULES.] A copy of each rule and regulation promulgated and adopted by an

administrative agency shall be filed in the office of the Attorney General, and when thus filed, shall have the force and effect of law until amended or repealed by the agency or until the same is declared invalid by a final court decision. A copy of each rule and regulation prescribed by any administrative agency, and the Attorney General's opinion thereon, shall be filed in the office of the clerk of the district court of each county in this state and shall be retained by such clerk of court for public inspection. A copy of each such rule and regulation, and the Attorney General's opinion thereon, shall be mailed by the agency to the Secretary of the State Bar Association. No fee shall be charged for the filing required by this section.

§ 4. PETITION FOR RECONSIDERATION OF RULE OR REGULATION; HEARING BY AGENCY.] Any person substantially interested in the effect of a rule or regulation promulgated by an administrative agency may petition such agency for a reconsideration of any such rule or regulation or for an amendment or modification thereof. Such petition shall state clearly and concisely the petitioner's alleged grounds for such reconsideration, modification, or amendment of such rule or regulation. The agency, in its discretion, may grant the petitioner a public hearing upon such terms and conditions as the agency may prescribe.

§ 5. RULES OF PROCEDURE REQUIRED WHEN CHARGE IS MADE BY AGENCY.] The following rules of procedure shall be observed by all administrative agencies in proceedings in which the same are applicable:

1. In any proceeding, other than a proceeding in court, where the enforcement of any rule, regulation, or statute is sought, a clear and concise statement or complaint in writing of the claims or charges made by an administrative agency or through an administrative agency against any person shall be served upon such person personally or by registered mail. A notice specifying the time and place fixed for a public hearing on the claims or charges contained in such statement or complaint shall be served therewith, and such notice shall notify the person against whom the claim or charge was made that unless an answer is served to such complaint upon the agency giving the notice at least three days before the time specified for hearing in such notice, the complaint will be deemed admitted and the appropriate action taken thereon by the agency. Unless waived in writing by the person against whom the claim or charge is made, such hearing shall be held not less than twenty days after service of the notice and complaint. Any party to such a proceeding shall be given a reasonable time to prepare for the hearing;

2. At such hearing, the person against whom the proceedings have been instituted shall be afforded the same opportunity to present evidence and to examine and cross-examine witnesses as is permitted to parties to an action in the district court.

§ 6. EVIDENCE TO BE CONSIDERED BY AGENCY.] The admissibility of evidence in any proceeding before an administrative agency shall be determined, insofar as circumstances will permit, in accordance with the practice in the district court. An administrative agency, or any person conducting an investigation or hearing for it, may waive the usual common law or statutory rules of evidence if such waiver is necessary to ascertain the substantial rights of all the parties to the proceeding, but only evidence of probative value shall be accepted. All objections offered to evidence shall be noted in the record of the proceeding. No information or evidence except such as shall have been duly offered and made a part of the official record of the hearing shall be considered by the administrative agency, except as provided in this act.

§ 7. CONSIDERATION OF INFORMATION NOT PRESENTED AT A FORMAL HEARING.] If an administrative agency shall desire to avail itself of competent and relevant information or evidence in its possession or furnished by members of its staff, or secured from any person in the course of an independent investigation conducted by such agency, in addition to the evidence presented at any formal hearing, it may do so after first transmitting a copy of such information or evidence or an abstract thereof to each party of record in the proceeding and after affording each such party, upon written request, an opportunity to examine such information or evidence and to present evidence in connection therewith and to cross-examine the person or persons furnishing such information at a further public hearing to be called and held upon at least ten days' notice, which notice may be given by registered mail. Nothing contained in this section shall prevent any administrative agency from taking notice of any fact or facts set forth in its duly established regulations or any facts which are judicially noticed by the courts of this state.

§ 8. SPECIFICATIONS OF ANY ISSUES TO BE FURNISHED BY AGENCY.] Whenever an administrative agency, pursuant to authority conferred upon it by law, shall institute an investigation upon its own motion or without the filing of a specified complaint, or shall hold any hearing or make any independent investigation upon the claim or request of any person, no decision shall be made by the agency until all parties in interest shall have been furnished with a written specification of the issues which are to be considered and determined, nor until an opportunity shall have been afforded to such parties to present evidence and to be heard upon the precise issues so specified.

§ 9. SUBPOENA AND ATTENDANCE OF WITNESSES.] Any officer, examiner, chairman, or acting chairman of any administrative agency, upon request of any party to a hearing or proceeding conducted by it, or upon his own motion on behalf of the agency, shall require by subpoena the attendance and testimony of witnesses and the production of the documents and other objects described in

such subpoena at such hearing or proceeding; and the cost of serving such subpoena shall be paid by the person or agency requesting it. The deposition of a witness required in any proceeding before an agency may be taken in the same manner and on the same notice as in an action pending in the district court. Any witness who is subpoenaed under the provisions of this section and who appears at the hearing, or whose deposition is taken, shall receive the same fees and mileage as a witness in a civil case in the district court, and such fees shall be paid by the party or agency at whose instance the witness appears or his deposition is taken.

§ 10. PROCEEDING WHEN SUBPOENA DISOBEYED.] If a subpoena issued as provided in this chapter is disobeyed, the officer, special examiner, chairman, or acting chairman of the administrative agency, or the person at whose request the subpoena has been issued, may apply to any judge of the district court for an order requiring the attendance of such witness and the production of all documents and objects described in the subpoena. The failure of any such witness to comply with such order of the district court shall be held to be a contempt of court and shall be punishable accordingly.

§ 11. ADMINISTRATION OF OATHS; FALSE TESTIMONY IS PERJURY.] The officer, special examiner, chairman, or acting chairman of an administrative agency before which a proceeding or hearing is held shall have the power to examine witnesses and records, and to administer oaths to witnesses. Any witness testifying falsely at any proceeding before an administrative agency after the oath has been administered to him shall be guilty of perjury and shall be punished accordingly.

§ 12. RECORD TO BE MADE OF TESTIMONY.] A record shall be made of all testimony adduced at any hearing before an administrative agency. Stenographic notes of such testimony and all evidence and exhibits produced on any hearing before the administrative agency shall be filed with the agency concerned. A transcript of the evidence taken by or before an administrative agency shall be furnished to any party to the proceeding upon written request therefor at a uniform charge to be set by the agency, and such transcript fee shall be paid into the general fund.

§ 13. FINDINGS OF FACT, CONCLUSIONS, AND DECISION OF AGENCY; NOTICE.] Within thirty days after the evidence has been received, briefs filed, and arguments closed in a proceeding before an administrative agency, or as soon thereafter as possible, the agency shall make and state concisely and explicitly its findings of fact and its separate conclusions of law, and the decision of the agency based upon such fact and conclusions. The agency shall give notice of its decision or determination in any proceeding heard by it by delivering a copy of such decision or determination to all the parties to the proceeding either personally or by registered mail, and if such notice

is given by registered mail, the notice shall be deemed given as of the date of the registry.

§ 14. PETITION FOR REHEARING.] Any party before an administrative agency who is aggrieved by the decision thereof, within fifteen days after a copy of such decision has been mailed or delivered to such party by the administrative agency, may request a rehearing by such agency. He shall submit with the request for rehearing a statement of any further showing to be made in the proceeding, and such request and statement shall constitute a part of the record in the proceeding. The administrative agency may deny such request for rehearing or may grant the same on such terms as it may prescribe. This section, however, shall not limit the right of any agency to reopen any proceeding under any continuing jurisdiction which is granted to any such agency by any law of this state.

§ 15. APPEAL FROM DETERMINATION OF AGENCY: TIME TO APPEAL; HOW APPEAL TAKEN.] Any party to any proceeding heard by an administrative agency, except in cases where the decision of the administrative agency is declared final by any other statute, may appeal from such decision within thirty days after notice thereof has been given, or if a rehearing has been requested as provided herein and denied, within thirty days after notice of such denial has been mailed to him. Such appeal may be taken to the district court designated by law, and if none is designated, then to the district court of the county wherein the hearing or a part thereof was held. Only final orders or decisions and orders or decisions substantially affecting the rights of parties are appealable. A procedural order made by an administrative agency during the pending of a hearing before it shall not be deemed a final order nor an order affecting a substantial right. Such appeal shall be taken by serving a notice of appeal and specifications of error specifying the grounds on which the appeal is taken upon the administrative agency concerned, upon the Attorney General or an assistant attorney general, and upon all the parties to the proceeding before such administrative agency, and by filing the notice of appeal and specifications of error together with proof of service thereof, and the undertaking herein required, with the clerk of the district court to which such appeal is taken. An undertaking must be executed by the appellant, with sufficient surety to be approved by the judge of the district court, conditioned that the appellant will prosecute such appeal without delay and will pay all costs adjudged against him in the district court. Such undertaking shall be made to the State of North Dakota and may be enforced by the agency concerned for an (and) on behalf of the state as obligee.

§ 16. DOCKETING OF APPEALS.] Appeals taken in accordance with this act shall be docketed as other cases pending in the district court are docketed and shall be heard and determined by the court without a jury at such time as the court shall determine.

§ 17. AGENCY TO CERTIFY RECORD ON APPEAL.] Within thirty days, or such longer time as the court by order may direct, after an appeal has been taken to the district court as provided in this act, and after the deposit by the appellant of the estimated cost of a transcript of the evidence, the administrative agency concerned shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original or a certified copy of the entire proceeding before the agency, or such abstract of the record as may be agreed upon and stipulated by the parties, including the pleadings, notices, transcripts of all testimony taken, exhibits, reports or memoranda, exceptions or objections, briefs, findings of fact, proposed findings of fact submitted to the agency, and the decision of the administrative agency in such proceeding. If the notice of appeal shall specify that no exception or objection is made to the agency's findings of fact, and that the appeal is concerned only with the agency's conclusions based on the facts found by it, the evidence submitted at the hearing before such agency shall be omitted. The court may permit amendments or additions to the record thus filed in order to complete the same.

§ 18. CONSIDERATION OF ADDITIONAL OR EXCLUDED EVIDENCE.] If an application for leave to adduce additional evidence is made to the court in which an appeal from a determination of an administrative agency is pending, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing or proceeding had before the administrative agency, or that such evidence is material to the issues involved and was rejected or excluded by the agency, the court may order that such additional evidence be taken, heard, and considered by such agency on such terms and conditions as the court may deem proper. After considering such additional evidence, the administrative agency may amend or modify its findings of fact, conclusions of law, and decisions, and shall file with the court a transcript of such additional evidence together with its new or modified findings of fact, conclusions of law, and decision, if any.

§ 19. SCOPE OF AND PROCEDURE ON APPEAL FROM DETERMINATION OF ADMINISTRATIVE AGENCY.] The court shall try and hear an appeal from the determination of an administrative agency without a jury and the evidence considered by the court shall be confined to the record filed with the court. If additional testimony is taken by the administrative agency or additional findings of fact, conclusions of law, or a new decision is filed pursuant to the preceding section, such evidence, findings, conclusions, and decision shall constitute a part of the record filed with the court. After such hearing, the court shall affirm the decision of the agency unless it shall find that such decision or determination is not in accordance with law, or that it is in violation of the constitutional rights of the appellant, or that

any of the provisions of this act have not been complied with in the proceedings before the agency, or that the rules or procedure of the agency have not afforded the appellant a fair hearing, or that the findings of fact made by the agency are not supported by the evidence, or that the conclusions and decision of the agency are not supported by its findings of fact. If the decision of the agency is not affirmed by the court, it shall be modified or reversed, and the case shall be remanded to the agency for disposition in accordance with the decision of the court.

§ 20. AN APPEAL FROM A DETERMINATION OF AN ADMINISTRATIVE AGENCY DOES NOT STAY PROCEEDINGS.] An appeal from a determination or decision of an administrative agency shall not stay the enforcement of such decision or determination unless the court to which the appeal is taken, upon application and after a hearing, shall order a stay. The court may impose such terms and conditions for a stay of the enforcement of the determination or decision appealed from as it shall deem proper.

§ 21. REVIEW IN SUPREME COURT.] The judgment of the district court in an appeal from a decision of an administrative agency may be reviewed in the Supreme Court on appeal in the same manner as any case tried to the court without a jury may be reviewed, except that the appeal to the Supreme Court must be taken within three months after the service of the notice of entry of judgment in the district court.

§ 22. EFFECTIVE DATE OF ACT.] This act, and the procedure herein specified, shall apply to all claims and proceedings filed in or commenced by any administrative agency subsequent to the date when this act becomes effective.

Approved March 17, 1941.

PUBLIC WELFARE

CHAPTER 241

H. B. No. 164—(House Committee On Public Welfare)

AID TO NEEDY BLIND

An Act to amend and re-enact Section 2 of Chapter 210 of the Session Laws for 1937 as amended by Section 1, Chapter 191, of the Session Laws for 1939, and to amend and re-enact Sections 3, 4 and 22 of Chapter 210 of the Session Laws for 1937, relating to aid to the needy blind; the amount of assistance, duties of the state agency, and the confidential nature of the records.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 210 of the Session Laws for 1937 as amended by Section 1, Chapter 191, of the Session Laws for 1939, be amended and re-enacted to read as follows:

§ 2. ELIGIBILITY FOR ASSISTANCE.] Assistance shall be given under this act to any person who:

- (a) Is a citizen of the United States;
- (b) Is not less than eighteen (18) nor more than sixty-five (65) years of age, except that persons, whose ordinary subsistence needs are being provided for through a grant of old age assistance, may be considered eligible under this act for treatment to prevent blindness or to restore vision, as provided in Section 13 of this act, if, upon suitable investigation and consideration, such treatment is approved by the state agency;
- (c) Has resided in the State for not less than one year continuously immediately preceding application for assistance;
- (d) Has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential;
- (e) Has not sufficient income or other resources to provide a reasonable subsistence compatible with health and wellbeing;
- (f) Is not an inmate of or being maintained by any public institution at the time of receiving assistance. An inmate of such institution may, however, make application for such assistance but the assistance, if granted, shall not begin until after he ceases to be an inmate;
- (g) Has no child or other relative of sufficient financial ability to support the applicant and responsible under the law for the support of the applicant;

(h) Has not made an assignment or transfer of property so as to render himself eligible for assistance under this act.

§ 2. AMENDMENT.] That Section 3 of Chapter 210 of the Session Laws for 1937 be amended and re-enacted to read as follows:

§ 3. AMOUNT OF ASSISTANCE.] The amount of assistance which any recipient shall receive shall be determined, in accordance with the rules and regulations of the state agency, with due regard to his requirements and the conditions existing in his case and to the income and resources determined to be available to him from whatever source, and shall be sufficient, when added to such income and resources, to provide him with a reasonable subsistence compatible with health and wellbeing.

§ 3. AMENDMENT.] That Section 4 of Chapter 210 of the Session Laws for 1937 be amended and re-enacted to read as follows:

§ 4. DUTIES OF THE STATE AGENCY.] The State agency shall:

(a) Take such action and make such rules and regulations as may become necessary to entitle the State to receive aid from the Federal Government for assistance to the needy blind in North Dakota.

(b) Supervise the administration of assistance to the needy blind throughout the State of North Dakota.

(c) Take such action, give such directions and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this act, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants for blind assistance.

(d) Cooperate with the Federal Government in matters of mutual concern pertaining to assistance to the needy blind, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance and to provide such qualified employees and representatives as may be necessary.

(e) Prescribe the form of and print and supply to the county agencies blanks for applications, reports and such other forms as it may deem necessary and advisable.

(f) Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and the county public assistance agencies not covered by a state wide merit system or Civil Service Act.

(g) Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions, rules and regulations as the Federal Government may from time to time find it necessary to make to assure the correctness and verification of such reports.

(h) Designate the procedure to be followed in securing a competent medical examination for the purpose of determining blindness in the individual applicant for assistance.

(i) Promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for assistance under this act.

(j) Publish a biennial report and such interim reports as may be deemed necessary.

(k) Designate a suitable number of ophthalmologists, duly licensed to practice medicine in North Dakota and actively engage in the treatment of diseases of the human eye, to examine applicants and recipients of assistance to the blind.

(l) Fix and pay to ophthalmologists fees for examinations of applicants.

(m) Develop or cooperate with other agencies in developing measures for the prevention of blindness, the restoration of eyesight, and the vocational adjustment of blind persons.

§ 4. AMENDMENT.] That Section 22 of Chapter 210 of the Session Laws for 1937 be amended and re-enacted to read as follows:

§ 22. CONFIDENTIAL CHARACTER OF AID TO THE BLIND RECORDS.] The rule-making power of the State agency shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State and county agencies. The use of such records, papers, files and communications by any other agency, department or government official to which they may be furnished shall be limited to the purposes for which they are furnished, and such office or official shall make adequate regulations or orders, consistent with the rules and regulations of the State agency, for the custody and use of such documents in its possession.

It shall be a misdemeanor, except for purposes directly connected with the administration of aid to the needy blind, and in accordance with the rules and regulations of the State agency, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of the state or county or sub-divisions or agencies thereof, or acquired in the course of the performance of official duties.

Approved March 13, 1941.

CHAPTER 242

H. B. No. 157—(Fitch, Haugland and Bergesen)

CRIPPLED CHILDREN'S COMMISSION

An Act Creating a Crippled Children's Commission, defining its Powers and Duties, (Defining) the Powers and Duties of the Public Welfare Board in the Administration of Service for Crippled Childred in conformity with Title V, Part 2 of the Federal Social Security Act of 1935, as amended; Providing for and Authorizing Coordination of a Commission with and Supplementary to the Public Welfare Board of North Dakota; and declaring an Emergency.

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

§ 1. PURPOSES.] The purposes of this Act are to promote services for crippled children in conformity with Title V, Part 2 of the Federal Social Security Act of 1935 and amendments thereto through the advice, assistance and cooperation which the Crippled Children's Commission can render to the Public Welfare Board in the administration of Crippled Children's Services authorized by Chapter 221 of the Session Laws of 1935, to define the duties and powers of the Crippled Children's Commission and the Public Welfare Board and the various county welfare boards created by Chapter 123, Laws of 1935, in relation thereto.

§ 2. DEFINITIONS.] The term "Commission" as used in this act shall mean a Crippled Children's Commission as herein created. The term "State Agency" as used in this act shall mean the Public Welfare Board of North Dakota as created and defined by Chapter 221, Laws of 1935. The term "county agency" as used in this act shall mean the county welfare boards of the several counties in the State as created and defined by Chapter 123, Laws of 1935.

§ 3. CRIPPLED CHILDREN'S COMMISSION.] There is hereby created a Crippled Children's Commission, which commission shall consist of three members, who shall be appointed by the Governor. Such appointment shall be made within thirty (30) days after the taking effect of this act; each commissioner shall hold office for three (3) years, excepting the first commission shall hold office as follows: that is, the Governor shall appoint one member for three years, one for two years and one for one year. Each member of the commission shall file an oath of office with the Secretary of State and shall hold such office for the full term for which he is appointed and until his successor is appointed and qualified. A member of the Commission may be removed by the Governor only for cause.

§ 4. ORGANIZATION MEETING.] Within sixty (60) days after this act takes effect, the Governor shall call the members thus appointed to meet at the State Capitol at Bismarck, North Dakota and the Commission shall organize by the election of a chairman.

§ 5. DUTIES.] The Commission is hereby authorized and empowered to advise and assist the State Agency in the administration of this act as well as assist and cooperate with the State Agency in any and all other requirements of the laws, rules and regulations administered by the State Agency for medical and social services for and education of crippled children and to render aid to the State Agency in the formulation of rules and regulations for the administration of this act, assist the State Agency in conducting hearings and in directing the expenditures of the funds provided for services for crippled children; the State Agency shall consult with the Commission with regard to the plans, policies, and methods of the State Agency for giving effect to this act, and especially in the matter of recommendations, questions of providing facilities for use in aiding and treating crippled children and institutions in which crippled children may be hospitalized; and educational institutions other than public schools meeting the requirements of this act, for the treatment, care, and education of crippled children designated qualified or coming under this act or any other act or law within the State of North Dakota.

§ 6. ADMINISTRATION.] Services for crippled children shall be administered by the State Agency with the advice and cooperation of the Commission. No member of the Commission shall receive any compensation for his services.

§ 7. DUTIES OF THE STATE AGENCY.] The State Agency shall:

(a) Cooperate with the Federal Government with the advice of the Commission in development of plans and policies for services for crippled children.

(b) Make such rules and regulations and take such action as may be necessary to entitle the State to receive aid from the Federal Government for services for crippled children in conformity with Title 5, Part 2, of the Federal Social Security Act or as amended:

(c) Take such actions, give such directions and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this act, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants for services for crippled children.

(d) Cooperate with the Federal Government in matters of mutual concern pertaining to services to crippled children, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance and to provide such qualified employees and representatives as may be necessary.

(e) Establish a Merit System covering all State and county personnel engaged in the administration of this act who are not covered by a statewide merit system or Civil Service Act, and estab-

lish and enforce the necessary rules and regulations to maintain such merit system, as may be required under the provisions of the Federal Social Security Act.

(f) Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions, rules and regulations as the Federal Government may from time to time find it necessary to make to assure the correctness and verification of such reports.

(g) Publish a biennial report and such interim reports as may be deemed necessary.

§ 8. BIRTH REPORT OF CRIPPLED CHILD.] Within three days after the birth in this state of a child born with a visible congenital deformity, every licensed maternity hospital or home in which such child with visible congenital deformity is born and each legally qualified physician or other person in attendance at the birth of any such child outside of a maternity hospital shall furnish the State Agency such reports as may be required by the State Agency concerning such child. Such report shall be confidential and shall be solely for the use of the State Agency in the performance of its duties and the same shall not be open to public inspection nor considered a public record except for the purposes herein contemplated. The information contained in such reports may be used by the State Agency for the care and treatment of the child pursuant to and for carrying into effect the provisions of this act. Any person or agency disclosing such confidential information except in furtherance of the provisions of this act shall upon conviction thereof be guilty of a misdemeanor and subject to a penalty of a fine not to exceed fifty dollars (\$50.00) and costs of such prosecution or imprisonment in a county jail for the term not to exceed thirty (30) days.

§ 9. DUTIES OF THE COUNTY AGENCIES.]

(a) The county agencies shall cooperate with the State Agency and the Commission in administering the provisions of this act in the respective counties subject to the rules and regulations prescribed by the State Agency pursuant to the provisions of this act.

(b) Make surveys and reports regarding crippled children in the various counties to the State Agency at such times and in such manner and form as the State Agency may from time to time direct.

(c) Provide for the transportation of crippled children to clinics for medical examination, and to hospitals or clinics for treatment.

§ 10. SEPARABLE CLAUSE.] If any section of this act shall be held unconstitutional, the remaining provisions shall be given full force and effect as if the part held unconstitutional had not been included therein.

§ 11. EMERGENCY.] An emergency is hereby declared to

exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1941.

CHAPTER 243

H. B. No. 161—(Committee on Public Welfare)

AID TO DEPENDENT CHILDREN

An Act to provide aid to dependent children, to authorize the State Public Welfare Board to administer such aid, to authorize the county welfare boards to administer such aid under the supervision of the State Public Welfare Board in the several counties, to authorize and require the Board of County Commissioners to appropriate funds and to make tax levies for aid to dependent children and to make partial reimbursement to the state of amounts expended by the State Public Welfare Board with respect to residents of the several counties under certain conditions, and to prescribe the duties of the State Public Welfare Board and the county welfare boards in the administration thereof, and repealing Chapter 209, Session Laws for 1937 and Chapter 194, Session Laws for 1939.

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

§ 1. DEFINITIONS.] When used in this Act, the masculine pronoun in all cases includes the feminine, and the following terms shall have the following meanings, respectively:

(a) "State Agency" shall mean the State Public Welfare Board, created by Chapter 221 of the Session Laws for 1935.

(b) "County Agency" shall mean the county welfare boards in each of the counties of the state as created by Chapter 97, Session Laws for 1933, as amended by Chapter 123, Session Laws for 1935.

(c) "Assistance" shall mean money payments with respect to dependent children.

(d) "Applicant" shall mean a person or agency having the custody of a dependent child or children who is making application for aid for such children under the provisions of this act.

(e) "Dependent Child" shall mean any needy child under the age of eighteen years:

(1) who has been deprived of parental support or care by reason of the death, continued absence from the home or physical or mental incapacity of a parent; or

(2) who is abandoned by his parent, guardian, or custodian; or

(3) whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or

surgical care or other care necessary for his health, morals or well-being.

§ 2. DUTIES OF THE STATE AGENCY.] The State agency shall:

(a) Take such action and make such rules and regulations as may become necessary to entitle the State to receive aid from the Federal Government for aid to dependent children in North Dakota.

(b) Supervise the administration of assistance to dependent children throughout the State of North Dakota.

(c) Take such actions, give such directions and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this act, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants for aid to dependent children.

(d) Cooperate with the Federal Government in matters of mutual concern pertaining to aid to dependent children, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance and to provide such qualified employees and representatives as may be necessary.

(e) Prescribe the form of and print and supply to the county agencies blanks for applications, reports and such other forms as it may deem necessary and advisable.

(f) Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and the county public assistance agencies not covered by a statewide merit system or Civil Service Act.

(g) Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions, rules and regulations as the Federal Government may from time to time find it necessary to make to assure the correctness and verification of such reports.

(h) Publish a biennial report and such interim reports as may be deemed necessary.

§ 3. DUTIES OF COUNTY AGENCY.] County agencies shall:

(a) Administer the provisions of this Act in the respective counties, subject to the rules and regulations prescribed by the State Agency, pursuant to the provisions of this Act.

(b) Report to the State Agency at such times and in such manner and form as the State Agency may, from time to time, direct.

(c) Submit annually to the Board of County Commissioners a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this Act.

(d) Cooperate with juvenile courts and licensed children's agencies.

§ 4. PRESERVE AND PROTECT RELIGIOUS FAITH.] It shall be the duty of the County and State Agencies to preserve and protect the religious faith of children coming under their jurisdiction.

§ 5. ELIGIBILITY FOR ASSISTANCE.] Aid to dependent children shall be granted under this Act with respect to any needy dependent child, as defined in Section 1 of this Act, who:

(a) Has resided in the State for one year immediately preceding the application for such assistance; or was born within the year immediately preceding application but has resided in the state from the time of birth and whose mother had resided in the State for so many months immediately preceding his birth as, added to the age of the child, aggregates one year immediately preceding the date of application; and is either:

(1) Living with a relative, by birth, marriage, or adoption, in a place of residence maintained by one or more of such relatives as his or their own home; and has been deprived of parental support or care by reason of the death, continued absence from home, or the physical or mental incapacity of a parent; or

(2) Living in a boarding home licensed under the laws of North Dakota or in a home maintained or selected by a child-caring or child-placing agency duly licensed under the laws of North Dakota to make child placements.

§ 6. AMOUNT OF ASSISTANCE.] The amount of assistance which shall be granted with respect to any dependent child shall be determined with due regard to his requirements and the conditions existing in his case and to the income and resources determined to be available to him from whatever source and shall be sufficient when added to such income and resources to provide him with a reasonable subsistence compatible with health and well-being.

§ 7. APPLICATION FOR ASSISTANCE.] Application for aid to dependent children under this act shall be made to the county agency in the manner and form prescribed by the State Agency and the application shall contain such information as the State Agency may require.

§ 8. INVESTIGATION.]

(a) Whenever a county agency shall receive an application for assistance under this Act, it shall promptly make an investigation and record of the circumstances of the applicant, or child, or both, in order to ascertain the facts supporting the application and to obtain such other information as may be required by the rules and regulations of the State Agency.

(b) The county agencies, the State Agency, and the officials and employees of such agencies charged with the administration and enforcement of this act, may conduct examinations, require the attendance of witnesses and the production of books, records, and

papers, and make application to the District Court of the County to compel the attendance of witnesses and the production of such books, records, and papers. The officers and employees designated by the County agencies or the State agency may administer oaths and affirmations.

§ 9. AWARD OF ASSISTANCE.] Upon the completion of the investigation the county agency shall determine in accordance with the rules and regulations of the State Agency whether the applicant is eligible for assistance under the provisions of this Act, the amount of assistance he shall receive and the date upon which such assistance shall begin. In all cases, a statement of the findings of the County agency shall forthwith be transmitted to the State Agency.

§ 10. REDETERMINATION OF AWARDS.] Awards of assistance may be changed or withdrawn whenever the circumstances have altered sufficiently to warrant such action. If at any time during the continuance of aid to dependent children the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, he shall notify the county agency of this fact immediately on the receipt or possession of such additional income or resources.

§ 11. CONFIDENTIAL CHARACTER OF AID TO DEPENDENT CHILDREN RECORDS.] The rule-making power of the State Agency shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State and county agencies. The use of such records, papers, files, and communications by any other agency, department, or government official to which they may be furnished shall be limited to the purposes for which they are furnished, and such office or official shall make adequate regulations or orders, consistent with the rules and regulations of the State Agency for the custody and use of such documents in its possession.

It shall be a misdemeanor, except for purposes directly connected with the administration of aid to dependent children, and in accordance with the rules and regulations of the State Agency, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of the State or county or sub-divisions or agencies thereof, or acquired in the course of the performance of official duties.

§ 12. APPEAL AND FAIR HEARING.] An applicant or recipient aggrieved because of a county agency's decision or delay in making a decision shall be entitled to appeal to the State Agency in the manner prescribed by the State Agency and shall be afforded a reasonable notice and opportunity for a fair hearing by the State

Agency. The State Agency may, on its own motion, review individual cases and make determinations which shall be binding upon the county agency. An applicant or recipient aggrieved by any such determination, upon request, shall be afforded reasonable notice and opportunity for a fair hearing by the State Agency. All decisions of the State Agency made on an appeal shall be final and shall be binding upon and shall be complied with by the county agency.

§ 13. ASSISTANCE FOR DEPENDENT CHILDREN NOT ASSIGNABLE.] Assistance awarded under this Act shall not be transferable or assignable at law or in equity, and none of the money paid or payable under this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 14. AID TO DEPENDENT CHILDREN FUND.] The State Agency shall have the administration of all funds appropriated or made available to it for the purpose of carrying out the provisions of this Act.

The State Agency shall establish a fund to be known as "North Dakota Aid to Dependent Children Fund." All moneys that shall be received by the State Agency for aid to dependent children purposes from the State of North Dakota, from any of the counties within the State or from the United States under the provisions of the Social Security Act, or from any other source, shall be placed in such fund. Disbursements from such fund shall be made only for the purposes of this act and only upon checks or vouchers drawn pursuant to the direction and authority of the State Agency. The State Agency shall issue in triplicate receipts for all moneys received for aid to dependent children; such receipts shall show the dates upon and sources from which the money was received and there shall be delivered forthwith to the person, officer or agent making payment a receipt for such payment.

§ 15. DISBURSEMENTS OF AID TO DEPENDENT CHILDREN FUND.]

(a) All payments for aid to dependent children and all payments for expenses of the State Agency incident to the administration of aid to dependent children in North Dakota shall be made by checks or warrants drawn on the Aid to Dependent Children Fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the Public Welfare Board of North Dakota.

(b) All persons having any control over or who handle any money of the Aid to Dependent Children Fund shall be bonded in such sum as the State Public Welfare Board by resolution may require.

(c) All bills for the care of dependent children maintained in a licensed boarding home or under the custody of a child-caring

or child-placing agency shall be submitted to the State Agency by the person or agency in whose care the child has been placed. Such bills shall be subject to the audit and approval of the State Agency.

§ 16. APPROPRIATION OF COUNTY FUNDS.] For the purpose of carrying out the provisions of this Act, the Board of County Commissioners of each county shall annually appropriate and make available an amount sufficient to carry out the provisions of this Act, including local expenses of administration and the county's share of assistance payments as specified in Section 17 of this Act. If the financial condition of any county is such that it cannot make an appropriation or levy a tax for aid to dependent children or cannot legally issue warrants in an amount sufficient to provide the necessary funds to comply with the provisions of this Act, the Board of County Commissioners shall report such fact to the State Agency. After a hearing before the State Agency, and such investigation as the State Agency may make, the State Agency may increase the amount to be supplied from State funds and adjust accordingly the amount to be supplied from county funds.

§ 17. REIMBURSEMENT PROCEDURE.]

(a) Each county shall reimburse the State Agency for one-half of the amount expended for aid to dependent children in such county, in excess of the amount provided by the Federal government for assistance payments to dependent children.

(b) The State Agency shall keep records and accounts in relation to the expenditures for aid to dependent children in each county in North Dakota.

(c) Claims for reimbursement shall be presented by the State Agency to the Board of County Commissioners at the end of each calendar month. The State Agency shall certify to each county the total amount paid with respect to aid to dependent children eligible for aid from that county, and the county's share of such payments; and the amount so certified shall be paid to the Public Welfare Board by the County Treasurer upon the audit and approval of the claim in the manner provided by law.

§ 18. FRAUDULENT ACTS.] Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device,

(a) Assistance to which he is not entitled;

(b) Assistance greater than that to which he is justly entitled; shall be punished by a fine of not more than Five Hundred Dollars or imprisonment for not more than one year in the State Penitentiary or the County Jail, or by both such fine and imprisonment. In assessing the penalty, the Court shall take into consideration the amount of money fraudulently received.

§ 19. REPEAL.] Chapter 209, Laws of 1937 and Chapter 194, Laws of 1939 are hereby repealed. All other acts or parts of acts in conflict herewith are hereby repealed.

§ 20. LIMITATIONS OF ACT.] All assistance awarded under this Act shall be deemed to be awarded and to be held subject to the provisions of any amending or repealing act which may hereafter be passed, and no recipients shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing act.

Approved March 13, 1941.

CHAPTER 244

H. B. No. 163—(House Committee on Public Welfare)

OLD AGE ASSISTANCE, AMENDMENT

An Act to amend and re-enact Sections 4, 18, and 21 of Chapter 211 of the Session Laws for 1937, pertaining to the duties of the State Agency, the confidential character of old age assistance records, and the distribution of amounts recovered from the estates of recipients of old assistance.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 211 of the Session Laws for 1937 be hereby amended and re-enacted to read as follows:

§ 4. DUTIES OF THE STATE AGENCY.] The State Agency shall:

(a) Take such action and make such rules and regulations as may become necessary to entitle the State to receive aid from the Federal Government for assistance to the needy aged in North Dakota.

(b) Supervise the administration of assistance to the needy aged throughout the State of North Dakota.

(c) Take such actions, give such directions and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this act, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants for old age assistance.

(d) Cooperate with the Federal Government in matters of mutual concern pertaining to assistance to the needy aged, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient opera-

tion of the plan for such assistance and to provide such qualified employees and representatives as may be necessary.

(e) Prescribe the form of and print and supply to the county agencies blanks for applications, reports and such other forms as it may deem necessary and advisable.

(f) Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and county public assistance agencies not covered by a statewide merit system or Civil Service Act.

(g) Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions, rules and regulations as the Federal Government may from time to time find it necessary to make to assure the correctness and verification of such reports.

(h) Publish a biennial report and such interim reports as may be deemed necessary.

§ 2. AMENDMENT.] That Section 18 of Chapter 211 of the Session Laws for 1937 be hereby amended and re-enacted to read as follows:

§ 18. CONFIDENTIAL CHARACTER OF OLD AGE ASSISTANCE RECORDS.] All applications, information and records concerning any applicant or recipient shall be confidential and shall not be disclosed nor used for any purpose except for purposes directly connected with the administration of old age assistance. Any person using any application, information or records concerning any applicant or recipient for purposes not directly connected with the administration of old age assistance shall be guilty of a misdemeanor.

§ 3. AMENDMENT.] That Section 21 of Chapter 211 of the Session Laws for 1937 be hereby amended and re-enacted to read as follows:

§ 21. RECOVERY FROM THE ESTATE.] On the death of any recipient, the total amount of assistance paid under this act shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses, not to exceed one hundred twenty-five dollars (\$125.00) have been paid and after the expense of administering the estate has been paid. No claim shall be enforced against any real estate of a recipient while it is occupied by the surviving spouse or a dependent, nor shall any claim be enforced against any personal property, necessary for the support, maintenance or comfort of the surviving spouse or a dependent.

The Federal Government shall be entitled to a share of any amounts collected from any recipient or from his estate. The net amount so recovered shall promptly be deposited in the North Dakota Old Age Assistance Fund and credited respectively to the Federal Government, the State and the county in proportion to the amounts

which the assistance payments represented funds contributed by the Federal Government, State and County.

Personal effects, ornaments or keepsakes of the deceased, not exceeding in value two hundred dollars (\$200.00) shall not be subject to the claim against the estate of the recipient, provided for by this section.

Approved March 17, 1941.

REPEALS

CHAPTER 245

H. B. No. 128—(Shure, Beede, and Aker)
Special Committee on Code Revision

QUINNESS PATENT BUTTER

An Act to Repeal Section 10197 and 10199 of the Compiled Laws of North Dakota Relating to Quinness Patent Butter and to Patent Butter and Cheese.

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

§ 1. REPEAL.] That Sections 10197 and 10199 of the 1913 Compiled Laws of the State of North Dakota are hereby repealed.

Approved March 14, 1941.

CHAPTER 246

S. B. No. 48—(Page)

GRAIN STORAGE COMMISSIONER, REPEAL

An Act to repeal Chapter 138 of the Session Laws of the State of North Dakota for the year 1929 creating the office of Grain Storage Commissioner.

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

§ 1. REPEAL.] That Chapter 138 of the Session Laws of the State of North Dakota for the year 1929 be and the same is hereby repealed.

Approved February 20, 1941.

CHAPTER 247

S. B. No. 105—(Kehoe, Olson of Mountrail and Fowler.
Special Committee on Code Revision.)

REPEAL, MARINE INSURANCE LAWS

An Act to repeal Sections 6553 to 6619, Both Inclusive, of the 1913
Compiled Laws of the State of North Dakota, Relating to Marine
Insurance.

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

§ I. REPEAL.] That Sections 6553 to 6619, both inclusive,
of the 1913 Compiled Laws of the State of North Dakota are hereby
repealed.

Approved March 6, 1941.

CHAPTER 248

H. B. No. 129—(Shure, Beede and Aker)
(Special Committee on Code Revision)

PAROLE OF PRISONERS TO THE COUNTY COMMISSIONERS

An Act to Repeal Chapter 119 of the Session Laws for the Year 1927
Relating to the Parole of Prisoners to the County Commissioners
for work on Highways.

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

§ I. REPEAL.] That Chapter 119 of the Session Laws for
the year 1927 is hereby repealed.

Approved February 21, 1941.

CHAPTER 249

H. B. No. 136—(Committee on Education by Request)

CERTIFICATION OF TEACHERS

An Act to Repeal Subdivision 1 of Section 3 of Chapter 240 of the
Session Laws of the State of North Dakota for the year 1931.

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

§ I. REPEAL.] That subdivision 1 of Section 3 of Chapter

240 of the Session Laws of the State of North Dakota for the year 1931 be and the same is in all things repealed.

Approved March 14, 1941.

CHAPTER 250

S. B. No. 104—(Kehoe, Olson of Mountrail and Fowler.
Special Committee on Code Revision.)

REPEAL TORRENS LAND REGISTRATION AND TITLE SYSTEM

An Act to Repeal Chapter 235 of the Session Laws for the Year 1917, being Sections 5604a1 to 5604a82, Both Inclusive, of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota, Relating to the Registration of Land and the Title Thereto in the State of North Dakota.

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

§ 1. That Chapter 235 of the Session Laws for the year 1917, being Sections 5604a1 to 5604a82, both inclusive, of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota, are hereby repealed.

Approved March 7, 1941.

CHAPTER 251

H. B. No. 126—(Shure, Beede and Aker)
(Special Committee on Code Revision)

MUNICIPAL WOOL MARKETS

An Act to Repeal Sections 3177 to 3180, Both Inclusive, of the 1913 Compiled Laws of the State of North Dakota Relating to Municipal Wool Markets.

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

§ 1. REPEAL.] That Sections 3177 to 3180, both inclusive, of the 1913 Compiled Laws of the State of North Dakota are hereby repealed.

Approved February 24, 1941.

SCHOOLS

CHAPTER 252

H. B. No. 286—(Halvorson, Lillehaugen, Hofstrand, and Schmidt)

AUTHORIZING SALE OF LANDS BY BOARD OF UNIVERSITY AND SCHOOL LANDS

An Act Authorizing the Board of University and School Lands to sell lands belonging to the Permanent School or Institutional Funds but not a part of the Federal Grant Lands to bona fide farmers, Fixing the Manner and terms of sale, Interest Rate on Deferred and Delinquent payments, Publication of Notice of Sale, Method of Cancellation of Contracts, Taxation of Lands Sold, Redemption, Rights of Tax Certificate Holder, and Providing for Rules and Regulations of the Board of University and School Lands, and Declaring Rules of Construction.

March 22, 1941.

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

Inre: House Bill 286

I return herewith House Bill 286, an act authorizing the Board of University and School Lands to sell lands belonging to the permanent school or institutional funds in the manner and on the conditions further prescribed in such measure, with my approval.

I desire, however, to point out that the limitation upon the power of sale, contained in Section One of this act, insofar as it may operate to limit or restrict the sale of school lands in this state to the injury of the trust fund is, in accordance with the opinion of the Attorney General of this State, null and void.

Inasmuch, however, as the invalidity of this proviso does not affect the validity of the remainder of the act because it does not destroy or distort the legislative intent evidenced thereby, I have affixed my signature to the act as a whole.

Sincerely yours,

JOHN MOSES,
Governor.

JM:HH

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

§ 1. The Board of University and School Lands is hereby authorized to sell to bona fide farmers only, any of the lands within its control and belonging to any of the permanent school or institutional funds exclusive of Federal Grant Lands in the manner and upon the terms herein provided:

(1) Manner of Sale:

All such lands shall be appraised by the Commissioner of University and School Lands or his deputy or representatives such appraisal to be approved by the Board of University and School Lands and shall be sold for not less than the appraised value and not less than the amount of the permanent school funds invested therein to the highest bidder at public sale conducted at the front door of the Court House in the county seat of the county wherein the lands to be sold lie between the hours of nine (9) o'clock in the forenoon and four (4) o'clock in the afternoon.

(2) Notice of Sale:

The Board of University and School Lands shall cause to be published once each week for a period of two weeks prior to the day of sale, in a legal newspaper published within the county in which said land is situated, a notice of such sale, properly describing said land, together with the appraised value thereof, and the terms and conditions of sale. The last publication of said notice shall be at least seven (7) days prior to the date of sale. In case there is no legal newspaper published within said county, such notice shall be published in the legal newspaper which is published closest to the county seat at which such sale is to be made. The former owner and the former renter, if any, shall be notified by the Department of such a sale.

(3) When Lands to be Sold:

The Board of University and School Lands may, of its own motion, or upon the application of a bona fide bidder, offer any or all of the said lands within any county for sale. Any person desiring to purchase any tract or tracts of said lands may make application to said Board to have such tract or tracts advertised for sale. Such person shall, with such application, deposit with the Commissioner of University and School Lands his bona fide bid for such lands as he desires to have offered for sale, together with cash in the amount of four (4%) per cent of the amount of his said bid. In case such person is the highest bidder at said sale, the amount so deposited shall be held and applied upon the cash payment required by the terms of sale hereinafter provided; otherwise, such amount shall be returned to him. Such person shall also deposit with his said application, such amount as said Commissioner shall determine to be the probable actual cost of giving notice of, and of holding, such sale. In case such person is not the successful bidder at said sale, said amount so deposited to cover cost of notice of and of holding said sale, shall be refunded to him. In case such person is the successful bidder, any excess of the amount so deposited to cover costs of notice of and of holding such sale over the actual cost thereof shall be refunded to him upon his executing a contract for purchase of said lands and if he is not the successful bidder the suc-

successful bidder shall pay the expense of the sale in addition to the amount of his said bid.

(4) Terms of Sale:

The terms of sale of lands so sold shall be as follows:

Ten per cent (10%) of the purchase price shall be paid at the time the contract is executed; the annual payments shall be six per cent (6%) of the original purchase price. An amount equal to three per cent (3%) of the unpaid principal shall be credited to interest and the balance shall be applied as payment on principal as credit on purchase price. The purchaser may pay all or any installment or installments not yet due to any interest paying date. If the purchaser so desire, he may pay the entire balance due on his contract with interest to date of payment at any time and he will then be entitled to proper conveyance.

(5) Contract of Sale:

The successful bidder for each tract so sold shall enter into a contract for the purchase of such tract with the State of North Dakota within Thirty (30) days after the day of such sale, such contract to be in form prescribed by the Board of University and School Lands. Said contract shall be executed in duplicate, and shall be executed in the name of the State of North Dakota for and on behalf of the Board of University and School Lands by the Commissioner of University and School Lands. Such contract shall not be assigned without the consent of the Board of University and School Lands.

(6) Conveyance:

When the purchase price together with interest on deferred payments, has been paid in full the lands purchased shall be conveyed to the purchaser, his heirs or assigns, by good and sufficient deed executed in the name of the State of North Dakota by the Governor and such execution attested by the Secretary of State under the Great Seal of the State of North Dakota.

(7) Notice to Auditor:

The Commissioner of University and School Lands shall immediately notify the County Auditor of the County wherein any land sold on contract lies, of such contract and such lands shall be placed upon the rolls of the said county and shall be assessed in the name of such contract purchaser on the first day of April next succeeding, and shall be taxable in the name of such contract purchaser, his heirs or assigns, thereafter to the same extent as original grant lands sold on contract are now taxable under existing law.

(8) Cancellation of Contracts:

In case the purchaser fails to pay either the principal, interest or taxes in accordance with the provisions of said contract, the Board of University and School Lands may in its discretion by

resolution declare such contract null and void and cancelled and of no further force or effect; and in case of such declaration shall notify the holder thereof, of such declaration, by written notice mailed to his postoffice address as it appears upon said contract. A certifies (certified) copy of said resolution shall be forwarded by mail to the County Auditor and to the Register of Deeds of the county in which such land is situated. The Register of Deeds shall record such certifies (certified) copy of said resolution in the proper records of his office, and said resolution, when so recorded, shall operate as a complete and final cancellation of said contract without any order or decree of the Court. When such contract has been cancelled, such land shall not hereafter be listed for taxation.

(9) Collection of Taxes:

Taxes assessed and levied upon lands so sold shall be collected and payment enforced in like manner as taxes assessed and levied against privately owned land. Such lands may be sold for delinquent taxes as other lands are sold, and the purchaser shall only acquire, by virtue of such purchase, the right to be substituted in the place of the holder and owner of such contract of sale, as the assignee thereof; and upon the production to the Commissioner of University and School Lands of the Tax certificate given upon such tax sale, in case such land has not been redeemed, such tax purchaser shall have the right to have his name substituted in place of the then holder and owner of such contract upon his payment of all principal and interest, if any, then in default upon such contract of sale, but no such substitution shall take place until three (3) years after the date of such tax certificate. If such land be sold for taxes to the county, the county may at any time assign its tax certificate and its assignee shall have like rights to those herein given the holder of a tax certificate issued upon sale for taxes to an individual. No tax deed shall be issued upon any tax certificate procured, while the legal title of said land remains in the State of North Dakota.

(10) Redemption after Cancellation:

In all cases where a contract entered into as herein provided is cancelled as above provided, the purchaser, his heirs and assigns may, before the sale at public auction of the land described in such contract, redeem the land described in such contract by paying all past due, deferred and interest payments, and all costs which may have been incurred in the cancellation of such contract, together with interest on such sums from their due date at the rate of four (4%) per cent per annum, but no such redemption shall be made where the name of the holder of a tax sale certificate has been substituted in place of the contract holder as hereinabove provided. Such redemption shall operate to reinstate the original contract and to restore all rights and obligations of both the State and the purchaser thereunder.

§ 2. BOARD MAY MAKE RULES AND REGULATIONS.] The Board of University and School Lands is hereby authorized to make such rules and regulations as shall be by it deemed necessary for the manner, place and time of payment of principal, deferred and interest payments, and for such other conduct of the business of selling and disposing of lands other than Federal Grant Lands, not in conflict herewith or with other provisions of law.

Approved March 21, 1941.

CHAPTER 253

H. B. No. 255—(Committee on Education)

COUNTY AGRICULTURAL SCHOOLS. MAINTENANCE AND TUITION

An Act to Amend and Re-enact Section 1456 of the Supplement of 1925 as Amended by Chapter 202, Laws 1929, Relative to Maintenance of County Agricultural and Training Schools and the Tuition to be Charged by Them. Repeal.

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

§ 1. That Section 1456 of the Supplement of 1925 as amended by Chapter 202, Laws 1929 shall be amended and re-enacted to read as follows:

§ 1456. JOINT MAINTENANCE BY COUNTY AND STATE.] After the establishment of such a school, the maintenance thereof shall be borne jointly by such county and the state, as hereinafter provided. The board of county commissioners is hereby empowered and directed, annually, to levy and spread upon the tax roll a sum sufficient to pay the county's share of the cost of maintenance. The state's share of such maintenance shall be five thousand dollars annually up to the first 150 students; and additional one thousand dollars for each additional 100 students, or major fraction thereof, above the first 150 as determined by the latest annual report to the state superintendent of public instruction. The state's share of such maintenance shall not exceed seven thousand dollars in any one year. It is the intent of this act that a sum at least equal to the state's share shall be levied and paid by the county, but this shall not prevent the county from levying a greater sum for maintenance, if deemed necessary.

Be it further provided, that the board of county commissioners may from time to time levy and spread upon the tax roll such additional sums of money for the purchase, erection and construction of additional buildings and improvements, or for the purchase of equipment, but levies for such purposes shall not exceed the sum

of five thousand dollars in any one year, without first having been submitted to a vote of the electors of such county as provided in Section 1455. Unused portions of the equipment fund may be transferred to a building fund or to a real estate fund by the board of county commissioners upon the recommendation of the board of trustees of the county agricultural and training school. The board of trustees of the county agricultural and training school shall charge and collect tuition for all students coming from school districts outside of local districts in which said county agricultural and training schools are located at the annual rate as provided by law. Such board of trustees may also make arrangements to admit students from within regular school districts in which such school is located and may charge such tuition therefor as shall be agreed between such trustees and the directors of said local school district.

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

Approved March 19, 1941.

CHAPTER 254

S. B. No. 193—(Committee on Delayed Bills)

ELECTIONS, COMMON SCHOOL DISTRICTS

An Act to amend and re-enact Section 1155 Compiled Laws of North Dakota for 1913, providing for notice of annual election for common school districts; providing for the designation of polling places; providing for the appointment of judges and clerks of election; repeal, and declaring an emergency.

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

§ 1. That Section 1155 of the Compiled Laws of the State of North Dakota for 1913 shall be amended and re-enacted to read as follows:

§ 1155. NOTICE OF ANNUAL ELECTION.] At least fourteen days before the first Tuesday in June of each year the district school board of each school district shall designate at least one polling place as convenient as possible to the voters of such district at which such annual election shall be held; provided, however, that if there are more than three and less than six election precincts within the boundaries of said school district, then the district school board may designate at least two polling places, and if there are six or more of such precincts, then the said board may designate three polling places, which said polling places shall be situated as conveniently as possible to the voters in such district in which such

annual election shall be held. The Board of Election for each said additional polling place shall be constituted as provided in Section 1156, Compiled Laws of North Dakota, 1913, except that for each said additional polling place, the Board of Directors of said District shall prior to the date of election appoint at least one additional elector of said District to act as clerk. In districts where more than one polling place is designated any person desiring to be a candidate at such election shall file his or her name with the clerk not less than five days before such election, stating what position he or she desires to be a candidate for. At least three days before such election the clerk shall prepare and have printed an official ballot containing all the names filed as hereinbefore provided. Such ballot shall be headed "Official Ballot," shall contain the name of the district and the date of such election, shall be non-partisan and state the number of persons to be voted for for each office, shall contain blank spaces below for writing in other names. Provided, nothing herein shall prevent any person desiring to be a candidate at such election and who failed to file as hereinbefore provided, from providing stickers to be attached to the official ballot by the voter, such stickers to be not over one-half inch in width and have printed thereon one name only. The district school board shall cause notice of such election to be posted in at least three of the most public and conspicuous places within the district, and there shall be at least three times as many notices posted as there are polling places designated. Such notice shall be signed by the clerk or in his absence by the president of the district school board, and shall state the time and place of holding such election, shall adequately describe the location of the polling places and shall state the officers to be elected and their terms of office, and shall be substantially in the following form:

Notice is hereby given that on Tuesday, the _____ day of June A. D. 19____, an election will be held at _____ (here insert location of polling places) for the purpose of electing _____ (here insert officers to be elected and term each is to serve) for School District No. _____ or for _____ (here insert name of school district). The polls will be opened at two o'clock P. M. and closed at five o'clock P. M. of that day.

By order of School Board,
Signed _____

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. Inasmuch as an emergency is declared to exist, this Act shall take effect immediately upon its passage and approval.

Approved March 15, 1941.

CHAPTER 255

S. B. No. 167—(Committee on Education)

STATE EQUALIZATION FUND

An Act to provide for the creation of the State Equalization Fund; providing for its distribution in the payment of costs of correspondence work, costs of vocational education, high school tuition and in the payment of direct aid to school districts upon a teacher-unit and per pupil basis and providing for the distribution of an emergency fund and to provide methods for the ascertainment and payment of the sums payable to school districts; and to provide for penalty for making false reports; repealing Chapter 209 of the Session Laws of 1939 and all acts or parts of acts in conflict therewith.

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

§ 1. STATE EQUALIZATION FUND CREATED.] There is hereby created a fund to be known as the State Equalization Fund. The State Treasurer shall credit to such fund all sums appropriated by the Legislature for that purpose from any source of income whatever, and in the case of direct biennial appropriations, the State Treasurer shall apply one-half of the total appropriation of the biennium to each year thereof, and the amount so applied for each year, plus all accumulations from other sources, shall be construed to be the amount available in such fund for the current year.

§ 2. HIGH SCHOOL CORRESPONDENCE WORK.] The amount of money appropriated by the Legislature for correspondence work for the biennium or so much thereof as may be necessary, accruing to the State Equalization Fund, shall be expended by the State Board of Higher Education for high school work by correspondence.

§ 3. VOCATIONAL EDUCATION IN AGRICULTURE, HOME ECONOMICS, DISTRIBUTIVE OCCUPATIONS, AND OCCUPATIONAL INFORMATION AND GUIDANCE IN COOPERATION WITH FEDERAL PROGRAMS.] The amount of money appropriated by the Legislature for this purpose for the biennium or so much thereof as may be necessary accruing to the State Equalization Fund, shall be expended by the State Board of Higher Education. The State Auditor shall pay upon the certificate of the State Board of Higher Education to such school districts and in such manner as may be directed by such certificate. The State Board of Higher Education shall be charged with the duty of administering said funds through the State Director of Vocational Education and shall do all things necessary to cooperate with the program of the so-called Smith-Hughes Act, George-Deen Act, and other Federal legislation for vocational education.

§ 4. EMERGENCY FUND.] \$500,000.00 for the biennium or so much thereof as may be necessary or so much thereof as may be

appropriated by the Legislature shall be allocated and set aside as an emergency fund to aid financially distressed schools in the manner hereinafter set forth. Only one half of the amount appropriated shall be available during the first year of the biennium;

(a) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE MONTHLY MINIMUM COST OF MAINTAINING PUBLIC SCHOOLS.] The State Superintendent of Public Instruction shall be charged with the duty of investigating and inquiring into the general subject of public school costs and needs of financially distressed districts within the State. It shall be his duty to prepare the necessary application blanks and forms upon which the information required by him shall be certified to by such school authorities as may be designated by him. From the information so acquired the State Superintendent of Public Instruction shall from month to month determine the minimum amount of money required to operate each of the various classes of public schools.

(b) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE MONTHLY CERTIFICATE TO STATE AUDITOR OF SCHOOLS IN NEED.] From the information obtained as provided in the preceding subdivision, the State Superintendent of Public Instruction shall monthly certify to the State Auditor a list of School Districts of the State which are unable to pay for the operation of their schools, the minimum amount determined in the manner hereinbefore set forth, after having made the maximum financial effort to do so, together with a statement of the amount of money required by such districts to meet such minimum standards.

(c) MAXIMUM FINANCIAL EFFORT DEFINED.] In determining whether or not a school district has made the maximum financial effort mentioned above, it must appear: (1) That the district shall have provided the maximum mill levy which means that in addition to having provided for the normal maximum levy, it shall have held an election and increased the normal maximum levy by the 50% increase allowed under the law and shall submit an affidavit by the county auditor that such levy has been or will be spread provided, however, that in districts where the debt service levy of the district itself is twice as large as the normal maximum levy, it shall not be required that the district vote the 50% increase, but only that it levy the normal maximum levy. (2) That revenues from local taxes, and from State and County sources have been exhausted; (3) that such district is unable to sell in the manner now provided by law certificates of indebtedness in an amount sufficient to maintain adequate school facilities; or that it is either unable to issue further certificates of indebtedness or registered warrants, or if able to issue same, they cannot be marketed; (4) that any school district expecting to apply for aid from the Emergency Fund must have its budget for the fiscal year approved by the Department of Public Instruction before such grant is allowed; this budget must include an itemized and certified statement of the exact financial condition

of the school district as of the current date; (5) that no school district shall participate in the emergency fund unless and until it is shown to have a reasonable teacher-pupil ratio; in determining what constitutes a reasonable teacher-pupil ratio, the Superintendent of Public Instruction shall consider the type and size of the school, its proximity, and the transportation facilities to adjacent schools. To qualify for aid on the Emergency Fund basis, the following standards shall be used as guides on this teacher-pupil basis; schools with seven or more teachers should maintain a teacher-pupil ratio of at least twenty-five pupils per teacher; in smaller schools, a teacher-pupil ratio of less than twenty pupils per teacher shall be considered unreasonable. Schools participating in this Emergency Fund should have a minimum enrollment of twenty-five pupils for four years of high school work, and a minimum enrollment of fifteen pupils for two years of high school work. Schools participating in the emergency fund must not pay transportation charges in excess of the amount that would be allowed under the family system of transportation.

(d) Aid granted to school districts from the Emergency Fund shall first be applied for the payment of teachers' salaries.

(e) ADMINISTRATION.] The Governor, Attorney General, and the Superintendent of Public Instruction shall constitute the Board which is hereby authorized, empowered and directed to carry out and perform the provisions of Section 4 of this Act dealing with the Distribution of the Emergency Fund, and to prescribe such additional rules and regulations as they deem reasonable and necessary.

§ 5. DISTRIBUTION ON PER PUPIL BASIS.] There shall be distributed out of said equalization fund a payment to the school districts of the State on a per-pupil basis, inversely proportional to the taxable assessed valuation back of each pupil in said districts which payment shall be determined in the following manner: The County Superintendent of Schools, on forms supplied by the State Superintendent of Public Instruction, shall on or before the first day of August of each year report to the State Superintendent of Public Instruction the number of teachers employed, their salaries and the number of bona fide resident students actually enrolled in the schools in the district as of the end of the preceding school year (who have attended ninety days or more), and the assessed valuation of the property on which taxes were levied for the preceding school year for each school district. Such assessed valuations shall be certified by the county auditors. Where there is more than one school in a school district the report shall be so prepared as to readily indicate the schools belonging to said school districts. In one teacher schools where the enrollment is less than fifteen pupils it shall be considered as fifteen for the purpose of this calculation. In districts having more than twenty pupils per teacher, the number of pupils used in calculating the per-pupil payment shall be the number of teachers times

twenty plus one half the difference in this figure and the bona fide resident enrollment. From the reports the State Superintendent of Public Instruction shall determine the assessed valuation back of each thus enrolled pupil in the district and from the following table determine the per pupil payment for each district and this payment multiplied by the number of pupils, used in determining the afore-said assessed valuation per pupil, shall be the payment to the district.

Assessed Valuation Per Pupil	Payment Per Pupil
\$3200-3300 -----	.50
3100-3200 -----	1.00
3000-3100 -----	1.50
2900-3000 -----	2.00
2800-2900 -----	2.50
2700-2800 -----	3.00
2600-2700 -----	3.50
2500-2600 -----	4.00
2400-2500 -----	4.50
2300-2400 -----	5.00
2200-2300 -----	5.50
2100-2200 -----	6.00
2000-2100 -----	6.50
1900-2000 -----	7.00
1800-1900 -----	7.50
1700-1800 -----	8.00
1600-1700 -----	8.50
1500-1600 -----	9.00
1400-1500 -----	9.50
1300-1400 -----	10.00
1200-1300 -----	10.50
1100-1200 or less -----	11.00

Each school district shall then be paid one-half of its thus calculated payment for the year. The balance of the amount due under this Section shall be paid on or before April first of each year. Where the school term is less than nine months the payments shall be such fractional part of full payment as the number of months the school is actually open is of nine. School districts that levy for general purposes during the previous year within one mill of their normal maximum levy shall receive full per-pupil payments, those that levy within two mills shall receive a 75% payment, those that levy within three mills shall receive a 50% payment, those that levy within four mills shall receive a 25% payment and all other districts shall receive no payments. Provided, however, that in no case shall such per pupil payments exceed 40% of the salaries paid by such district for teachers for the current year. The State Auditor shall make such payments on certificates furnished by the State Superintendent of Public Instruction.

§ 6. HIGH SCHOOL TUITION. WHEN AND HOW PAYABLE.]

There shall be paid out of said State Equalization Fund to each Public School District in this State which during the current school year offers four or more units of standard high school work, approved by the State Superintendent of Public Instruction as by law provided, and which has employed only teachers duly certified by the State Superintendent of Public Instruction and who have been paid not less than the minimum salary required by law, the sum of \$1.50 per week, except in County Agricultural and Training Schools and model high schools where the sum shall be \$1.00 per week of attendance for each non-resident high school student who attended such high school during the preceding semester. In the case of County Agricultural and Training Schools, and Model High Schools, students coming from school districts outside of the local school districts in which said County Agricultural and Training Schools and Model High Schools are actually located shall be considered as non-resident high school students and subject to all the provisions of this section. Be it further provided that high school tuition shall be paid to any School District for any pupil or student who has completed the eighth grade, living in a district having no high school and residing in a county that is on the border line of another State who may be attending a four-year high school in the adjoining state. The term "non-resident high school student" shall include only students who have completed all the work of the first eight grades, who are residents of the State of North Dakota and of School Districts which does not, during the current school year, offer four full units of high school work, approved by the State Superintendent of Public Instruction, for which the student was prepared, and who had not previously attended high school for four years nor completed fifteen or more full units of high school work. Immediately upon the close of each semester and in any event not later than February tenth and June thirtieth of each school year, the superintendent or principal of each district claiming high school tuition under this Act shall certify and the clerk shall attest to the County Superintendents of Schools a verified claim, giving the name, residence, number of weeks of attendance, and number of units of high school work taken by each non-resident student to whom tuition is claimed. The County Superintendent of Schools shall investigate the propriety of the claim for each student, and determine the residence and other qualifications of each, and on or before February twentieth, or on or before July twentieth, as the case may be, shall certify to the State Superintendent of Public Instruction the number of non-resident high school students for which each district is entitled to payment of high school tuition, and shall at that time notify the School Districts of the names of any students for which the claim has been disallowed by him, and such district may, if it so desires, on or before August fifth of such year, appeal to the State Superintendent of Public Instruction, who may, if in his judgment the evidence submitted by the district warrants it, change or modify the

certificate of the County Superintendent of Schools, and his judgment thereon shall be final. Immediately upon receiving the certificate of the County Superintendent of Schools and in any event not later than March twentieth for the first semester and not later than September first for the second semester, the State Superintendent of Public Instruction shall certify to the State Auditor a list of the districts entitled to payment of high school tuition together with the amount to which each district is entitled. Such high school tuition payments shall be the sole and only compensation received by such districts for non-resident high school students, and no district shall charge or collect from any non-resident student, his parents or guardian or the district of his residence, any tuition fees, registration fee, text book fee, laboratory fee, or any other fee or charge which is not also charged of all resident students; provided, however, that this Act shall not affect the right of a district to charge and collect from students who are not residents of this State such tuition as may be agreed upon.

§ 7. PAYMENT ON TEACHER-UNIT BASIS.] There shall be paid from said Equalization Fund to the Public School Districts of the State, \$120.00 for each grade or high school teacher-unit maintained by such school districts during the current year, where the schools have one to four teachers. If the schools have more than four teachers, each school district shall receive \$100.00 for each grade or high school teacher unit maintained. School districts that levy for general purposes during the previous year within one mill of their normal maximum levy shall receive full teacher unit payments; those that levy within two mills shall receive a 75% payment; those that levy within three mills shall receive a 50% payment; those that levy within four mills shall receive a 25% payment and all other districts shall receive no payment. If the school term is less than nine months the payments shall be such fractional part of full payment as the number of months the school is actually open is of nine.

§ 8. "TEACHER-UNIT" DEFINED.] A teacher-unit shall be considered as one teacher who is devoting his entire time to the teaching of grade or high school subjects. Where a teacher is devoting part time to grade and high school work, fractional credit shall be given. In open country consolidated schools each teacher shall be considered as one and one-half teacher units. No aid on the Teacher-Unit basis shall be paid to any school district unless and until said school district shall have filed with the County Superintendent its statement giving the name of each teacher employed, the number of said teacher's certificate and the monthly salary paid to said teacher and no such aid shall be given to any district for such teachers as were not properly certified and did not receive at least the minimum salary provided by law.

§ 9. COUNTY SUPERINTENDENT OF SCHOOLS AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CERTIFY AS TO TEACHER-

UNITS.] As soon after the close of each semester or half year as possible, and in any event not later than February twentieth for the first semester and July twentieth for the second semester, the County Superintendent of Schools of each county shall certify to the State Superintendent of Public Instruction a list of all public districts in his county and the number of high school and grade school teacher units maintained by each during the preceding semester or half year, and shall also notify each district as to the number of teacher-units so certified. Any school district feeling aggrieved by the certificate of the County Superintendent of Schools, may, on or before August fifth of such year, appeal to the State Superintendent of Public Instruction, who may, if in his judgment the evidence submitted by the district warrants it, change or modify the certificate of the County Superintendent of Schools, and his judgment thereon shall be final. Immediately upon receiving the certificates of the County Superintendents of Schools and in any event not later than March twentieth for the first half of the school year and not later than September first for the second half of the school year, the State Superintendent of Public Instruction shall certify to the State Auditor a list of all public school districts in the State, together with a statement as to the teacher units maintained by each. The State Auditor shall thereupon pay for the first half of the school year one-half of the said sum of \$120.00 or \$100.00, as the case may be, and for the second half of the school year one-half of the said sum of \$120.00 or \$100.00, as the case may be, for each grade or high school teacher-unit so certified to him.

§ 10. METHOD OF MAKING PAYMENT.] Upon receipt of the certificates of the State Superintendent of Public Instruction as aforesaid the State Auditor shall make said payments for high school correspondence, vocational education in agriculture, home economics and distributive occupations, occupational information and guidance, high school tuition, teacher-unit basis, emergency fund, and per pupil basis by the auditor's warrant upon the Equalization Fund. Said warrants may be sent by the Auditor direct to the clerks of the said school district or to the County Superintendent of School, whichever may be deemed by the State Superintendent of Public Instruction to be most effective for the efficient administration of this Act. Said warrants shall be made payable to the school districts, and shall be delivered to the clerk thereof, who shall make a record of the receipt thereof and deliver same to the School District Treasurer who shall deposit the same to the general fund of their respective districts, and the funds so received shall be available for use by the districts solely for the payment of current expenses. The State Auditor may make the payments herein provided for by separate warrants or by combining payments to any district in one warrant.

§ 11. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE RULES AND PREPARE BLANK FORMS.] The State Superin-

tendent of Public Instruction may make such rules and regulations governing the certification from County Superintendents of Schools of the information and evidence required by this Act to enable him to make his certificates, and governing appeals from decisions of County Superintendents of Schools as may be reasonably necessary to accomplish the purposes herein set forth. He shall also prepare and circulate among the County Superintendents of Schools blank forms for the certificates of the school districts to the County Superintendents of Schools and the County Superintendents of Schools to the State Superintendent of Public Instruction.

§ 12. ORDER OF PAYMENT.] The appropriations and allocations made herein shall be a first charge and claim upon and against all monies appropriated and coming into the fund hereby created. The distribution under each section of this Act shall be limited to the amount appropriated thereto by each session of the legislature and should such appropriations not be sufficient to make payments in full, then such fractional payments as the appropriations will permit shall be made and will constitute full payment under this Act. Should the money in the equalization fund not be sufficient for all appropriations, the basis of need and the per pupil appropriations shall be made in full or so much thereof as may be necessary.

§ 13. PENALTY FOR FALSE REPORTS.] It shall be a misdemeanor, punishable by fine or imprisonment, or both, for any school official to falsify any report in connection with the administration of this fund.

§ 14. REPEAL.] Chapter 209 of the Session Laws of 1939 and all other Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 21, 1941.

CHAPTER 256

S. B. No. 83—(Committee on Education)

JUNIOR COLLEGE WORK IN HIGH SCHOOLS

An Act to amend and re-enact Chapter 246 of the Session Laws of 1931, relating to the establishment and maintenance in certain high schools of this state of a department of junior college work and providing for supervision thereof and for maintenance of instruction by tuition fees.

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

§ 1. AMENDMENT.] That Chapter 246 of the Session Laws of 1931 is amended hereby and re-enacted to read as follows:

§ 1. The Board of Education of any special school district in any city of the state having a population of more than five thousand when authorized by a two-thirds vote of the electors voting thereon to do so, may establish and maintain, in conjunction with the high school of such district, a department of junior college work to consist of not more than two years of work beyond a four year high school course.

§ 2. The establishment and maintenance of such department of junior college work shall be authorized only at an election held pursuant to a ten days' notice thereof stating that such proposition is to be voted upon there at.

§ 3. The state board of higher education shall prepare and publish from time to time standards for junior colleges, provide for their inspection and recommend for accrediting such courses of study offered by them as may meet the standards prescribed.

§ 4. The Board of Education of such school district on or before August 15th in each year, shall determine the rate of tuition, required to be paid by all pupils attending such department, whether residents or not, of the district maintaining the same, which tuition shall be sufficient to defray all expenses to the district of such junior college work.

Approved March 13, 1941.

CHAPTER 257

S. B. No. 162—(Streibel and Drew)

ADMISSION OF PUPILS FROM OTHER SCHOOL DISTRICTS

An Act to amend and re-enact Section 1179 of the Compiled Laws for 1913 relating to powers of school districts to admit pupils from other districts providing for payment of tuition, and transportation.

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

§ 1. That Section 1179 of the Compiled Laws for 1913 be amended and re-enacted to read as follows:

§ 1179. AMENDMENT.] It shall have the power to admit to the schools in the district, pupils from other districts, when it can be done without injuring or overcrowding such schools, and shall make regulations for their admission; and when on account of shorter distance and other conveniences and with the approval of the County Superintendent of Schools the district from which such pupils are received may pay the tuition for such pupils, except that districts admitting pupils shall give credit on tuition to the extent

that parent or guardian of pupils pay school tax in that district. It shall have the power to arrange with the board of another district for sending to such district such pupils as can conveniently be taught therein, for paying their tuition, and for arranging and paying for their transportation to and from the school in such district; and when petitioned by a majority of the voters of a district it shall be the duty of the board of any district to arrange for sending to such district such pupils as can conveniently be taught therein, for paying their tuition and for arranging and paying for their transportation to and from the school in such district. It shall have the power to admit to the schools in the district, pupils residing in unorganized territory adjacent to the district, and to arrange with the parent or guardian of such pupils for paying their tuition; but in no instance shall a board refuse privileges to or collect tuition from pupils residing in such adjacent unorganized territory, if the parents of such pupils are property holders in the district and pay taxes. It shall also have the power to make proper and needful rules for the assignment and distribution of pupils to and among the schools in the district, and their transfer from one school to another.

Approved March 17, 1941.

CHAPTER 258

S. B. No. 58—(Committee on Education)

SCHOOL BOARD MEETINGS

An Act to Amend and Re-enact Chapter 259, Laws 1935; Chapter 218, Laws 1937 Relating to Meetings of Boards of Common School Districts, Provide for Notices of same and Relating to Attendance, Per diem and Mileage of School Officers and to Duties and Compensations of Clerks of such Districts.

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

§ 1. Chapter 259, Laws 1935 is hereby amended and re-enacted to read as follows:

§ 1162. The board shall, on the second Tuesday in January, April, July and October of each year, hold regular meetings for the transaction of business at such hour and place as may be fixed by the board, provided such time and place of meetings for the ensuing year shall be designated at the time of the annual meeting. A special meeting may be held upon the call of the president or the other two members. Written notice of the time and place of any special meeting shall be given to each member of the board of such meeting. Each member of the board shall be paid the sum of eight dollars per annum, less two dollars for each regular meeting which he fails

to attend; provided, that in any common school district which contains a graded school of three or more departments, the board shall hold regular meetings for the transaction of business on the second Tuesday of each month at such time and place as may be fixed by the board, and in such districts the members of the board shall receive a compensation of one dollar for each meeting attended. In district containing more than four township(s) and operating ten or more schools, the board may hold not more than twelve meetings in any one year and may receive therefor, a per diem of \$2.00 per meeting and mileage of 5¢ per mile for necessary travel to and from such meetings. Provided that five cents per mile, but not more than \$2.00 per member nor more than \$10.00 for all members from a district, shall be paid said board members and clerks in attending general county meetings of school officers convened by the county superintendent.

§ 2. Chapter 218, Laws 1937 is hereby amended and re-enacted to read as follows:

§ 1164. The Clerk of the Board shall keep an accurate record of all proceedings of the Board, give or post all notices, make out all reports and statements and perform all other duties required by law or by the Board. He shall prepare an itemized financial report containing a statement of the receipts and expenditures from the beginning of the school year, up to and including the first Tuesday in June, and a statement of estimated receipts and expenditures to the end of the school year, which reports shall be posted in the school polling place before the opening of the polls on school election day. The Clerk shall read or cause to be read such reports immediately preceding opening of the polls. He shall receive such compensation as shall be fixed by the Board, not less than Ten Dollars (\$10.00) for one school and Five Dollars (\$5.00) for each additional school in his district, provided, that such salary does not exceed Fifty Dollars (\$50.00) in any one year, except in districts containing more than four townships and operating ten or more schools, the salary shall not exceed Two Hundred Dollars (\$200.00) and provided further that the Clerk shall receive such additional compensation for taking the annual school census as the Board may allow.

Approved February 21, 1941.

CHAPTER 259

S. B. No. 161—(Committee on Education)

TEACHER'S INSURANCE AND RETIREMENT FUND,
AMENDMENT

An Act to amend and re-enact Section 1504 of the Compiled Laws of 1913 and Sections 1505, 1515, 1518, 1521, 1523 and 1528 of the 1925 Supplement to Compiled Laws of 1913 relating to the Teacher's Insurance and Retirement Fund.

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

§ 1. AMENDMENT.] Section 1504 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1504. AMOUNT OF ASSESSMENTS.] Every teacher who has joined the fund shall be assessed upon his or her salary as teacher for a period of twenty-five years as follows: one per centum per annum, but not more than twenty dollars per year, for each of the first eight years of service as a teacher; and two per centum per annum, but not more than forty dollars per year for the second eight years of service as teacher; and three per centum per annum, but not more than sixty dollars per year for each successive year of service as a teacher, until said teacher shall have had a total of twenty-five years of teaching service, when said assessments shall cease. The total amount paid into said fund by each teacher shall be based upon said twenty-five years of service as teacher with assessments as provided in this section; provided that such total amount shall not be less than the full amount of the annuity to which such teacher shall be entitled for the first year. (1913, Ch. 251, Sec. 10.)

§ 2. AMENDMENT.] Section 1505 of the Supplement to Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1505. ASSESSMENT OF ALL NEW TEACHERS.] In becoming a teacher in any of said public schools after January 1, 1914, or in becoming a teacher in any State Institution after January 1, 1920, he or she shall be conclusively deemed to join the fund, and to undertake and agree to pay such assessments, and have such assessments deducted from his or her salary as herein stated; except that any person who has attained the age of 50 years before becoming a teacher in any said public school or institution, shall have the option of declining membership in the fund. Any teacher in the public schools or state institutions who at the time of becoming eligible to join said fund had the option of joining or refusing to join the same, and who then failed within the time permitted by law to join the fund, may, at any time prior to the first day of July, 1943, join said fund by notifying the Board of Trustees of his or her intention so to do, and as a prerequisite to his or her right to join said fund,

such teacher must pay into said fund the total amount of all of the contributions which he or she would have been required to pay had he or she not declined membership therein, plus 6% simple interest, upon each of said contributions from the time the same would have been required to have been paid, plus a sum equal to 25% of the total amount of all such contributions and interest.

§ 3. AMENDMENT.] Section 1515 of the 1925 Supplement to Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1515. FUND TO BE SET ASIDE FROM COUNTY TUITION FUND AND TRANSMITTED TO STATE TREASURER.] Each County Treasurer shall annually set aside from the county tuition fund a sum equal to twenty cents (20¢) for each child of school age in his county, and shall transmit this sum to the State Treasurer in the same manner that others are transmitted to the State Treasurer at the same time that he transmits the funds received from the school boards and the boards of county commissioners in accordance with Section 1513, and shall certify under oath to the Board of Trustees of the Teachers' Insurance and Retirement Fund the amount so transmitted to the State Treasurer. The State Treasurer shall credit all moneys received in accordance with this section to the fund designated as "The Teachers' Insurance and Retirement Fund."

§ 4. AMENDMENT.] Section 1518 of the 1925 Supplement to Compiled Laws of 1913 is hereby amended and re-enacted as follows:

§ 1518. ELIGIBILITY TO PARTICIPATE.] Any teacher who may be teaching in said public schools or state institutions, and who has complied with the provisions of these sections, may retire and receive the annuity hereinafter provided for, in the following cases:

1. After a period or periods aggregating 25 years of service as a teacher, of which 18 years, including the last 5, must have been spent in public schools of this State or state institutions of this State, provided that payment by said teacher to the Fund shall have amounted to a sum as provided in Section 1504. If said payments shall not have amounted to said sum, the teacher shall pay into the fund the deficiency before receiving said annuity. In case of retirement before attaining the age of 50, however, eligibility for the retirement annuity shall be deferred until the age of 50 is attained as hereinafter provided.

2. After fifteen years of service as a teacher in the public schools or the state institutions of this State, when said teacher suffers from a permanent mental or physical disability, to be determined by said Board after an examination by two physicians appointed by said Board, provided that payments by said teacher to the fund shall have amounted to a sum as provided in Section 1504. If said payments shall not have amounted to said sum, the teacher shall

pay into the fund the deficiency before receiving the annuity. The examination fees of such physician shall be paid by said applicant. Payment of the annuity based upon such disability shall commence the first month following the determination of such disability by the Board and the payment of the deficiency in assessments as aforesaid, regardless of the age of the teacher at such time.

§ 5. AMENDMENT.] Section 1521 of the 1925 Supplement to Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1521. RETIREMENT ANNUITY.] Each teacher who shall have retired from the service of said public schools or state institutions, under the provisions of Section 1518, shall be entitled to receive an annuity as follows:

(1) If said teacher has arrived at the age of 55 years at the time of applying for said annuity, said teacher shall annually and for life be entitled to receive as an annuity a sum equal to one-fiftieth of his or her average annual salary for the years of service for which assessments were paid, multiplied by the whole number of years service as a teacher; provided, however, that said annuity shall not exceed \$750.00 in any one year, nor less than \$350.00 in any one year, subject, however, to all the provisions of this article;

(2) If said teacher shall have attained the age of 50, but shall not have attained the age of 55 years at the time of application for such annuity, said teacher shall be entitled, at the age of 50 or thereafter, to receive a reduced annuity which shall be the actuarial equivalent of the one which otherwise would have been received upon the attainment of the age of 55, according to standard annuity tables, and at an interest rate specified from time to time by the Board of Trustees. Any such teacher may defer applying for said pension until the attainment of the age of 55 years, at the teacher's option.

(3) At any time after retirement under the circumstances hereinbefore provided, and before the first annuity payment shall become due, any member may elect to receive the actuarial equivalent, at that time, of the regular retirement allowance for life, in the form of a reduced retirement allowance payable throughout his or her life with either, but not both, of the following additional provisions:

OPTION ONE. Upon the death of the member the said reduced retirement allowance shall be continued throughout the life of, and paid to such person as the member shall have nominated by written designation filed with the Board of Trustees at the time of retirement; or

OPTION TWO. Upon the death of the member, one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to such person as the member shall have nominated by

written designation filed with the Board of Trustees at the time of retirement. The amount of the reduced retirement allowance payable upon the exercise of either of the foregoing options shall be computed upon an actuarial basis, through the use of standard actuarial tables, and based upon the ages of the teacher and said beneficiary.

No annuity payments shall commence before the applicant shall have arrived at the age of 50 years, except in the case of retirement based on disability as hereinbefore provided.

§ 6. AMENDMENT.] Section 1523 of the 1925 Supplement to Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1523. WITHDRAWAL FROM MEMBERSHIP, OR DEATH OF MEMBER.] Any teacher who shall cease to teach in said public schools or state institutions before receiving any benefit or annuity from the fund, shall, if application be made in writing to the Board of Trustees within eighteen months after the date of his or her resignation, be entitled to the return of one-half of the amount, without interest, which shall have been paid into the fund by said teacher. If such teacher should again thereafter teach in said public schools or state institutions, he or she shall, within one year from the date of his or her return to the service of said public schools or state institutions refund to said fund the amount so returned to said teacher, together with simple interest on said amount, (but not to exceed 4% per annum) for the time said amount was withdrawn from the fund.

In case of the death of any teacher before retirement, and before having forfeited his contributions by failure to claim a refund within eighteen months of the date of his resignation under the provisions of Section 1523, his or her executor or administrator shall be entitled to be paid a sum equal to 50% of the total of the amount, without interest, which shall have been paid into the fund by said teacher.

§ 7. AMENDMENT.] Section 1528 of the 1925 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 1528. TEACHER AND STATE INSTITUTION DEFINED.] The term "teacher" as used in this article shall include all persons employed in teaching by any city board of education, school board or other managing body of any city, town, village or rural school district in this State, and all the superintendents of said schools, including state and county superintendents and their assistants, all supervisors of instruction, all state school inspectors and supervisors, all principals and assistant principals and special teachers of said school, and all persons employed in teaching in any state institution, and all superintendents and assistant superintendents of State Institutions, and all supervisors of instruction, and all principals and

assistant principals and special teachers of such institutions, and every person engaged as president, dean, school librarian or registrar of any such State Institution, the Secretary of the North Dakota Education Association, and the Commissioner of Higher Education; provided, however, that it shall not include persons connected with any professional school or college of such State Institution as lecturers, who are engaged in the practice of their respective professions and with whom teaching is merely an avocation. Any person who, on the effective date of this Act, is engaged in any occupation by this Act included in the definition of the term "teacher" which has not previously been included in such definition, may at any time, elect to join the Fund and come within the provisions of this law by notifying the Board of Trustees and the employing authority of the school or institution by whom he or she is employed, of his or her intention to do so. The term "State Institution" as used in this article shall include the State University of North Dakota, the State Agricultural College, County Agricultural and Training Schools, State Normal Schools, State School of Forestry, State School of Science, North Dakota School for the Blind, North Dakota School for the Deaf, State Institution for Feeble Minded, and State Training School.

§ 8. EXISTING RIGHTS.] Nothing in this Act shall be construed to reduce, modify, or enlarge any rights, privileges or benefits established prior to the date this Act shall take effect, but all pensions, rights, privileges and benefits which have become fixed and determined prior to said date shall remain unchanged, save and except only as the same may be ratably reduced by the Board as provided in Section 1522.

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

Approved March 22, 1941.

CHAPTER 260

H. B. No. 135—(Hofstrand, by Request)

TREASURER'S REPORT, COMMON SCHOOL DISTRICTS

An Act to Amend and Re-enact Section 1 of Chapter 213 of the Session Laws for 1939; Repeal.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 213 of the Session Laws for 1939 be amended and re-enacted to read as follows:

§ 1. TREASURER'S ACCOUNTS ANNUAL SETTLEMENT.] The district treasurer shall open new accounts with each fund at the beginning of each school year, and the balance of each fund shall be brought down and become a part of the first entry in opening the account for the new year. On the second Tuesday in July, the school board shall make settlement with the district treasurer and shall carefully examine his books, accounts and vouchers, and shall ascertain if the amount of all warrants, bonds and coupons paid and redeemed or paid in part, together with the cash in his hands or under his control, is equal to the amount of cash on hand at the beginning of the school year, together with all money received by him from all sources for school purposes during the year. The district treasurer shall deliver to the board at such annual meeting, all warrants, bonds and coupons paid and redeemed by him during the school year and held by him as vouchers, taking the receipt of the board therefor, and such vouchers shall forthwith be filed with the district clerk. He shall at that meeting make his annual report in quadruplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk of the school board, one to the Bank of North Dakota, one to be transmitted to the county superintendent of schools, and the board shall cause to be published an itemized statement of the receipts and expenditures of the preceding year in a newspaper to be designated by the school board; provided, that if said board or treasurer shall have failed to publish said statement by the first of September following the presentation of the treasurer's annual report, then it shall be the duty of the county superintendent of schools to cause the publication of the same in the newspaper of the county nearest said school district. Such publication shall be paid for by the school district at the following rate: not to exceed seven dollars and fifty cents (\$7.50) if the district shall be free from bonded indebtedness and ten dollars (\$10.00) if the district shall have a bonded indebtedness. When such annual statement is transmitted to the newspaper for publication, the board of such school district may provide said newspaper with the names and addresses of not more than thirty (30) patrons and taxpayers in the school district and it shall be the duty of the publisher of said newspaper, accepting such report for publication, to mail to said patrons and taxpayers a copy of the newspaper containing such school treasurer's statement. The Treasurer's reports shall show the following:

RECEIPTS

- The balance at the close of the year.
- The amount received into the state tuition fund.
- The amount received into the special fund.
- The amount received into the county tuition fund.
- The amount received into the sinking fund.

EXPENDITURES

The amount paid for school houses, sites and furniture.
The amount paid for apparatus and fixtures.
The amount paid for teacher's wages.
The amount paid for services and expenses of school officers.
The amount paid for redemption of bonds.
The amount paid for interest on bonds.
The amount paid for incidental expenses.
The cash on hand at the close of the school year.

Such report shall include such other items as may be required by the district board, or the Superintendent of Public Instruction, and shall be upon and in conformity with the blanks furnished him for that purpose.

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

Approved March 17, 1941.

SOCIAL SECURITY

CHAPTER 261

S. B. No. 117—(Committee on Insurance)

NORTH DAKOTA UNEMPLOYMENT COMPENSATION ACT

An Act to amend and re-enact Sections 2, 4, 5, 6, 7, 8, 9, 12 and 17, of Chapter 232, Laws of North Dakota for 1937, as amended by Chapter 215, Laws of 1939, the same being known as the North Dakota Unemployment Compensation Law; providing for definitions of the terms used in said Act; providing a definition of agricultural labor; providing for included and excluded services; providing for the payment of contributions into an Unemployment Compensation Fund; providing for contribution rates based upon a system of experience rating; providing for the payment of benefits to unemployed individuals and specifying the amount and duration thereof; providing conditions of eligibility for benefits; providing for the disqualification of individuals under certain circumstances; providing the procedure for making claims for benefits and the determination thereof; providing procedure for appeals; providing for the period, election and termination of coverage for employers; providing for a system of reciprocal arrangements with other States and with the United States; providing penalties for violations of the Unemployment Compensation Law; providing prohibiting the disclosure of information; and providing for the reimbursement of funds in certain circumstances.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 232, Laws of

North Dakota for 1937, as amended by Chapter 215, Laws of North Dakota for 1939, be amended and re-enacted so as to read as follows:

§ 2. Definitions.] As used in this Act, unless the context clearly requires otherwise—

A. (1) “Annual pay roll” means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(2) “Average annual pay roll” means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever average is higher.

B. “Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year.

C. “Benefits” means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

D. “Benefit year” with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with Section 6 of this Act shall be deemed a valid claim for the purpose of this subsection if the individual has been paid the wages for insured work required under Section 6 (e) of this Act.

E. “Bureau” means the Board of Commissioners of the Workmen’s Compensation Bureau, consisting of three members, appointed for terms of six years.

F. “Calendar quarter” means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, including, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the Bureau may by regulation prescribe.

G. “Contributions” means the money payments required by this Act to be made into the North Dakota Unemployment Compensation Fund by any employing unit on account of having individuals in its employ.

H. “Employing unit” means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had one or more individuals performing services for it within this State.

(1) All individuals performing services within this State for any employing unit which maintains two or more separate estab-

lishments within this State shall be deemed to be performing services for a single employing unit for all the purposes of this Act.

(2) Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of section 2 (i) of this Act, the employing unit shall for all the purposes of this Act be deemed to employ each individual in the service of each such contractor or subcontractor for each day during which such individual is engaged solely in performing such work; except that each such contractor or subcontractor who is an employer by reason of section 2 (i) of this Act shall alone be liable for the employer's contributions measured by wages to individuals in his service.

(3) Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work.

I. "Employer" means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year (and for the purpose of this definition if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week), has or had in employment, eight or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade or business or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act; or which required a part of the organization, trade, or business of another which at the time of such acquisition was an employer subject to this Act provided such other would have been an employer under paragraph (1) of this subsection if such part had constituted its entire organization, trade or business.

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to this Act under paragraph (1) of this subsection; or

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, or interests, or both, would be an employer under paragraph (1) of this subsection.

(5) Any employing unit not an employer by reason of any other paragraph of this subsection for which services in employment are performed with respect to which such employing unit is liable for any Federal tax against which credit may be taken for contributions required to be paid into a State Unemployment Compensation Fund; but services performed for such employing unit shall constitute employment for the purposes of this Act only to the extent that such services constitute employment with respect to which such Federal tax is payable.

(6) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under Section 9, ceased to be an employer subject to this Act; or

(7) For the effective period of its election pursuant to Section 9 (c) any other employing unit which has elected to become fully subject to this Act.

J. "Employee" means every individual, whether male, female, citizen, alien or minor, who is performing, or subsequent to January 1, 1936, has performed services for an employer in an employment subject to this Act.

K. (1) "Employment" means any service performed prior to the effective date of this amendment, which was employment as defined in this section prior to such date, and subject to the other provisions of this sub-section, service performed after the effective date of this amendment, including service in interstate commerce, and service as an officer of a corporation performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "Employment" shall include an individual's entire service, performed within or both within and without this State if—

(a) The service is localized in this State; or

(b) The service is not localized in any State but some of the service is performed in this State and (1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (2) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

(3) (a) Services covered by an election pursuant to section 9 of this Act, and

(b) Services covered by an arrangement pursuant to section 12 of this Act between the Bureau and the Agency charged with the administration of any other State or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment if the Bureau has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(4) Service shall be deemed to be localized within a State if—

(a) The service is performed entirely within such State; or

(b) The service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this Act irrespective of whether the common-law relationship of master and servant exists unless and until it is shown to the satisfaction of the Bureau that—

(a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(b) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business.

(6) The term "employment" shall not include—

(a) Agricultural labor as defined in paragraph 8 of this subsection;

(b) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; private or public laundry.

(c) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) Casual labor not in the course of the employing unit's trade or business;

(e) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(f) Service performed in the employ of the United States Government or an instrumentality of the United States exempt under

the Constitution of the United States from the contributions imposed by this Act, except that to the extent that the Congress of the United States shall permit States to require any instrumentalities of the United States to make payments into an unemployment fund under a State unemployment compensation law, all of the provisions of this Act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this State shall not be certified for any year by the Social Security Board under section 1603 (c) of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the Bureau from the fund in the same manner and within the same period as is provided in Section 15 (d) of this Act with respect to contributions erroneously collected.

(g) (I) Service performed in the employ of this State or of any other State, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this State or by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of this State or of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the Constitution of the United States from the tax imposed by section 1600 of the Federal Internal Revenue Code;

(II) Service performed in the employ of any other State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more other States or their political subdivisions to the extent that the instrumentality is, with respect to such service exempt under the Constitution of the United States from the tax imposed by section 1600 of the Federal Internal Revenue Code.

(h) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(i) (i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Federal Internal Revenue Code, if

(a) the remuneration (remuneration) for such service does not exceed \$45, or

(b) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association;

(c) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university.

(ii) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Federal Internal Revenue Code.

(iii) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (a) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (b) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses.

(iv) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if

(a) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and

(b) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(v) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed \$45 (exclusive of room, board, and tuition);

(vi) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(vii) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(viii) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service per-

formed by such individual for such person is performed for remuneration solely by way of commission; or

(ix) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(j) Service covered by an arrangement between the Bureau and the Agency charged with the administration of any other State or Federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within such agency's State.

(7) Included and Excluded Service. If the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an individual for the person employing him, where any of such service is excepted by section 2 (k) (6) (h).

(8) Agricultural Labor. The term "agricultural labor" includes all service performed—

(a) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of maple sugar or maple sirup or any commodity defined as an agricultural commodity in section 15 (g) of the Federal Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the oper-

ation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(d) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits and vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

L. "Employment office" means a free public employment office or branch thereof operated by this or any other State as a part of a State-controlled system of public employment offices or by a Federal agency charged with the administration of an unemployment compensation program or free public employment offices.

M. "Fund" means the unemployment compensation fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

N. "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

O. "Unemployment." An individual shall be deemed "unemployed" with respect to any week during which he performs no services and with respect to which no wages are payable to him, or with respect to any week of less than fulltime work if the wages payable to him with respect to such week are less than his weekly benefit amount. The Bureau shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the Bureau deems necessary.

P. "Wages" means all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Gratuities customarily received by an individual in the course of his work from persons other than his employing unit shall be treated as wages received from his employing unit. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules

prescribed by the Bureau ; provided that the term "wages" shall not include :

(1) For the purposes of Section 4 and of section 6 (e) of this Act, that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment occurring during such calendar year and after the First day of January, 1940.

(2) The amount of any payment with respect to services performed after the First day of January, 1940, to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for such payment), on account of (a) retirement, or (b) sickness or accident disability, or (c) medical and hospitalization expenses in connection with sickness or accident disability, or (d) death, provided the individual in its employ (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employing unit, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his services with such employing unit :

(3) The payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under section 1400 of the Federal Internal Revenue Code with respect to services performed after July 1, 1941, or

(4) Dismissal payments after July 1, 1941, which the employing unit is not legally required to make.

Q. "Week" means such period of seven consecutive days, as the Bureau may by regulation prescribe. The Bureau may by regulation prescribe that a week shall be deemed to be "in," "within," or "during" that benefit year which includes the greater part of such week.

R. "Weekly Benefit For Unemployment." Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of \$3.00. Such benefit, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00.

§ 2. AMENDMENT.] That Section 4 of Chapter 232, Laws of

the State of North Dakota for 1937. be amended and re-enacted to read as follows:

§ 4. CONTRIBUTIONS.]

A. PAYMENTS.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the Bureau for the fund in accordance with such regulations as the Bureau may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

B. RATE AND BASE OF CONTRIBUTIONS.

(1) Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(a) One and eight-tenth per centum with respect to employment occurring during the calendar year of 1937.

(b) Two and seven-tenths per centum with respect to employment occurring during the calendar years 1938, 1939 and 1940.

(2) Each employer shall pay contributions equal to 2.7 per centum of wages paid by him during the calendar year 1941, and during each calendar year thereafter, with respect to employment occurring after January 1, 1941, except as otherwise provided at subsection (c) of this section.

(3) With respect to employment after December 31, 1941, the percentage shall be determined pursuant to subsection (c) of this section.

C. FUTURE RATES BASED ON BENEFIT EXPERIENCE.

(1) The Bureau shall maintain a separate account for each employer, and shall credit his account with all the contributions paid by him since January 1, 1937. Nothing in this Act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

(2) Benefits paid to an individual shall be charged against the accounts of his base-period employers. The amount of benefits so chargeable against each base-period employer's account shall bear the same ratio to the total benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of base-period wages paid to the individual by all his base-period employers.

(3) The standard rate of contributions payable by each employer shall be 2.7 per centum.

(4) No employer's rate shall be reduced below the standard rate for any succeeding calendar year unless and until his account has been chargeable with benefits throughout the 36-consecutive-calendar-month period ending on December 31 of the preceding calendar year.

(5) The Bureau shall, for the year 1942, and each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record as of January 1 of each succeeding calendar year. If, as of the date such classification of employers is made, the Bureau finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the Bureau finds incorrect or insufficient, the Bureau shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the Bureau at the time, and notify the employing unit thereof by registered mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within fifteen days after the mailing of such notice, the Bureau shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction, on the basis of subsequently ascertained information.

(6) For the purposes of this subsection two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form shall be deemed to be a single employing unit if the Bureau finds that:

(a) Immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto, and

(b) Immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employing unit or units, and

(c) The successor has assumed liability for all contributions required of the predecessor employing unit or units, and

(d) The consideration of such two or more employing units as a single employing unit for the purposes of this subsection would not be inequitable.

(7) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

(a) If the total of all an employer's contributions paid on or before January 31 of any year subsequent to December 31, 1941, with respect to wages paid by him prior to the first day of January of the preceding calendar year, exceeds the total benefits which

were chargeable to his account and were paid on or before December 31 of said preceding year with respect to weeks of unemployment compensated prior to such first day of January, his contribution rate for the ensuing calendar year shall be:

(i) 2.7 per centum if such excess is less than $7\frac{1}{2}$ per centum of his average annual pay roll:

(ii) 2 per centum if such excess equals or exceeds $7\frac{1}{2}$ per centum but is less than 10 per centum of his average annual pay roll;

(iii) 1 per centum if such excess equals or exceeds 10 per centum of his average annual pay roll.

(b) If the total benefits chargeable against an employer's account for all periods prior to January 1 of the preceding calendar year (including benefits paid on or before such January 1, with respect to weeks of unemployment compensated prior to such January 1), exceeds the total contributions paid by such employer for the same period (including contributions paid on or before January 31 with respect to wages paid prior to January 1 of the same year), his contribution rate for the ensuing calendar year shall be 2.7 per centum.

(c) No employer's rate for the period of twelve months commencing January 1 of any calendar year shall be less than $2\frac{7}{10}$ per centum unless the total assets of the fund, excluding contributions not yet paid at the beginning of such calendar year, exceed the total benefits paid from the fund within the last preceding calendar year; and no employer's rate shall be less than 2 per centum unless such assets at such time were at least twice the total benefits paid from the fund within such last preceding year.

(8) As used in this subsection.

(a) The term "annual pay roll" means the total amount of wages for employment paid by an employer during a 12-month period ending on December 31 of any calendar year, and the term "average annual pay roll" means the average of the annual pay rolls of an employer for the last 3 preceding 12-month periods.

(b) the term "base-period wages" means the wages paid to an individual during his base period for insured work;

(c) the term "base-period employers" means the employers by whom an individual was paid his base-period wages.

(9) The Bureau shall promptly notify each employer of his rate of contributions as determined for each ensuing year not later than March 31 of such ensuing year. Such contributions to be computed pursuant to the terms of this section. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, with 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reasons therefor. If the Bureau grants such

review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 8 of this Act except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceedings under this Act in which the character of these services was determined. The employer shall be promptly notified of the Bureau's denial of his application, or of the Bureau's redetermination, both of which shall become final unless within 15 days after the mailing of notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, a petition for judicial review is filed in the District Court of Burleigh County. In any proceeding before the Court under the terms of this subsection said proceedings shall be in accordance with the provisions with respect to court review as found at section 8 herein.

§ 3. AMENDMENT.] That Section 5 of Chapter 232, Laws of 1937, as amended by Chapter 215, Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 5. PAYMENT OF BENEFITS.]

A. Beginning twenty-four months after the date when contributions first accrued under this Act, benefits shall become payable from the fund; provided all benefits shall be paid through employment offices in accordance with such regulations as the bureau may prescribe.

B. (1) BENEFIT AMOUNT.] An individual's weekly benefit amount shall be the amount appearing in column B in the table in this subsection on the line on which, in column A of such table, there appear the total wages paid to such individual for insured work in that quarter of his base period in which such total wages were highest.

Column A. Wages earned in highest quarter of base period	Column B Weekly benefit amount	Column C. Qualifying wages in base period	Column D Maximum total benefits in benefit year
\$37.50-130.00	\$5.00	\$150.00	\$80.00
130.01-156.00	6.00	180.00	96.00
156.01-182.00	7.00	210.00	112.00
182.01-208.00	8.00	240.00	128.00
208.01-234.00	9.00	270.00	144.00
234.01-260.00	10.00	300.00	160.00
260.01-286.00	11.00	330.00	176.00
286.01-312.00	12.00	360.00	192.00
312.01-338.00	13.00	390.00	208.00
338.01-364.00	14.00	420.00	224.00
364.01-and over	15.00	450.00	240.00

(2) Weekly Benefit for Unemployment—Each eligible individual who is unemployed with respect to any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of \$3. Such benefit, if not a multiple of \$1 shall be computed to the next higher multiple of \$1.

C. Duration of Benefits. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to 16 times his weekly benefit amount.

D. Notwithstanding any other provisions of this Act the Bureau may by regulation prescribe that the existence of unemployment, eligibility for benefits and the amount of benefits payable shall be determined, in the case of any otherwise eligible claimant who, within a week of unemployment is separated from, or secures, work on a regular attachment basis, for that portion of the week occurring before or after such separation from or securing of work, provided such rules are reasonably calculated to secure general results substantially similar to those provided by this Act with respect to weeks of unemployment.

§ 4. AMENDMENT.] That Section 6 of Chapter 232, Laws of North Dakota for 1937, as amended by Chapter 215, Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 6. BENEFIT ELIGIBILITY CONDITIONS.] An unemployed individual shall be eligible to receive benefits with respect to any week only if the Bureau finds that—

(a) He has made a claim for benefits with respect to such week in accordance with such regulations as the Bureau may prescribe.

(b) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the Bureau may prescribe, except that the Bureau may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act; provided that no such regulation shall conflict with Section 5 (a) of this Act.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this subsection:—

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment.

(2) If benefits have been paid with respect thereto.

(3) Unless the individual was eligible for benefits with respect thereto as provided in sections 5 and 6 of this Act, except for the requirements of this subsection and of subsection (e) of Section 7.

(e) He has during his base period earned wages for insured work equal to not less than thirty times his weekly benefit amount.

§ 5. AMENDMENT.] That Section 7 of Chapter 232, Laws of the State of North Dakota for 1937, as amended by Chapter 215, Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 7. DISQUALIFICATION FOR BENEFITS.] An individual shall be disqualified for benefits.

(a) For the week in which he has left his work voluntarily without good cause, and for not more than seven consecutive weeks of unemployment which immediately follow such week as determined according to the circumstances in each case.

(b) For the week in which he has been discharged for misconduct connected with his work and for not more than the ten consecutive weeks of unemployment which immediately follows such week as determined in each case according to the seriousness of the misconduct.

(c) If he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Bureau or to accept suitable work when offered him. Such disqualification shall continue for the week in which such failure occurred and for not more than the seven consecutive weeks of unemployment which immediately follow such week as determined according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual and in determining the existence of good cause for voluntarily leaving his work under Subsection (a) of this section, there shall be considered among other factors and in addition to those enumerated in paragraph (2) of this subsection the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that—

(1) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; and provided further, that there shall not be deemed to be a stoppage of work in any factory, establishment, or other premises unless there shall be a substantial stoppage of work in each of said factory, establishment, or other premises.

(e) For any week with respect to which he is receiving or has received remuneration in the form of—

(1) Wages in lieu of notice;

(2) Compensation for temporary partial disability under the

Workmen's Compensation Law of the State of North Dakota, or any other State, or under a similar law of the United States; or

(3) Primary insurance benefits under Title II of the Social Security Act, as amended, or similar payments under any similar Act of Congress of the United States;

(4) Retirement pensions or other gratuities or bonuses from an employer, paid after termination of employment on account of prior length of service or disability not compensated under the Workmen's Compensation Law of North Dakota.

Provided that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. Provided further, that in the case of lump sum payments, as to items (1) and (4) of this subsection, such payment shall be prorated by weeks on the basis of the most recent weekly wage of the individual;

(f) For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another State or of the United States; Provided, that if the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits, this ineligibility condition shall not apply.

(g) For any week of unemployment if such individual is a student. For the purpose of this subsection, the term "student" shall mean an individual registered for full attendance at, and regularly attending, an established school, college or university or has so attended during the most recent school term;

(h) For any week in which he is partially or totally unemployed by reason of a disciplinary suspension of not more than thirty days by his employer for misconduct connected with his employment, and the Bureau so finds;

(i) For any week after the employment of a female individual has been discontinued on account of marriage, but only with respect to wage credits earned prior to her marriage;

(j) For one year succeeding to the day upon which a claimant becomes subject to any of the penalties provided at Section 17 herein; such disqualification to be imposed upon conviction of any of the offenses stated in said Section 17. Should the Bureau, however, have reasonable cause to believe that any of the offenses mentioned in Section 17 of this Act have been committed by any such claimant, it shall, in its discretion, suspend all payments of benefits until the fact with respect thereto has been established:

(k) For the purpose of this Section, the waiting period prescribed in Section 6 (d) this Act shall be required to be served after the expiration of the disqualification herein mentioned.

(1) No action for slander or libel, either civil or criminal, shall

be predicated upon information furnished by any employer to the Unemployment Compensation Division in connection with the imposition of any of the disqualifications hereinbefore set forth;

§ 6. AMENDMENT.] That Section 8 of Chapter 232, Laws of North Dakota for 1937, shall be amended and re-enacted to read as follows:

§ 8. CLAIMS FOR BENEFITS.]

A. Posting of Information. Each employer shall post and maintain in places readily accessible to individuals in his employ printed statements concerning benefit rights, claims for benefits and such other matters relating to the administration of this Act as the Bureau may by regulation prescribe. Each employer shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits when and as the Bureau may by regulation prescribe. Such printed statements and other materials shall be supplied by the Bureau to each employer without cost.

B. Filing of Claim. Claims for benefits shall be made in accordance with such regulations as the Bureau may prescribe.

C. Determinations.

(1) IN GENERAL. A determination upon a claim filed pursuant to section 6 (b) shall be made promptly by an examiner and shall include a statement as to whether and in what amount claimant is entitled to benefits for the weeks with respect to which the determination is made and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 5 of this Act, and if so, the first day of the benefit year, his weekly benefit amount, and the maximum total amount of benefits payable to him with respect to such benefit year.

(2) DETERMINATIONS IN LABOR DISPUTE CASES. Whenever any claim involves the application of the provisions of section 7 (d) of this Act, the examiner handling the claim shall, if so directed by the Bureau, promptly transmit such claim to the Appeals Referee for the purpose of making a determination upon the issues involved under that section or upon such claims. The Appeals Referee shall make the determination thereon after such investigation as he deems necessary, and after affording the parties entitled to notice an opportunity for a fair hearing in accordance with the provisions of this section with respect to hearings and determinations of the appeal tribunals. The parties shall be promptly notified of the determination, together with the reasons therefor in the event of denial of the claim, and such determination shall be deemed to be the final decision on the claim, unless within seven days after the mailing of notice to a party's last known address, or, in the absence of such mailing,

within ten days after the delivery of such notice, appeal is filed with the Bureau.

(3) **REDETERMINATIONS.** The Bureau may reconsider a determination whenever it finds that an error in computation or identity has occurred in connection therewith, or that wages of the claimant pertinent to such determination but not considered in connection therewith, have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentation of fact, but no such redetermination shall be made after one year from the date of the original determination. Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination. If the amount of benefits is increased upon such redetermination an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in this section. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection with an appeal by the claimant from any determination upon a subsequent claim for benefits which may be affected in amount or duration by such redetermination. Subject to the same limitations and for the same reasons, the Bureau may reconsider the determination in any case in which the final decision has been rendered by the appeal tribunal, or a court, and may issue a revised decision.

In the event that an appeal involving an original determination is pending as of the date a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

(4) **NOTICE OF DETERMINATIONS.** Notice of a determination upon a claim shall be promptly given to the claimant by delivery thereof or by mailing such notice to his last known address. In addition, notice of any determination which involves the application of the provisions of Section 7 of this Act, together with the reasons therefor, shall be promptly given in the same manner to the last employing unit by whom claimant was employed: Provided that the Bureau may dispense with the giving of notice of any determination to any employing unit and such employing unit shall not be entitled to such notice if it has failed to indicate prior to the determination, if and as required by regulation of the Bureau, that such employing unit was claimant's base period employer, as defined in this Act, and that the claimant may be ineligible or disqualified under any provisions of this Act.

D. Appeals.

(1) **APPEAL TRIBUNALS.** To hear and decide appealed claims, the Bureau shall appoint one or more impartial appeal examiners, to be known as the appeal tribunal. Each such tribunal shall consist

of a referee, selected in accordance with the provisions of this Act, or a body composed of three members, one of whom shall be a referee, who shall serve as chairman, and who shall be a salaried full time member of the staff of the Unemployment Compensation Division, and one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members may be selected without regard to section 11 of this Act, and who shall serve at the pleasure of the Bureau and be paid a fee of ten dollars per day of active service on such tribunal plus necessary expenses. The Bureau may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member or his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

(2) **FILING AND HEARING.** The claimant or any other party entitled to notice of a determination as herein provided, may file an appeal from such determination with the appeal tribunal within seven days after the date of mailing of the notice to his last known address or if such notice is not mailed, within seven days after the service of such notice.

Unless the appeal is withdrawn with its permission or is removed to the Bureau, the appeal tribunal, after affording the parties reasonable opportunity for a fair hearing, shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination: Provided, however, that whenever an appeal involves a question as to whether services were performed by claimant in employment or for an employer, the tribunal shall give special notice of such issue and of the pendency of the appeal to the employing unit and to the Bureau, both of whom shall thenceforth be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such question.

The parties shall be promptly notified of such tribunal's decision and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and such decision shall be final unless, within seven days after the date of mailing of notice thereof to the party's last known address, or in the absence of such mailing, within seven days after the delivery of such notice, further review is initiated pursuant to paragraph (3) of this subsection.

(3) **REVIEW BY THE BUREAU.** The Bureau may, on its own motion, within the time specified in paragraph (2) of this subsection, initiate a review of the decision of the appeal tribunal or may allow an appeal from such decision on application filed within such time by any party entitled to notice of such decision. An appeal filed by such parties shall be allowed as of right if such decision was not unanimous or, if the examiner's determination was not affirmed by the appeal tribunal. Upon review on its own motion or upon ap-

peal, the Bureau may on the basis of the evidence previously submitted in such case, or upon the basis of such additional evidence as it may direct be taken, affirm, modify or reverse the findings and conclusions of the appeal tribunal. The Bureau may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before such appeal tribunal. Any proceeding so removed to the Bureau prior to the completion of a fair hearing shall be heard by said Bureau in accordance with the requirements of this subsection with respect to proceedings (proceedings) before an appeal tribunal. The Bureau shall promptly notify the parties to any proceeding before it of its decision, including its findings and conclusions in support thereof, and such decision shall be final unless within seven days after the mailing of notice thereof to the party's last known address, or, in the absence of such mailing, within seven days after the service of such notice, a proceeding for judicial review is initiated pursuant to paragraph (7) of this subsection: Provided, however, that upon denial by the Bureau of an application for appeal from the decision of the appeal tribunal, the decision of the appeal tribunal shall be deemed to be a decision of the Bureau within the meaning of this paragraph for purposes of judicial review and shall be subject to judicial review within the time and in the manner provided for with respect to decisions of the Bureau, except that the time for initiating such review shall run from the date of notice of the order by the Bureau denying the application for appeal.

(4) PROCEDURE. The Bureau and appeal tribunal shall not be bound by common-law or statutory rules of evidence or by technical rules of procedure, but any hearing or appeal before such tribunals shall be conducted in such manner as to ascertain the substantial rights of the parties. The Bureau shall adopt reasonable regulations governing the manner of filing appeals and the conduct of hearings and appeals, consistent with the provisions of this Act. When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings, thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, provided that in the judgment of the appeal tribunal having jurisdiction of said proceeding, such consolidation would not be prejudicial to any party. No person shall participate on behalf of the Bureau in any case in which he has a direct or indirect interest. A record shall be kept of all testimony and proceedings before the Bureau or in connection with any appeal, but the testimony need not be transcribed unless further review is initiated. Witnesses subpoenaed pursuant to this section shall be allowed fees at the rate specified by law and the fees of such witnesses subpoenaed either by the Bureau or on behalf

of any party to said appeal, shall be deemed part of the expense of administering this Act.

(5) **CONCLUSIVENESS OF DETERMINATIONS AND DECISIONS.** Except insofar as reconsideration of any determination is had under the provisions of subsection (c) of this section, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination which has become final, or in a decision on appeal under this subsection which has become final, shall be conclusive for all the purposes of this Act as between the Bureau, the Claimant, and all employing units who had notice of such determination, redetermination, or decision. Subject to appeal proceedings and judicial review as provided in this section, any determination, redetermination or decision as to rights to benefits shall be conclusive for all the purposes of this Act and shall not be subject to collateral attack by any employing unit, irrespective of notice.

(6) **RULE OF DECISION.** The final decisions of the Bureau or of an appeal tribunal, and the principles of law declared by it in arriving at such decisions, unless expressly or impliedly overruled by a later decision of the Bureau or by a court of competent jurisdiction, shall be binding upon the Bureau and any appeal tribunal in subsequent proceedings which involve similar questions of law, provided, however, that if in connection with any subsequent proceeding the Bureau or an appeal tribunal has serious doubt as to the correctness of any principle so declared he may certify his findings of fact in such case, together with the questions of law involved, to the Bureau, which, after giving notice and reasonable opportunity for hearing upon the law to all parties to such proceeding, shall thereupon certify to the Bureau, or the said appeal tribunal, and such parties its answer to the questions submitted. If the question thus certified to the Bureau arises in connection with a claim for benefits, the Bureau in its discretion may remove to itself the entire proceedings on such claim, and, after proceeding in accordance with the requirements of this subsection with respect to proceedings before an appeal tribunal, shall render its decision upon the entire claim. Any decision made under this paragraph after removal of the proceedings upon a claim to the Bureau, shall have the effect of a decision under paragraph (3) of this subsection and shall be subject to judicial review within the same time and to the same extent.

(7) **JUDICIAL REVIEW.** Within the time specified in paragraph (3) of this subsection, the Bureau, or any party to proceedings before the Bureau, may obtain judicial review thereof by filing in the District Court of Burleigh County a petition for review of such decision and in such proceeding any other party to the proceeding before the Bureau shall be made a party respondent. The petition for review shall be verified and shall state the grounds upon which such review is sought. The Bureau shall be deemed to be a party to any

such proceeding. If the Bureau is a party respondent the petition shall be served upon it by leaving with it, or its chairman, or any other representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer, or petition, the Bureau shall certify and file with the court a verified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Bureau's findings, conclusions and decision therein. Upon the filing of a petition for review by the Bureau or upon the service of the petition upon it, the Bureau shall forthwith send by registered mail to each other party to the proceeding a copy of such petition, and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this subsection the findings of the Bureau as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. Additional evidence may be received by the court in its discretion. Such proceedings shall be heard by the court and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Statute of this State. An appeal may be taken from the decision of the District Court of Burleigh County to the Supreme Court of the State of North Dakota in the same manner, as is otherwise provided by law in civil cases. Upon the final termination of such judicial proceeding, the Bureau shall enter an order in accordance with the mandate of the Court.

(8) REPRESENTATION. The Bureau shall be a party entitled to notice in any proceeding involving a claim for benefits before the Bureau or an appeal tribunal. In any proceeding for judicial review pursuant to paragraph (7) of this subsection the Bureau may be represented by the attorney employed by the Bureau and designated by it for that purpose.

E. PAYMENT OF BENEFITS. Benefits shall be promptly paid in accordance with a determination or redetermination except that, if such determination or redetermination is upon the first claim with respect to a benefit year, or if the record of the proceeding on the claim indicates that a disqualification has been alleged or may exist, such benefits shall not be paid prior to the expiration of the period for appeal. If pursuant to a determination or redetermination benefits are payable in any amount as to which there is no dispute, such amount of benefits shall be promptly paid regardless of any appeal. The commencement of a proceeding for judicial review pursuant to this section shall not operate as a supersedeas or stay unless the Bureau shall so order and the filing of a petition for judicial review shall not authorize the Bureau or any court to direct the denial of any benefits which would have been payable under the Bureau's decision. In the event any benefits are paid to any individual by reason of a determination or redetermination, or decision of an Appeals Tribunal or of the Bureau, or of any court and which said determina-

tion or decision is later reversed, no employer's account shall be charged with such benefits so paid pursuant to such erroneous decision, but benefits shall not be paid for any subsequent weeks of employment involved in such reversal.

F. RECOVERY AND RECOUPMENT. Any person who, by reason of his fraud, has received any sum as benefits under this Act to which he was not entitled shall, in the discretion of the Bureau, be liable to repay such sum to the Bureau for the fund or, if the existence of such fraud has been found by a court of competent jurisdiction or in a redetermination proceeding, to have such sum deducted from any future benefits payable to him under this Act. If any person, other than by reason of his fraud, has received any sum as benefits under this Act to which under a redetermination or decision pursuant to this section, he has been found not entitled, he shall not be liable to repay such sum but shall, in the discretion of the Bureau, be liable to have such sum deducted from any future benefits payable to him with respect to the benefit year current at the time of such receipt; provided, however, that no such recoupment from future benefits shall be had if such sum was received by such person without fault on his part and such recoupment would defeat the purpose of this Act or would be against equity and good conscience. In any case in which under this subsection a claimant is liable to repay to the Bureau any sum for the fund, such sum shall be collectable with interest by civil action in the name of the Bureau, and any interest collected under the terms of this section shall be added to the Unemployment Compensation Benefit Fund of the State of North Dakota.

§ 7. AMENDMENT.] That Section 9 of Chapter 232, Laws of North Dakota for 1937, shall be amended and re-enacted to read as follows:

§ 9. PERIOD, ELECTION AND TERMINATION OF EMPLOYER COVERAGE.

(a) Except as provided in subsection (c) of this section, any employing unit which is or becomes an employer subject to this Act within any calendar year shall be deemed to be an employer during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this Section, an employing unit shall cease to be an employer subject to this Act only as of the first day of January of any calendar year, and only if it files with the Bureau, during January of such year, a written application for termination of coverage, and the Bureau finds that there were no twenty different days, each day being in a different calendar week within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this Act. For the purposes of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of section 2 (I) shall be treated as a single employing unit;

Provided, however, that during January of any calendar year, the Bureau may, on its own motion, file an application for termination of coverage on behalf of any employer who during the preceding year was liable for contributions under the terms of this Act, but who

- (1) has removed from the state;
 - (2) has discontinued the business conducted by them at the time they became liable under the terms of this Act;
 - (3) has become adjudged bankrupt or has become insolvent;
- and, such applications for termination of coverage filed by the Bureau on its own motion, as herein provided, shall be acted upon in exactly the same manner as though said application had been filed by said employer himself.

(c) (1) An employing unit, not otherwise subject to this Act, which files with the Bureau its written election to become an employer subject hereto for not less than two calendar years, shall, with written approval of such election by the Bureau, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if during January of such year it has filed with the Bureau a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this Act are performed, may file with the Bureau a written election that all such services with respect to which payments are not required under an employment security law of any other State or of the Federal Government, and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this Act for not less than two calendar years. Upon the written approval of such election by the Bureau, such services shall be deemed to constitute employment subject to this Act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the Bureau a written notice to that effect.

§ 8. AMENDMENT.] That Section 12 of Chapter 232, Laws of North Dakota for 1937, as amended by Chapter 215, Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 12: Reciprocal Arrangements.

A.—The Bureau is hereby authorized to enter reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government or both, whereby:

- (1) Services performed by an individual for a single employing unit, for which services are continually performed in more than

one state, shall be deemed to be services performed entirely within any one of the states :

i—In which any part of such individual's service is performed ;
or

ii—In which such individual has his residence ; or

iii—In which the employing unit maintains a place of business provided there is in effect as to such services, an election, approved by the agency charged with the administration of such state's Unemployment Compensation Law, pursuant to which all the services performed by such individual for such employing unit, are deemed to be performed entirely within such state ;

(2) Potential rights to benefits accumulated under the unemployment compensation laws of one or more States or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Bureau finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund ;

(3) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the Federal Government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this Act shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another State or of the Federal Government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this Act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the Bureau finds will be fair and reasonable as to all affected interests ; and

(4) Contributions due under this Act with respect to wages for insured work shall for the purposes of Section 15 of this Act be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another State or Federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the fund of such contributions and the actual earnings thereon as the Bureau finds will be fair and reasonable as to all affected interests.

B.—Reimbursements paid from the fund pursuant to paragraph (3) of subsection (A) of this section shall be deemed to be benefits for the purpose of sections 5 and 3 of this Act. The Bureau is authorized to make to other State or Federal agencies and to receive from such other State or Federal agencies, reimbursements from or

to the fund, in accordance with arrangements entered into pursuant to subsection (A) of this Section.

C.—The administration of this Act and of other State and Federal unemployment compensation and public employment service laws will be promoted by cooperation between this State and such other States and the appropriate Federal agencies in exchanging services, and making available facilities and information. The Bureau is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this Act as it deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law, and in like manner, to accept and utilize information, services and facilities made available to this State by the agency charged with the administration of any such other unemployment compensation or public employment service law.

§ 9. AMENDMENT.] That Section 17 of Chapter 232, Laws of North Dakota for 1937 is hereby amended and re-enacted to read as follows:

§ 17. Penalties.]

A. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act or under the Unemployment Compensation Law of any State or of the Federal Government, either for himself or for any other person, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for not longer than ninety (90) days, or both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

B. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or to reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or to reduce any contribution or other payment required from an employing unit under this Act or under the Unemployment Compensation Law of any State or of the Federal Government, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00), or by imprisonment for not to exceed ninety (90) days, or by both such fine and imprisonment; and each such false statement or representation

or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

C. Any person who shall willfully violate any provision of this Act or any order, rule, or regulation thereunder, the violation of which is made unlawfully or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed in this Act nor provided by any other applicable statute, shall be guilty of a misdemeanor and shall be subject to punishment as prescribed at subsection B herein; and each day such violation continues shall be deemed to be a separate offense.

D. If an employee or Appeals Referee, or member of an Appeals Tribunal, or a member of the Workmen's Compensation Bureau, or any employee of said Bureau, in violation of the provisions of Section 25 herein, makes any disclosure of information obtained from any employing unit or individual in the administration of this Act, or if any person who has obtained any list of applicants for work, or of claimants or of recipients of benefits under this Act, shall use or permit the use of such list for any political purpose, he shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00), or imprisonment for not longer than ninety (90) days, or both said fine and imprisonment.

§ 10. AMENDMENT.] That Chapter 232, Laws of North Dakota for 1937, as amended by Chapter 215, Laws of 1939, shall be amended by the addition thereto of Section 25, to read as follows:

§ 25. Disclosure of Information.] Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this Act and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the Unemployment Compensation Division, to the extent necessary for the proper presentation of his claim in any proceeding under this Act with respect thereto. Subject to such restrictions as the Bureau may by regulation prescribe, such information may be made available to any Agency of this or any other State, or any Federal Agency, charged with the administration of an Unemployment Compensation Law, or the maintenance of a system of public employment offices, or the Bureau of Internal Revenue of the United States Department of the Treasury, and information obtained in connection with the administration of the Employment Service may be made available to persons or Agencies for purposes appropriate to the operation of a Public Employment Service. Upon request, therefore, the Bureau shall furnish to any Agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary

occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act. The Bureau may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any National Banking Association, rendered pursuant to the provisions of this Act, and may, in connection with such request, transmit any such report or return to the Comptroller of the Currency of the United States as provided in Section 1606 (c) of the Federal Internal Revenue Code.

§ II. AMENDMENT.] That Chapter 232, Laws of North Dakota for 1937, as amended by Chapter 215, Laws of 1939, shall be further amended by the addition thereto of Section 26, which shall read as follows:

§ 26. Reimbursement of Funds.] The State of North Dakota recognizes its obligation to replace and hereby pledges the faith of this State that funds will be provided in the future and applied to the replacement of, any moneys received after July 1, 1941, from the Social Security Board under Title III of the Social Security Act, any unencumbered balances in the Unemployment Compensation Administration Fund as of that date, any moneys thereafter granted to this State pursuant to the provisions of the Wagner-Peyser Act, and any moneys made available by the State or its political subdivisions and matched by such moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, which the Social Security Board finds have, because of any action or contingency been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary for the Social Security Board for the proper administration of this Act. Such moneys shall be promptly replaced by moneys appropriated for such purpose from the general funds of this State to the Unemployment Compensation Administration Fund for Expenditure as provided at Section 14 of this Act. The Bureau shall promptly report to the Governor, and the Governor to the Legislature, the amount required for such replacement. This Section shall not be construed to relieve the State of North Dakota of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

(b) All monies in the Administration Fund hereinbefore mentioned, received from the United States, or any agency thereof, or which may be appropriated by this State for any of the purposes herein described, shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board of the United States, or any other Agency of the United States succeeding thereto, for the proper and efficient administration of this Act.

(c) Nothing in this Act, or any part thereof, shall be construed to authorize any refund of monies due and payable under the law and regulations in effect at the time such monies were paid.

§ 12. Transition.] Wages payable to an individual for insured work performed prior to January 1, 1941, shall, for the purposes of Section 5 (b) (1), Section 6 (e) and 2 (c) of the Unemployment Compensation Law, as amended by this Act, be deemed to be wages paid within the calendar quarter with respect to which such wages were paid.

§ 13. Repeal.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 14. Separability of Provision.] If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

Approved March 17, 1941.

CHAPTER 262

H. B. No. 258—(Fitch)

UNEMPLOYMENT COMPENSATION TO PERSONS IN MILITARY AND NAVAL SERVICE

An Act Preserving the rights to benefits under the North Dakota Unemployment Compensation Act to persons entering the military or naval service of the United States during the period of such service; repeal; declaring an emergency.

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

§ 1. Notwithstanding any inconsistent provisions of Chapter 232, Laws of 1937, as amended, the benefit rights of trainees, as that term is hereinafter defined, shall be determined in accordance with the following provisions of this Act. Except as herein otherwise provided, all other provisions of Chapter 232, Laws of 1937, as amended, shall continue to be applicable in connection with such benefits.

§ 2. A. The term "military service" as used in this Act, means active service in the land or naval forces of the United States, but the service of an individual in any reserve component of the land or naval forces of the United States who is ordered to active duty in any such force for a period of thirty days or less shall not be deemed to be active service in such force during such period.

B. The term "trainee" as used in this Act means an individual who entered military service after October 1, 1940, and who continued such service for not less than sixty consecutive days and whose military service was terminated on or before March 31, 1943.

§ 3. With respect to any trainee, the first benefit year following the termination of his military service, shall be the one year period beginning on the day next following the date of such termination, except as otherwise provided at Section 4 B hereof.

§ 4. A. With respect to a benefit year as defined in Section 3 herein, the base period of a trainee shall be the four completed calendar quarters prior to his entry into military service, plus any uncompleted calendar quarter prior to such entry.

B. With respect to a trainee who had a benefit year current at the time of his entry into the military service, said trainee may at his option either:

(1) Elect to draw the remainder of the benefits to which he was entitled, and in which case the benefit year provided for at Section 3 herein, shall consist of a period commencing with the day after the termination of his military service and continuing for as long a period as the benefit year being served at the time of his entry into service had to run at the time of such entry, or

(2) Elect to commence the benefit year provided for at Section 3 herein, with a base period consisting of the last four completed calendar quarters prior to his entry into the military service, plus any uncompleted calendar quarter prior to such entry; provided, however, that the trainee mentioned in this paragraph electing to begin the new benefit year, as herein provided, shall not have considered in the base period mentioned herein any wage credits heretofore used in computing benefits payable to said trainee prior to his entry into the military service.

§ 5. The provisions of Section 7, Chapter 232, Laws of 1937, shall not be applied to any trainee after the termination of his military service by reason of any act or course of action on his part prior to the date of his entry into such service.

§ 6. The provisions of this Act shall not be construed to waive the requirement for a waiting period, as otherwise provided in Chapter 232, Laws of 1937, as amended, for the payment of benefits, nor any other requirement of Chapter 232, Laws of 1937, as amended, with respect to the filing of claims, except as herein otherwise expressly provided.

§ 7. If, under an Act of Congress, payments with respect to the unemployment of individuals who have completed a period of military service, are payable by the United States, a trainee shall be disqualified for benefits with respect to any week beginning within a benefit year, as defined in Section 3 of this Act, until he has exhausted all of his rights to such payments from the United States.

§ 8. All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 9. EMERGENCY.] Inasmuch as an emergency is now declared to exist with respect to persons being inducted into the military service of the United States, this Act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1941.

STATE INSTITUTIONS

CHAPTER 263

S. B. No. 155—(Morgan of Walsh and Fowler)

MAINTENANCE EXPENSES OF STATE INSTITUTIONS

An Act Authorizing the Bank of North Dakota to transfer funds for necessary operation and maintenance expenses of the Grafton State School, the State Hospital for the Insane and the State Tuberculosis Sanatorium, subject to the supervision of the Industrial Commission; and declaring an emergency.

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

§ 1. The Bank of North Dakota is hereby authorized to transfer to the Board of Administration of the State of North Dakota for the use and benefit of the Grafton State School, the State Hospital for the Insane and the State Tuberculosis Sanatorium, on or before June 30th, 1943, such sums of money as may be needed, not to exceed in the aggregate \$500,000.00 to pay the necessary operation and maintenance expenses of such Institutions, provided that all transfers of funds shall be made subject to the approval of the North Dakota Industrial Commission; and provided further that the said Institutions and the Board of Administration of the State of North Dakota shall pledge to the said Bank for the repayment of such funds as may be transferred, with interest, all available warrants, judgments and claims accruing to said Institutions. Provided further, that this transfer is made pursuant to the provisions of Section 5192a15 Supplement to the Compiled Laws of North Dakota.

§ 2. EMERGENCY.] Inadequate collections for the County Care and Institutional Collection Funds of the said Institutions having resulted in exhaustion of a substantial part of the monies heretofore appropriated from the State Treasury for the operation and maintenance expenses of said Institutions, and the remainder of such monies being inadequate, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

CHAPTER 264**H. B. No. 191—(Committee on Judiciary)****RECOVERY OF MONIES BY INMATES AND PATIENTS
OF STATE INSTITUTIONS**

An Act to Provide a Limitation of Time Within Which Claims may be made or Proceedings brought to Recover Monies in Personal Accounts of Inmates and Patients in State Charitable Institutions; and Providing the Transfer of Such Monies.

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

§ 1. DEMAND FOR OR PROCEEDINGS TO RECOVER MONIES IN INMATES OR PATIENTS FUND; LIMITATION.] No claim for or proceeding to recover any monies credited to the personal account in any institution herein designated of any person who has been a patient in the State Hospital for the Insane or the Grafton State School or an inmate or patient of any charitable institution of this state, shall be made or commenced after the expiration of six years from the date of death or discharge of such inmate or patient.

§ 2. TRANSFER OF MONIES.] Any monies which remain in such personal account of any inmate or patient described in this act after six years have elapsed from the date of the death or discharge of such inmate or patient shall be transferred to the fund maintained in the institution for the general welfare of the inmates or patients thereof. No probate or other proceedings shall be required for the making of such transfer.

Approved March 17, 1941.

CHAPTER 265

S. B. No. 166—(Wog, Flatt, Guenther, Brunsdale, Lavik and Brant)

SPECIAL AUDITS OF INSTITUTIONS AND OFFICES

An Act Providing for special audits and investigations of the North Dakota Mill and Elevator Association, the Bank of North Dakota, the State Highway Department and the Office of State Highway Commissioner, the Board of Administration, the Board of University and School Lands, the Industrial Commission and the State Securities Commission, and such other offices, departments, institutions and commissions of the State as the Governor shall designate; providing for the appointment of a Special Examining Commissioner and for the prosecution of any action or proceeding which may be deemed warranted as a result of such audit, investigation or check up; providing for an appropriation to carry out the purposes of this Act.

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

§ 1. The Governor is hereby authorized, directed and empowered without compensation, to make a special audit, investigation and check up of any or all of the following, viz: The North Dakota Mill and Elevator Association, the Bank of North Dakota, The State Highway Department and the Office of State Highway Commissioner, the Board of Administration, the Board of University and School Lands, The Industrial Commission and The State Securities Commission, and such other offices, departments, institutions and commissions of the State as the Governor shall designate.

§ 2. In order to carry out the foregoing objects and purposes, the Governor is hereby given and granted the following specific power and authority, viz:

(A) To appoint a citizen of the State of North Dakota to carry out such special audits and investigations as the Governor shall direct, which appointee shall be officially known and designated as the Special Examining Commissioner and to fix the compensation of such commissioner and to remove him at pleasure and appoint another commissioner in his place.

(B) To authorize and empower said commissioner to employ and to discharge and replace such assistants, employees, auditors, accountants, attorneys and investigators and other persons as the Governor may deem advisable and necessary and; with the consent and approval of the Governor, to fix their compensation.

(C) To authorize and empower said commissioner from time to time to expend such sums of money in carrying out the provisions of this Act as the Governor may deem advisable and necessary.

(D) To direct, authorize and empower said commissioner in the name of the State of North Dakota to commence, prosecute and

carry on such actions, suits or proceedings as the Governor may deem justified and advisable by reason of or growing out of any disclosures which may result from proceedings under the Act.

(E) To authorize and direct said commissioner to hold hearings, take testimony and to subpoena witnesses to appear before said commissioner either within or without this State, and to designate and direct the manner in which and the person by whom such subpoena shall be served and in the event that any witness shall fail or refuse to appear at the time and place designated in said subpoena, the Governor shall have the power and authority to direct and authorize said commissioner to apply to a Judge of the District Court in and for such County within the State of North Dakota in which such witness may reside for an Order citing said witness to appear before such Court at such time and place as said Court may direct to show cause why said witness should not be punished for contempt and said District Court is hereby given the same power, authority and jurisdiction to hear, try, determine and punish such witness for failure to obey such subpoena as said Court now has to hear, try, determine and punish a witness who fails to obey a subpoena issued by said Court itself.

(F) To call upon any elective or appointive officer or employee of the State of North Dakota or any department or board thereof or of any political subdivision to furnish information with respect to any transactions had with any of the State Departments, Commissions, or Boards referred to in this Act, and it is hereby made the duty of any such official or employee to furnish any information demanded and failure so to do shall constitute malfeasance in office.

§ 3. If, during the course of any hearing, action, trial or proceedings had under this Act, any witness refuses to testify upon the ground that such testimony would incriminate or tend to incriminate such witness, the Governor is hereby given the power and authority to enter into an agreement with such witness providing that if said witness shall testify fully, he shall be granted full immunity from any prosecution for any crime which may arise from or be involved in the matters and things so testified about.

§ 4. The State Examiner and the Board of Auditors are hereby directed to aid and assist the Governor and the Special Examining Commissioner in carrying out the purposes and provisions of this Act.

§ 5. The Governor shall within fifteen days after the completion of an audit and investigation of any official, agency, department, institution, industry, and of commission, prepare and file in the office of the Secretary of State a complete report of such audit and investigation who shall make such reports, and each of them, available to the citizens of the State of North Dakota for inspection; and

the Governor shall cause copies of such reports to be prepared and sent to each member of the Twenty-seventh Legislative Assembly.

§ 6. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$15,000.00 for the purpose of carrying out the provisions of this Act which money shall be paid out and expended by the State Treasurer upon warrants drawn by the Governor.

Approved March 20, 1941.

CHAPTER 266

H. B. No. 127—(Shure, Beede and Aker. Special Committee on Code Revision.)

TRANSPORTATION OF PERSONS TO STATE INSTITUTIONS

An Act to provide for the transportation of Prisoners and Persons Committed to the State Penitentiary and State Training School, and of Patients Committed to the State Hospital; Providing Fees and Mileage Therefor and Repealing Chapter 173, Session Laws for the year 1917 (being ss. 3526a1 to 3526a5, both inclusive) of the 1925 Supplement to the 1913 Compiled Laws) as Amended by Chapter 275 of the Session Laws for the Year 1931; and Declaring an Emergency.

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

§ 1. TRANSPORTATION OF PRISONERS AND PATIENTS.] The sheriff of each county shall conduct to the Penitentiary all persons convicted in his county and sentenced to be confined in said Penitentiary and all persons committed to the State Hospital for the Insane, as soon as may be after such conviction or commission shall have been had.

§ 2. TRANSPORTATION OF PERSONS COMMITTED TO STATE TRAINING SCHOOL.] The juvenile commissioner, or other officer or person designated by the court at the time commitment is ordered, shall conduct to the State Training School all persons committed thereto.

§ 3. FEES FOR TRANSPORTING PERSONS COMMITTED TO PENITENTIARY, STATE TRAINING SCHOOL, OR STATE HOSPITAL FOR THE INSANE.] Sheriffs and their deputies for transporting persons committed to the State Penitentiary, or the State Hospital for the Insane, and juvenile commissioners or other officers designated by the court to transport persons committed to the State Training School shall receive the same mileage as is provided in Chapter 123 of the Session Laws for the year 1939. The sheriff, his deputy, a

juvenile commissioner, or other officer shall utilize the least expensive method of transportation, and the mileage allowed to him shall be based only upon the use of such least expensive method of transportation. Such mileage shall be paid only after the filing with the county auditor of an itemized statement verified by affidavit showing the mileage traveled, the manner in which traveled, the days traveled, and the purpose of the travel and showing that the method of travel was the least expensive method of transportation. Such statement and affidavit shall be submitted to the board of county commissioners and such claims shall be approved by such board before the same shall be allowed or paid.

§ 4. REPEAL.] That Chapter 173 of the Session Laws of 1917 (ss. 3526a1 to 3526a5, both inclusive, of the 1925 Supplement to the 1913 Compiled Laws) as amended by chapter 275 of the Session Laws for the year 1931 is hereby repealed.

§ 5. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 14, 1941.

TAXATION

CHAPTER 267

S. B. No. 145—(Committee on Tax and Tax Laws)

ASSESSMENT OF CAR LINE COMPANIES, EXPRESS AND AIR TRANSPORTATION COMPANIES

An Act to amend and re-enact Chapter 236 of the Session Laws of 1937.

An Act to provide for the assessment of car line companies, express companies, and air transportation companies. Providing for the allocation of the Tax to the State of North Dakota; and repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

§ 1. All of the provisions of Chapter 291, Laws of 1931, are hereby made applicable in so far as the same may be consistent with the provisions of this Act, to the assessment of car line companies, express companies, and air transportation companies subject to the provisions as follows:

(a) The State Tax Commissioner shall, after all of the pro-

visions of said Chapter 291, Laws of 1931, have been complied with as to tentative valuation hearing and assessment by and before the State Board of Equalization, figure a tax upon that part of the valuation thus determined, as by law provided in the assessment of other utilities. Said taxes shall be computed by applying to said taxable valuation the average millage rate, obtained by dividing the total taxable valuation of all property within the State for the current year, into the total of all State and local taxes assessed within the State on a millage basis for the current year.

(b) On or before the 31st day of January in each year the Tax Commissioner shall file with the State Treasurer a certified list of all companies assessed under the provisions of this Act for the preceding year, together with the valuations and taxes assessed in each case. Such tax shall fall due upon the 1st day of February next following the date of certification, and shall become delinquent on March 1st.

(c) All of the provisions of the law respecting interest rates and penalties upon delinquent personal property assessments generally, shall be equally applicable to the assessments herein provided.

§ 2. If any tax required to be paid by any company under the provisions of this Act shall not be paid on or before October 1st following delinquency, the State Treasurer shall seize personal property belonging to such company found within this State sufficient to pay the amount of such tax, with penalty and interest. The State Treasurer, immediately after seizing said property, shall proceed to advertise such property for sale by publishing a notice for at least two times in a newspaper published in Burleigh County, which notice shall describe the property seized, the amount of the tax and penalty for which the property has been seized, and the time, day, and place when and where said property will be sold, and if the said tax and penalty, with the interest due thereon, is not paid before the time appointed for such sale, which shall not be less than ten days after the first publication of such notice, the State Treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

§ 3. LEGAL PROCEEDINGS TO ENFORCE PAYMENT OF TAX.] If the State Treasurer is unable to find within this State sufficient personal property belonging to such company charged with such tax to pay such tax, with the penalty and interest thereon, he shall notify the Attorney General of the amount of such delinquent tax, with penalty and interest accrued thereon, and it shall be the duty of the Attorney General to institute an action in the district court of Burleigh County to collect the same, and upon the institution of any such action an attachment may be issued and any property owned by such company may be attached.

§ 4. That the tax imposed herein shall be levied for the purpose of providing revenue for the payment of interest due or to accrue upon outstanding North Dakota Real Estate Series Bonds, that the State Treasurer shall collect the tax levied pursuant to the provisions of this act and deposit the same monthly to the credit of, 'Real Estate Bond Interest Payment Fund', established by Chapter 128 of the Session Laws of 1929 and the State Board of Equalization shall consider the revenue derived from the administration of this act in determining, the necessity and amount of any tax to be levied in the manner provided by law.

§ 5. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1941.

CHAPTER 268

S. B. No. 133—(Committee on Judiciary)

ASSESSMENT OF COAL DEPOSITS

An Act to Amend and re-enact Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, relating to Aid to Assessors in Valuing Coal Deposits Reserved to Grantors by Providing That All Deeds and Transfers of Real Property Which Reserves the Coal Deposits to the Grantor Shall Contain a Full Description of the Coal Deposits so Reserved, its Length, Width, and Thickness, and Validating all Reservations and Conveyances of other Minerals or Mineral Deposits Made Prior to the Passage and Taking Effect of this Act, and Limiting the Time Within Which Actions May be Commenced in the Courts of this State to Contest the Validity or Legality of Such Reservations or Conveyances, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 5518 of the Compiled Laws of North Dakota for 1913 be, and the same is hereby amended and re-enacted to read as follows:

§5518. Reservation of coal limited to description. All deeds and transfers of real property in this state that reserve to the grantor the coal in said property shall contain an accurate description of the coal reserved to the grantor, its nature, length, width and thickness and the coal reserved to the grantor shall be limited to such description. Provided that the provisions hereof shall not apply to state and school lands.

§ 2. AMENDMENT.] That Section 5519 of the Compiled

Laws of North Dakota for 1913 be, and the same is hereby amended and re-enacted to read as follows:

§ 5519. Reservation without description ineffectual. Every deed and transfer of real property in this state that recites a reservation to the grantor of the coal deposits in said property, but which does not contain an accurate description of such deposits as required in Section 5518 shall be construed to transfer to the grantee named in such deed, all right, title and interest to such property and all deposits of coal imbedded therein, notwithstanding such attempted reservation.

§ 3. VALIDATION.] Notwithstanding the provisions of Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, all reservations of minerals or mineral deposits other than coal, contained in all deeds and transfers of real property in this state, executed prior to the passage and taking effect of this act, and all conveyances and transfers of minerals or mineral deposits other than coal, separate from the surface rights, by mineral deed or otherwise, executed prior to the passage and taking effect of this act, are hereby declared legal and valid for all purposes, and no action to contest the validity or legality of such reservations or conveyances or transfers by reason of any of the provisions of Sections 5518 and 5519 of the Compiled Laws of North Dakota for 1913, shall be brought in the Courts of this State unless commenced within ninety days after the passage and taking effect of this act.

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

Approved March 7, 1941.

CHAPTER 269

S. B. No. 195—(Committee on Delayed Bills)

DECLARING ASSESSMENTS OF TAXABLE PROPERTY IN EXCESS OF FULL AND TRUE VALUE OF MONEY, VOID

An Act Declaring Assessments of Taxable Property in Excess of the Full and True Value in Money Void; providing for Administrative and Judicial Review of Valuations of Individual or Classes of Taxable Property and the Equalization of Valuations Between Assessment Districts within and among the Several Counties of the State, and Prescribing Procedure for such Review; Providing for the Annual Meetings of the State Board of Equalization to Assess and Equalize Taxable Property, Fixing the Time when Real, Personal and Other Taxes Become Due and Delinquent with Penalties; Prescribing the time for the Levy of State Taxes, and the Fixation of the Mill Rate for State Purposes; providing that the Act Operate Prospectively Only; Repealing Subdivisions 7 of Section 1, Chapter 276 of the Session Laws of 1931, Chapter 225 of the Session Laws of 1939, Section 2141a1 of the 1925 Supplement to the Compiled Laws of 1913, Chapter 246 of the Session Laws of 1937 and Chapter 233 of the Session Laws of 1939.

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

§ 1. TAXABLE PROPERTY, HOW ASSESSED.] That all property in this state subject to taxation upon an ad valorem basis shall be assessed only at its full and true value in money; and that all assessments of any taxable property in excess of the full and true value in money shall be null and void.

That each year the county auditor shall cause to be published (in) the official county newspaper, for two successive weeks the first publication to be not earlier than May 1st and the last publication not later than May 20th, a notice to the effect that proceedings for the equalization of taxes will be taken by the several local Equalization Boards on the second Monday in June and that each taxpayer has a right, on or before July 10th, to make application to the Board of County Commissioners for a review of the assessment made by the assessor and equalized by such local board, and has a right to appeal to the District Court from the decision of such Board of County Commissioners and that if he fails to make such application the assessment against his property and the valuation thereof for taxing purposes will be final.

§ 2. APPLICATIONS, FOR WHAT PURPOSE MADE.] That after the local boards of review have performed the duties prescribed by Section 2133 of the Compiled Laws of North Dakota for the year 1913 applications may be made to the board of county commissioners: (1) to review and re-determine the full and true value in money of any individual property or of any class of property within any taxing district; and (2) to review and equalize the assessments between the several assessment districts of the county.

§ 3. APPLICATIONS, BY WHOM MADE.] Such applications may be made: (1) by any person who owns or has any interest in taxable property that is subject to taxation on an ad valorem basis; (2) by any group of persons or taxpayers acting jointly, or by one taxpayer for and on behalf of other taxpayers when made at their request; or (3) by the governing body of any local taxing district or the presiding and attesting officers thereof.

§ 4. APPLICATIONS, HOW EXECUTED.] All applications to review and re-determine the full and true value in money of taxable property shall be signed and verified: (1) by the owner or person having a taxable interest in the property involved; (2) by all of the owners acting jointly, or by one owner for and on behalf of all taxpayers for whom such application is made, or by their duly authorized attorney of record; and (3) by the presiding and attesting officer of any local taxing district.

§ 5. APPLICATIONS, WHEN AND WHERE FILED.] All applications authorized to be filed under the provisions of this Act shall be brought by the applicant as petitioner against the board of county commissioners as respondents, and shall be filed with the county auditor on or before the tenth day of July of each year.

§ 6. HEARING OF APPLICATIONS.] That all applications filed with the county auditor shall be heard upon not less than five days' written notice to all applicants, which notice shall be served by mail upon every applicant who has signed such application, or upon the applicant who brought such proceedings for the use and benefit of all other taxpayers similarly situated, or upon the applicant's attorney, if any, of record. That the county auditor shall mail such notice of hearing and make proof of service by affidavit, showing the names and addresses of all parties and attorneys to whom such notice was mailed, and shall attach a copy of such notice to such affidavit and file the same in his office.

§ 7. POWER AND DUTIES OF BOARD OF COUNTY COMMISSIONERS.] That the board of county commissioners shall have the power to consolidate two or more applications for the purpose of hearing and in re-determining the full and true value in money of any property for the purpose of taxation; and said board shall consider the location, fertility of soil, the average amount and distribution of seasonal rainfall, wind erosion, soil drifting, the use for which the lands involved are suitable, the kind, quantity, quality and value of crops which are or may be produced, the average rental value for the five preceding years, the reasonable market value of like property situated in the same taxing district, the value of improvements when taxable, and any other facts and circumstances which may be competent and admissible to prove the full and true value in money of such property in courts of competent jurisdiction.

§ 8. DETERMINATION, WHEN MADE, AND NOTICE REQUIRED.]

The Board of county commissioners shall: (1) review and re-determine the full and true value in money of all taxable property described in the application; and (2) review and equalize the assessments between the several assessment districts of the county in accordance with the relief prayed for in each application, so that all assessments and valuations of similar individual property or classes of property within the several assessment districts shall be equal and uniform throughout the county. The Board shall decide and dispose of all applications before the first day of August. Such determination shall be in duplicate and shall show the full and true value in money of all taxable property described in the application, and the increase or decrease, if any, in the valuations of property situated in the several assessment districts made to equalize such assessments. The original and copy of such determination shall be filed with the county auditor, and if an appeal is taken therefrom to the district court the copy shall be attached to the notice of appeal, and if no appeal is taken then the county auditor shall make whatever changes and corrections in the assessment list that may be necessary to conform to the findings and determinations of the board of county commissioners, and notify all the applicants or parties interested in such proceeding, which notice shall be served in the manner as the notice of hearing is served, and like proof of service shall be made and filed in the office of the county auditor.

§ 9. RIGHT OF APPEAL TO THE DISTRICT COURT.] That all applicants who feel aggrieved by the determination of the board of county commissioners may appeal therefrom at any time before the 15th day of August to the district court of the county wherein decision was rendered in the same manner as is now provided by law for appeals from the board of county commissioners; provided that no bond of any kind shall be required to perfect such appeal. Such notice of appeal shall be filed with the clerk of the district court, who shall notify the district or presiding judge of said court of the number of appeals filed in his office after the time allowed to take such appeals has expired; and thereupon the district judge shall call a special term of said court, if no general term is to be held, within ten days thereafter, and shall direct the clerk thereof to place all appeals filed in his office upon the calendar of any regular, special or adjourned term of said court for immediate trial and disposition. The presiding judge of the said district court shall set a definite date for the hearing and trial of all appeals pending in his court which shall not be less than ten days from the date of such order. The judge of said court shall thereupon request a district judge of another judicial district to hear, try and determine all appeals taken under the authority of this Act, and shall direct the clerk of his court to serve notice of the time and place of hearing of all appeals pending trial, which notice shall be served by mail upon all of the applicants interested in said proceeding, or their attorneys, if any, of record, at

least five days before the time specified for the trial thereof. The clerk of said court shall also publish notice in the official newspaper of the county, giving the place and time when all appeals will be heard, which notice shall be published once at least five days before the time specified by the order of the court for the trial of such appeals.

§ 10. MANNER OF TRIAL AND DISPOSITION OF CAUSE.] The district judge designated to preside at such term of court shall hear, try and determine all issues of fact and law presented by such appeals de novo, and shall decide all appeals pending in said court for determination before the first day of October. The court shall have power to require a consolidation of two or more applications for the purpose of trial if the pleadings, facts and issues justify the same to facilitate and expedite the trial and disposition of said applications upon their merits. The court shall hear and consider all testimony submitted relative to the full and true value in money of taxable property which may be admissible under the provisions of Section 7 of this Act, and thereupon the court shall: (1) fix and determine the full and true value in money for the purpose of taxation of all of the property described in each application; (2) adjust and equalize the valuations of all taxable property in the several assessment districts so that they shall be uniform and equal throughout the county in accordance with the relief prayed for by the applicant. That every decision of the district judge rendered pursuant to the provisions of this Act shall be final and shall not be subject to review by appeal.

§ 11. POWER OF COUNTY COMMISSIONERS.] After any judgment of the district court becomes final the county commissioners shall have power to convene in general or special session to order any increase or decrease in the average assessed valuation consistent with the judgment of the court. Provided, that in no case shall the assessed valuation be increased above that found and fixed by the District Court, which in the judgment of the board may be necessary to render the assessments of similar property in the several assessment districts uniform and equal throughout the county; provided, however, that such meeting must be held and order made within ten days after the judgment of the district court has become final.

§ 12. CORRECTION OF ASSESSMENT RECORD.] That after the expiration of ten days from the time when any judgment of the district court has become final the county auditor shall immediately make whatever amendments, changes or corrections of the assessment records of his county that may be necessary to conform such record to the decisions of the district court or the order of the board of county commissioners, if any is made, pursuant to the provisions of Section 11 of this Act; and thereupon the county auditor shall prepare and transmit the assessment record of his county to the

state board of equalization in accordance with the provisions of Section 2140, Compiled Laws of North Dakota for the year 1913.

§ 13. ANNUAL MEETINGS OF STATE BOARD OF EQUALIZATION TO ASSESS TAXABLE PROPERTY.] The board of equalization shall meet annually on the first Tuesday in August at the office of the state tax commissioner to assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of Section 179 of the State Constitution, as amended, and the statutes of this State.

§ 14. ANNUAL MEETINGS OF THE STATE BOARD OF EQUALIZATION TO EQUALIZE TAXABLE PROPERTY.] The state board of equalization shall meet annually on the fourth Tuesday in October at the office of the state tax commissioner, and shall then examine and compare the returns of the assessment of the taxable property assessed by the assessors in local taxing districts in the several counties of the state and proceed to equalize the same so that all assessments of similar taxable property shall be uniform and equal throughout the state at its full and true value thereof in money or at such percentage of the full and true value as may be required by law.

§ 15. HEARING BEFORE STATE BOARD OF EQUALIZATION.] The Board of county commissioners of any of the several counties of the state or representative groups of taxpayers or any taxpayers' association may appear, with counsel, before the state board of equalization at its annual meeting to be heard for the purpose: (1) of opposing any unreasonable or unjust increase or decrease in the valuation of the taxable property of their county as equalized by its county board of equalization; or (2) of demanding a raise or increase of valuation of similar property in any other county that may be necessary so that all assessments of such taxable property in the several counties shall be uniform and equal throughout the State.

§ 16. APPEALS FROM THE STATE BOARD OF EQUALIZATION.] The board of county commissioners of any county feeling aggrieved by the determination of the state board of equalization may, on their own motion or upon request of representative groups of taxpayers or of any taxpayers' association shall, within ten days after notice of such decision appeal to the district court of Burleigh county and demand a trial de novo of the issues of fact and law presented thereby. Such appeal shall be taken by the filing of notice of appeal with the clerk of the district court of Burleigh county, stating the nature and effect of the determination appealed from. A copy of such notice of appeal shall be forthwith served by the appellant upon the state tax commissioner who, as secretary of said board, shall within ten days after the service of such notice of appeal prepare under his certificate a full and complete record of all proceedings had and made of record before the state board of equalization, to-

gether with a certified copy of the determination appealed from, and transmit the same to the clerk of the district court of Burleigh county. Said record, when so filed, shall constitute the judgment roll upon said appeal; and upon the filing thereof the district judge of said court shall set a definite date for the hearing thereof, which shall not be more than ten days from the date of the order of the court. The clerk of said court shall serve notice of the time of the hearing of said appeal by mail upon the appellants and respondents or their attorneys, if any, of record, at least five days before the time specified for the trial of said cause. The trial judge shall have the power to permit the board of county commissioners and any representative group or association of tax payers of any other county to intervene in such proceeding, either as parties appellant or respondent and may permit the filing of complaints in interventions or of answers in defense of the determination of the state board of equalization, whenever in his judgment a complete determination of the controversy presented by such appeal cannot be had without the presence of other counties who are interested in and who will be affected by the judgment of the court.

The trial judge shall review anew the determination of the state board of equalization, and may admit the testimony of the county auditor and other competent evidence to show the valuations of taxable property as equalized by the county board of equalization and any other competent evidence which may establish the relative value of the taxable property involved in such proceeding. The court shall render its decision within ten days after the submission of said cause and order whatever increase or decrease in the percentage of the average of assessed valuations of taxable property involved may be necessary to render such assessments of similar property between the several counties uniform and equal throughout the state; and upon the rendition of such decision the clerk of said court shall immediately transmit a copy thereof to the appellants, intervenors, if any, and the state tax commissioner.

§ 17. APPEALS TO THE SUPREME COURT.] Any party feeling aggrieved by the decision of the district court upon appeal from a determination of the state board of equalization may appeal therefrom to the Supreme court within twenty-days after written notice of the rendition thereof. Such appeal shall be taken and perfected in the same manner as appeals are taken in civil actions. Upon filing of the record on appeal the clerk of the supreme court shall immediately notify the chief justice, who shall direct the clerk to place such case at the head of the calendar and notify the attorneys of record that such cause will be brought on for oral argument not less than five days from the date of such notice; that the supreme court shall decide the issues of fact and the law presented upon such appeal within fifteen days after the submission thereof; that a petition for rehearing may be filed within five days after written notice of

the rendition of such decision, which petition shall be disposed of by the court with reasonable dispatch consistent with the nature and importance of the issues involved. That whenever the judgment of the supreme court becomes final the clerk thereof shall immediately deliver a copy of the decision to the state tax commissioner, who shall immediately notify the governor as chairman of the state board of equalization of the rendition thereof.

§ 18. STATE TAXES, WHEN LEVIED AND RATE FIXED.] That the state board of equalization shall not levy any taxes to defray the expenses of the state or to pay the interest on the state debt or determine the rate of state tax to be levied for the purposes authorized by law until all valuations of taxable property fixed and equalized pursuant to the provisions of this Act shall have become final; provided, however, that if no appeal is taken to the district court from its original determination within the time prescribed by this Act or if an appeal is taken therefrom then the state board of equalization shall meet within ten days after the time for the appeal has expired or the judgment upon appeal has become final to make whatever changes or corrections in its original determination that may be necessary so that the same shall conform to the final judgment of the district court or supreme court rendered upon appeal; and thereupon the said board shall levy all taxes for state purposes and fix the rate of state taxation certify its determination to all of the county auditors in the manner provided by law.

§ 19. REAL AND PERSONAL PROPERTY TAXES, WHEN DUE AND DELINQUENT, WITH PENALTIES.] Any real and personal property taxes, hail insurance taxes and yearly installments of special assessment taxes, shall become due on the first day of March following the year for which such taxes were levied; and the first installment on real estate taxes, all personal property taxes, hail insurance and yearly installments of special assessment taxes, shall become delinquent on the first day of May following, and if not paid on or before the first day of June following shall be subject to a penalty of one per cent, and on July 1st following an additional penalty of one per cent, and on August 1st following an additional penalty of one per cent, and an additional penalty of two per cent on October 15th following. The second installment of real estate taxes shall become delinquent on October 15th, and if not paid on or before that date shall become subject to a penalty of two per cent.

§ 20. DISCOUNT FOR PAYMENT OF TAXES BEFORE DELINQUENCY.] The county treasurer shall allow a five per cent discount to all taxpayers of taxes on real property who shall pay all of the real estate taxes levied and spread upon any tract or parcel of real property in any one year in full on or before the first day of April prior to the date of the delinquency of such real estate taxes. Such a discount shall apply to all general real estate taxes levied for state,

county, city, township, village and school district purposes, but shall not apply to personal property taxes, special assessment installments or to hail indemnity taxes.

§ 21. WAIVER OF RIGHTS AND REMEDIES BY TAXPAYER.] That every taxpayer who feels aggrieved by and dissatisfied with any valuations of his taxable property shall appear before the boards of review of the local taxing districts or before the board of county commissioners while acting in the capacity of a local board of review or of equalization at the time when said boards are required by law to review valuations of individual or classes of property and equalize such valuations in the several assessment districts of the county, to protest and object to any assessments or the equalization thereof which he claims to be unjust and excessive, and if denied, such taxpayer must make and file his application for relief authorized by the provisions of this Act and appeal therefrom within the time prescribed therefor; and unless such taxpayer shall avail himself of the rights and remedies conferred by this Act he shall be deemed to have waived and forfeited any and all rights and remedies which he may have in law or in equity for a review or reduction of any valuations of his taxable property on the ground that such valuations are unjustly excessive or that they exceed the full and true value of his property in money.

§ 22. WAIVER OF ALL RIGHTS AND REMEDIES BY TAXING DISTRICTS.] That unless the governing bodies of local taxing districts exercise the powers and avail themselves of their remedies within the time prescribed by the terms of this Act they shall be deemed to have waived and forfeited all the rights and remedies which they may have in law or in equity for a review of the assessments as equalized: (1) between the several assessment districts of each county, and (2) between the several counties of the state on the ground that such valuations as equalized by the county and state boards of equalization are unjust, excessive or discriminatory.

§ 23. ACT PROSPECTIVE.] The provisions of this Act shall operate prospectively only, and shall not apply to or affect any assessments of taxable property made for the years 1939 and 1940.

§ 24. REPEAL.] That Subdivision 7 of Section 1, Chapter 276, Session Laws of 1931, and Chapter 225 of the Session Laws of 1939, Section 2141a1 of the Supplement to the Compiled Laws of North Dakota for the year 1913, Chapter 246, Session Laws for the year 1937 and Chapter 233, Session Laws for the year 1939, are hereby expressly repealed.

Approved March 18, 1941.

CHAPTER 270

H. B. No. 74—(Tax and Tax Laws Committee)

TAXATION OF BANKS AND TRUST COMPANIES

An Act Imposing a tax on banks and trust Companies Measured by Net Income, Including Income from Tax Exempt Securities, Providing for the Assessment and Collection Thereof; Providing for the Enforcement of such Act and Penalties for the Violation Thereof. Repeal.

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

§ 1. DEFINITION.] The term "bank", as used herein, shall include any banking association organized under the laws of the United States or of the State of North Dakota located in and having its principal place of business in this state.

The term "trust company", as used herein, shall include any trust company organized under the laws of the State of North Dakota, located in and with its principal place of business in this state.

§ 2. IMPOSITION OF TAX.] Beginning with the year 1942, and annually thereafter, an annual tax as hereinafter provided is hereby imposed upon every national banking corporation or association and upon every banking corporation or association other than national banks and upon trust companies for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year.

It is understood that the state is hereby adopting the method numbered (4) authorized by the act of March 23, 1926 amending Section 5219 of the Revised Statutes of the United States relating to taxation of national banks.

§ 3. BASIS OF TAX.] The liability for the tax imposed hereunder shall arise upon the first day of the calendar year 1942, and upon the first day of each calendar year thereafter, and shall be based upon and measured by the net income of each such bank or trust company for the preceding calendar year including the amount of its income from tax exempt securities for such year as returned to the Tax Commissioner and the County Auditor, and the tax thereon shall be computed at the rate of four per centum; provided, however, that the minimum tax assessable to any one taxpayer shall be Fifty (\$50.00) Dollars.

§ 4. DUE DATE.] All taxes levied and assessed under the terms and provisions of this act shall become due on the 31st day of December following the return to the Tax Commissioner, provided for herein, and shall become delinquent on the first day of March next after they become due, and thereupon a penalty of five per

cent shall attach and be charged upon all delinquent taxes, and thenceforth interest shall be charged at the rate of three-fourths of one per cent per month of the original amount of the tax until the same is paid.

§ 5. LIEU TAX.] The tax referred to shall be in lieu of all other taxes or impositions, state, county and local, except taxes upon the real property of each such bank and trust company.

§ 6. REPORT AND PAYMENT OF TAX.] On or before the 15th day of March, 1942, and each year thereafter the managing officer of each bank or trust company located in this state shall file with the State Tax Commissioner of the State of North Dakota, on forms to be provided by said Tax Commissioner, a report in writing under oath showing the amount of the net income of said bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year, and shall at the same time file with the county auditor of the county in which such bank or trust company is located a duplicate original of such return.

§ 7. COMPUTATION AND CERTIFICATION OF TAX.] On or before August 1st of each year the State Tax Commissioner shall compute the total tax to be assessed under the terms and provisions of this act, and shall certify the same to the county auditor of the county in which each such taxpayer is located.

§ 8. DUTY OF THE COUNTY AUDITOR.] It shall be the duty of the county auditor, after receiving such statement from the Tax Commissioner, to certify such taxes to the county treasurer for collection at the same time and in the same manner as real and personal property taxes are required to be so certified.

§ 9. ACCESS TO RECORDS.] For the purpose of enforcing the provisions of this act the State Tax Commissioner shall, upon demand, have access to any and all books and records of each and every bank and trust company subject to the terms and provisions of this act, and shall also have access to any and all records, reports, and information in the office of the State Examiner, concerning any taxpayer subject to the terms and provisions hereof; provided, however, that such information so obtained from such source shall not be disclosed by the Tax Commissioner or any of his agents or employees excepting insofar as may be necessary in the enforcement of the provisions of this act.

§ 10. DUTY OF TAX COMMISSIONER.] Upon the filing with the Tax Commissioner of the report, as provided in Section 6 hereof, it shall be his duty to check such report of net income and the income on tax exempt securities with the Federal income tax report returned to the Collector of Internal Revenue of the United States for the district of North Dakota for such tax year. In the

event of any discrepancy between such return and the return filed with the tax commissioner, it shall be the duty of the tax commissioner to notify the bank or trust company making such return and the county auditor of the county in which such bank or trust company is located, of any error in the amount of such computation, and the amount due shall be adjusted accordingly.

§ 11. REASSESSMENT OF TAX.] It shall be the further duty of the Tax Commissioner from time to time to check the income tax returns of each bank or trust company as made to the Collector of Internal Revenue, and in the event such check reveals a reassessment of such Federal income tax for the year in question, the Tax Commissioner shall immediately reassess the tax due from such bank or trust company under the provisions of this act, and notify such bank or trust company, as the case may be, and the county auditor of the county in which the same is located. If at any time the Tax Commissioner has reason to question the correctness of any return so made to him under the terms and provisions of this act he shall, if he deems it advisable or necessary, investigate the books and records of the bank or trust company in question. If additional tax is due and owing it shall be paid by such bank or trust company to said county treasurer within thirty days after receiving notice thereof from the tax commissioner. If said bank or trust company shall have been found to have overpaid said tax and is entitled to a refund it shall be entitled to deduct the amount thereof from such tax as may be payable by it for the next succeeding calendar year.

§ 12. ALLOCATION OF TAX.] Upon receipt by the county treasurer of the amount of the tax payable hereunder, such county treasurer shall apportion and distribute to the state, county, and to the political subdivisions in which each such bank or trust company is located, the amount of such tax payment so received by him, on the same basis as the general real estate tax levy is apportioned and distributed.

§ 13. PENALTY.] If any taxpayer who has failed to file a return or has filed an incorrect or insufficient return and has been notified by the Tax Commissioner of his delinquency, refuses or neglects within thirty days after such notice to file a proper return or files a fraudulent return, the Tax Commissioner shall determine the tax of such taxpayer according to his best information and belief and assess the same at not more than double the amount so determined. The Tax Commissioner may, in his discretion, allow further time for the filing of a return in such case.

§ 14. FALSE RETURN. PENALTY.] Any taxpayer, or any officer thereof, who, with intent to violate the provisions of this act, shall make, render, sign, or verify any false or fraudulent return or statement required under the terms and provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall

be liable to a fine of not more than One Thousand (\$1000.00) Dollars or imprisonment for not to exceed one year, or, in the discretion of the court, to both such fine and imprisonment.

§ 15. LIEN OF TAX.] The amount of tax due shall, from the date of its assessment, constitute a prior lien upon the assets of the bank, and no dividend shall be declared or distributed while any tax assessed under the provisions hereof remains delinquent and unpaid.

§ 16. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1941.

CHAPTER 271

H. B. No. 98—(Dalzell, Crockett, Bolmeier, Carlson, Wolf of McIntosh, Nelson of Cass)

CIGARETTE TAX

An Act Relating to the Sale of Cigarettes, cigarette papers used for the making of cigarettes, and Snuff; Providing for the Levy, Assessment, Collection and Payment of a Tax Thereon; Providing for the Regulation of the Sales Thereof; Providing Penalties for the Violation Thereof; Repealing Chapter 106, Session Laws of North Dakota for 1927, Chapter 105, Session Laws of North Dakota for 1931, Chapter 269, Session Laws of North Dakota for 1935, and all Acts or Parts of Acts in Conflict Therewith.

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

§ 1. DEFINITION.] Whenever used in this Act, unless the context shall otherwise require, the word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association however formed; the word "distributor" shall mean any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, or snuff, or importing into this State cigarettes, cigarette papers, or snuff, for the purpose of distribution and sale of such cigarettes, cigarette papers, or snuff to dealers and retailers; the words "licensed distributor" shall mean a distributor licensed under the provisions of this Act; the word "dealer" shall mean any person other than a distributor, as defined herein, who is engaged in the business of selling cigarettes, cigarette papers, or snuff; the words "licensed dealer" shall mean a dealer licensed under the provisions of this Act; the word "sale" or "sell" shall include or apply to gifts, exchanges and barter; the word "stamp" shall mean the stamps prepared by the Tax Commissioner, as provided in Section 7, and the word "insignia" shall mean the impression or

mark made on the cigarettes, cigarette papers, or snuff, approved by the Tax Commissioner, as provided in Section 10.

§ 2. DISTRIBUTORS AND DEALERS TO BE LICENSED.] Each person engaged in the business of selling cigarettes, cigarette papers, or snuff in this State, including any distributor or dealer, shall secure a license from the State Tax Commissioner before engaging in such business or continuing to engage therein after July 1, 1941. A separate application and license shall be required for each distributor at each outlet or place of business within the State, and a separate dealer's license shall be required for each retail outlet when a person shall own or control more than one place of business dealing in cigarettes, cigarette papers, or snuff. No retailer shall be granted a distributor's license. Such licenses shall be issued by the State Tax Commissioner on applications stating, on forms prescribed by the State Tax Commissioner, the name and address of the applicant, the address and place of business at which it is proposed to engage in such business, the type of business, and such other information as the Tax Commissioner may require for the proper administration of this Act. Each application for a wholesale or distributor's outlet license shall be accompanied by a fee of \$10.00 and a surety bond to be approved by the Tax Commissioner in the sum of not less than \$1,000.00 nor more than \$5,000.00. Each application for a dealer's outlet license shall be accompanied by a fee of \$5.00. Stamps or insignia provided for in this Act shall be sold to and affixed by "Licensed Distributors" only; "Licensed Dealers", under this Act, may sell or buy or have in their possession, only cigarettes, cigarette papers, or snuff upon which such stamps or insignia have been previously affixed. A distributor's license does not authorize the holder thereof to make sales at retail, as provided in this Act. Each license so issued shall be prominently displayed on the premises covered by the license.

§ 3. LICENSE.] Each license issued under the provisions of this Act shall be valid until the first day of July subsequent to the date of issuance of such license, unless sooner revoked by the State Tax Commissioner pursuant to the provisions of this Act, or unless the business with respect to which such license was issued shall be transferred, in either of which cases the holder of the license shall immediately return it to the State Tax Commissioner. The license issued hereunder is annual and runs from July first of each year to the end of June thirtieth following.

§ 4. REVOCATION OF LICENSE.] The Tax Commissioner may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this Act, or any of the rules or regulations prescribed by the Tax Commissioner. Any person aggrieved by such revocation may apply to the Tax Commissioner for a hearing as hereinafter provided and may further appeal to the Court, as

provided in this Act. When a license has been legally revoked, no license shall again issue to such licensee for a period of one year thereafter. Any person who shall sell any cigarettes, cigarette papers, or snuff after the license of such person has been revoked, as provided herein, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 nor more than \$300.00, and the cost of prosecution and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months and all cigarettes, cigarette papers, or snuff in his possession shall be seized and forfeited to the State.

§ 5. UNLAWFUL TO SELL WITHOUT LICENSE.] No dealer or distributor shall sell cigarettes, cigarette papers, or snuff in this State at wholesale or at retail unless a license shall have been issued to him as prescribed by this Act; and any person who shall sell, offer for sale, or possess with the intent to sell any cigarettes, cigarette papers, or snuff without a license, as provided in this Act, shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$300.00 and the cost of prosecution and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months, and all cigarettes, cigarette papers, or snuff in his possession or in his place of business shall be confiscated and forfeited to the State.

§ 6. TAX.] From and after the taking effect of this Act, there is hereby levied and assessed, and there shall be collected and paid to the State Tax Commissioner upon all cigarettes, cigarette papers, or snuff sold in this State the following taxes, to be paid prior to the time of sale and delivery thereof:

CLASS A. On cigarettes weighing not more than three pounds per thousand, one and one-half mills on each such cigarette.

CLASS B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette.

CLASS C. On cigarette papers made up in packages, books, or sets; on each such package, book or set containing more than fifty papers, one-half cent; containing more than fifty papers but not more than one hundred papers, one cent; containing more than one hundred papers, one cent for each fifty papers or major fractional part thereof.

CLASS D. On snuff, a box of one and one-fourth ounces, two cents tax; on boxes containing more than one and one-fourth ounces, add two cents for each additional one and one-fourth ounces, or major fractional part thereof.

All cigarettes sold in this State under the provisions of this Act shall be put up in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80, or 100 cigarettes each. All snuff sold in this State, under the provisions of this Act, shall be put up in packages containing not more than twelve ounces thereof each. Immediately upon receipt of

(by) the licensee, each package of cigarettes or snuff and each package, book, or set of papers shall, except as hereinafter provided, have securely affixed thereto a suitable stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to sale or removal for consumption, under such regulations as the Tax Commissioner shall prescribe. Each package of snuff or cigarettes displayed, exhibited, stored, or possessed in original cartons or containers or otherwise, within or upon the premises from which sale thereof may be made to the consumers shall be conclusively presumed to be intended for sale to consumers and to be displayed, exhibited, stored, or possessed for such purpose; and each package of snuff or cigarettes, book, or set of papers, at the time the same is displayed, exhibited, stored, or possessed upon such premises, shall, except as hereinafter provided, have securely affixed thereto a suitable stamp, or stamps denoting the tax thereon, which stamps shall be cancelled at the time and manner herein required; and the possession of any such package of snuff or cigarettes, within or upon any premises (possession), shall be prima facie evidence of a sale made in violation of this Act.

For any violation of any of the provisions of this Act, the offender shall upon conviction thereof, be fined not less than One Hundred (\$100.00) Dollars, nor more than Three Hundred (\$300.00) Dollars and costs of prosecution, and shall be committed to the county jail until such fine and costs are paid, but not for a period exceeding six months, and all cigarettes, cigarette papers and snuff in his possession or in his place of business shall be confiscated and forfeited to the State.

It shall be unlawful for any person not authorized hereby, with intent to defraud the State, to make, alter, forge or counterfeit any license, stamp or insignia provided for in this Act, or to have in his possession any forged, counterfeited, spurious, or altered stamps or insignia, and any person found guilty of any violation of this provision shall be fined not more than One Thousand (\$1,000.00) Dollars and shall be imprisoned in the State Penitentiary for a period of not more than three years.

§ 7. STAMPS PREPARED BY COMMISSIONER.] The Tax Commissioner shall prepare and have suitable stamps for use on each kind of package prescribed in Section 6 of this Act, and shall keep an accurate record of all stamps thus delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The Tax Commissioner shall sell the stamps herein provided for only to dealers holding a "distributor's license", issued as provided in this Act, and the monies received from the sale of said stamps shall be turned into the general fund of the State; provided that wholesale distributors of cigarettes, cigarette papers, or snuff, located outside of this State, may apply for and receive a "distributor's license", as hereinbefore provided, and may purchase stamps from the Tax

Commissioner and affix such stamps on cigarettes, cigarette papers, and snuff to be sold in this State, and cancel the same in the manner prescribed by the regulations of the Tax Commissioner, in which case the purchaser within this State receiving such stamped cigarettes, cigarette papers, or snuff, will not be required to purchase and affix stamps thereon.

§ 8. RECORDS TO BE KEPT BY DISTRIBUTORS.] All distributors, who shall dispose of cigarettes, cigarette papers, or snuff, shall keep and preserve for one year all invoices, of cigarettes, cigarette papers, or snuff purchased by them, together with all receipts issued by the State for stamps purchased by said persons, firms, corporations, or associations, and shall permit the State Tax Commissioner, his assistants, authorized agents or representatives to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the State Tax Commissioner, his assistants, authorized agents, or representatives in ascertaining whether the stamps provided for herein have been purchased and used, or to determine the amount of such tax as may be yet due. All persons, firms, or corporations selling or otherwise disposing of cigarettes, cigarette papers, or snuff as distributors, shall keep a record of all sales made within the State, showing the name and address of the purchaser, and the date of sale.

On the first day of January, April, July and October of each year all permittees hereunder, holding a distributor's license, shall, on such form as the State Tax Commissioner shall prescribe, report to such officer all purchases and sales of cigarettes, cigarette papers, or snuff made, from or to any persons either within or without this State during the preceding three months, showing the name and address of the seller, and of the buyer, the date of such sale or purchases and the quantity and make of all cigarettes, cigarette papers, or snuff. Any person, firm, or corporation violating any provisions of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred (\$100.00) Dollars or more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail not more than sixty days, or both such fine and imprisonment. The State Tax Commissioner may revoke any license when the licensee does not make the report herein provided for.

Every consumer who purchases any package of cigarettes, cigarette papers, or snuff, which package does not bear the stamp or insignia placed thereon pursuant to the provisions of this Act; and every person who shall use or consume within this State any cigarettes, cigarette papers, or snuff, unless the same shall be taken from a package or container, as required by and defined in this Act, having attached thereto the stamp or insignia as herein provided for and required, shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment, as in the preceding section set forth.

Any person, firm, or corporation violating any of the provisions

of this Act, or maintaining a place where such cigarettes, cigarette papers, or snuff are sold or kept with intent to sell in violation of the provisions of this Act, shall be deemed guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale cigarettes, cigarette papers, or snuff in violation of the provisions of this Act, shall be deemed to be a nuisance, and such person, firm, or corporation shall be enjoined, and such building or place abated as a nuisance.

§ 9. DISTRIBUTORS IN OR OUT OF STATE MAY PURCHASE STAMPS. DISCOUNT.] Any licensed distributor located within or without this State, shall be entitled to purchase such stamps at a discount of five per cent of the face value of such stamps; and the Tax Commissioner is hereby authorized to allow such discount in the settlement of the account of such wholesale distributor upon the payment to him of any monies which may be, or become due to the State, by reason of the sale, delivery, or consignment to such distributor, of such stamps.

§ 10. TAX METER MACHINES.] The Tax Commissioner may, in lieu of selling stamps, as provided in Section 7 hereof, authorize any manufacturer or distributor located within or without the State to stamp cigarettes, cigarette papers, or snuff with a tax meter machine, and may, under such regulations, as he shall prescribe, provide for the leasing of a tax meter machine to any such manufacturer, or distributor, and supervise and check the operation thereof, and, in such cases, he shall collect and receive the stamp tax herein provided for on all cigarettes, cigarette papers, or snuff sold in, or delivered to dealers in the State for resale, barter, gift, or any other purpose; and any cigarette, cigarette papers, or snuff so stamped with a tax meter machine, shall not be required to have affixed thereon stamps prescribed by Section 6 hereof, and the same may be lawfully possessed and sold by any wholesale or retail dealer in this State; provided that any manufacturer or distributor who stamps cigarettes, cigarette papers, or snuff with a tax meter machine, pursuant to the provisions of this Section, shall be entitled to the discount provided for in Section 9 hereof.

§ 11. DISTRIBUTORS MAY NOT SELL STAMPS.] No distributor or wholesale dealer shall resell to any other distributor or dealer any stamps purchased by him from the Tax Commissioner; and any distributor who has on hand any unused and uncanceled stamps at the time of discontinuing business of selling cigarettes, cigarette papers, or snuff, may return such stamps to the Tax Commissioner and receive 95 per cent of the face value thereof.

§ 12. UNLAWFUL TO TRANSPORT UNSTAMPED.] It shall be unlawful for any person, firm, or corporation to transport into, receive, carry, or move from place to place in this State, by automobile, truck, airplane, conveyance, vehicle, or other means of transporta-

tion, except in the course of interstate commerce, any unstamped cigarettes, cigarette papers, or snuff, and any such automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation, in which any cigarettes, cigarette papers, or snuff are transported or carried, in violation of this Act, and any cigarettes, cigarette papers, or snuff, and other equipment or personal property used as an incident to such transportation and found in such means of transportation, shall be subject to seizure by the Tax Commissioner, or by any sheriff, or other police officer, with or without process, and shall be subject to forfeiture in the manner hereinafter provided.

§ 13. SEIZURES.] Upon the seizure of any cigarettes, cigarette papers, or snuff, and within two days thereafter, the officer making such seizure shall deliver an inventory of the property seized to the person from whom such seizure was made, if known, and file a copy thereof with the Tax Commissioner. Within ten days after the date of the service of such inventory, the person from whom the seizure was made, or any other person claiming an interest in the property seized, may file a demand for a judicial determination of the question as to whether such property was, or is lawfully subject to seizure and forfeiture, and thereupon the Tax Commissioner shall, within thirty days, institute an action in the District Court, of the county where such seizure was made, to determine the issue of forfeiture. Such action shall be brought in the name of the State of North Dakota, and shall be prosecuted by the State's Attorney, the Tax Commissioner, or by the Attorney General. The District Court shall hear such action as a court case, and shall try and determine the issues of law and fact involved. In case a judgment of forfeiture is entered, the Tax Commissioner shall, unless such judgment is stayed pending an appeal to the Supreme Court, as soon as convenient, sell such forfeited property and cover the proceeds, less court costs, into the common school fund of the State. In case such demand is made and no action is commenced, as herein provided, such property shall be released by the Tax Commissioner and redelivered to the person entitled thereto. In the event no demand is made, as herein provided, such seized property shall be deemed forfeited to the State by operation of law, and the Tax Commissioner may thereupon sell the same. In case of the seizure of an automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation pursuant to the provisions of this Act, the officer making the seizure shall file a like inventory, and upon demand as hereinbefore provided, the Tax Commissioner shall, within thirty days thereafter, commence an action in the District Court of the county where such seizure was made, to declare a forfeiture of such vehicle or other means of transportation, and such action shall be heard and determined as other forfeiture actions instituted hereunder; provided, however, that whenever the Tax Commissioner is satisfied that any person from whom property is seized, under the provisions

of this Act, was acting in good faith and without intent to evade the revenue provisions hereof, he shall release the property seized without further legal proceedings.

§ 14. HEARINGS BY COMMISSIONER.] The Tax Commissioner and his duly authorized agents are empowered to conduct investigations, inquiries, and hearings hereunder, and shall have the power to administer oaths and take testimony under oath, relative to the matter of inquiry or investigation. At the hearing the Tax Commissioner or his authorized agent may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry.

The Tax Commissioner or his agent, after said hearing, shall make his findings and his order in writing, which findings and order shall be filed in the office of the Tax Commissioner and a copy thereof shall be delivered by mail or otherwise to the party or parties investigated and a further copy shall be mailed to the State's Attorney in and for the county in which the hearing was held.

§ 15. APPEALS.] Any person aggrieved by any action taken by the Tax Commissioner or his authorized agent, under the provisions of this Act, may within thirty days of such action apply to the Tax Commissioner in writing asking for a hearing or re-hearing of the matter before the Tax Commissioner. The Tax Commissioner shall promptly consider each such application and may grant or deny the hearing requested. If the hearing be denied, the applicant shall be notified thereof forthwith, and, if granted, the Tax Commissioner shall notify the applicant of the time and place fixed for such hearing or re-hearing. After such hearing, the Tax Commissioner may make such order in the premises as may appear to him just and lawful, and shall furnish a copy of such order to the applicant. The Tax Commissioner, on his own initiative, may, by at least ten days' notice in writing, order a hearing on any matters concerned with the administration of this Act.

§ 16. APPEALS FROM DECISION OF THE TAX COMMISSIONER.] Any person aggrieved because of any action or decision of the Tax Commissioner, under the provisions of this Act, may appeal therefrom to the District Court in and for the county of the taxpayer's residence or place of business, which appeal shall be taken by notice of appeal in writing setting forth the grounds upon which the appeal is taken, or the action or decision of the Tax Commissioner, of which the appellant is aggrieved. Such appeal shall be perfected within thirty days of notice of any decision and taken by serving a notice of appeal upon the Tax Commissioner, and filing the same with the Clerk of District Court of the county in which the appeal is taken, together with the filing with said Clerk of Court of a bond to the State of North Dakota conditioned upon the prosecution of said appeal and the compliance with the orders and decrees

of the Court in the premises. The bond shall be in the form required by law and in such amount as the Court may require. Such notice of appeal shall be signed by the appellant or his attorney, and shall be heard upon ten days' notice by either party or upon stipulation. Said District Court may grant such relief as may be equitable in the premises.

§ 17. TAX COMMISSIONER TO ADMINISTER ACT.] The Tax Commissioner and his authorized agents are charged with the duty of enforcing the provisions of this Act, and are hereby given the power of peace officers, and authorized and empowered to arrest violators of this Act, and to enter complaint before any Court of competent jurisdiction, and to seize without formal warrant and use as evidence any forged, counterfeit, spurious, or altered license or stamp found in the possession of any person, firm, or corporation in violation of this Act.

The Tax Commissioner shall have power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act for its detailed and efficient administration.

§ 18. JUDICIAL INTERPRETATION.] If any section, part, or provision of this Act, or the application thereof to any party or class, or to any circumstances, or if any portion of the rules and regulations adopted under the provisions hereof shall be held to be invalid for any cause whatsoever, the remainder of this Act or the application thereto to the parties or circumstances other than those as to which it is held to be invalid, shall not be affected thereby and shall remain in full force and effect, as though no part thereof had been declared to be invalid.

§ 19. STATE'S ATTORNEY AND OTHER OFFICERS MAY BE CALLED.] In the enforcement of this Act, the State Tax Commissioner may call to his assistance any State's Attorney, or any peace officer, and is hereby authorized to appoint such additional assistants as may be required to carry out the provisions of this Act.

§ 20. REPEAL.] Chapter 106 of the Session Laws of North Dakota for 1927, Chapter 105 of the Session Laws of North Dakota for 1931, Chapter 269 of the Session Laws of North Dakota for 1935, and all other Acts, or parts of Acts in conflict herewith are hereby repealed.

Approved March 8, 1941.

CHAPTER 272

H. B. No. 282—(Aker, Fuglestad, Gackle, Wambheim)

CONTRACTS FOR TAX COLLECTION

An Act to Amend and Re-enact Section 2173, Compiled Laws of 1913,
Relative to Contracts for Tax Collection.

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

§ 1. Section 2173 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 2173. CONTRACT FOR COLLECTION.] In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid, uncanceled or not put into personal property tax judgments, or in any county where delinquent taxes have been put into tax judgment, the commissioners of such county may contract with the sheriff of the county, or with any elector of the county, to pay a percentage of such delinquent personal property taxes, or personal property tax judgment, as compensation for collecting same, in lieu of or in addition to the compensation now provided by law. When such a contract is made with any person other than the sheriff the contract may cover all or only certain taxing districts within the county so that contracts may be made with different collectors for different portions of the territory within such county. Such percentage for collections shall not exceed ten (10) per cent nor shall a collection fee, as herein provided, be paid to the sheriff or any other collector for any moneys deducted from warrants or other obligations of the county or of the taxing districts thereof, under the provisions of Chapter 273 and 274, Laws of 1935, as amended, or under similar deduction statutes. Any such collectors, other than the sheriff, with which the county has contracted for collection of such moneys shall furnish a good and sufficient bond in an amount to be set by the commissioners for the faithful discharge of their duties and for the payment of all moneys by them collected to the county and they shall on the second day of each month file with the county treasurer a verified report and account of the taxes collected by them the preceding month showing the name of the individual from whom the taxes were collected and the amount collected from each and shall at the same time pay to the county treasurer the full amount of such collection. The expense of such collection shall be borne pro rata by the state, county, city, village, township, school district, or park district in which such tax is laid.

Approved March 7, 1941.

CHAPTER 273

H. B. No. 152—(Committee on Tax and Tax Laws)

ADJUSTMENT OF DELINQUENT TAXES

An Act to Amend and Re-enact Chapter 240 of the Session Laws of North Dakota for 1937 as Amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, Providing for an Adjustment of Delinquent Taxes for 1939 and Prior Years, Authorizing Boards of County Commissioners to Make Extension Contracts for the Payment of Delinquent Taxes and for the Cancellation of such Contracts, Providing for the Suspension of Tax Collection and Tax Deed Laws as to Taxes Affected by such Contracts, Repealing All Acts and Parts of Acts in Conflict Herewith, and Declaring an Emergency.

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

§ I. AMENDMENT.] That Section 1, Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be amended and re-enacted to read as follows:

§ I. (1) All delinquent real and personal property taxes, except as hereinafter provided, for the years 1939 and prior years, together with accrued interest and penalties thereon, shall be cancelled and discharged in full upon the payment of the full amount of the original tax; provided that all payments hereunder must be made on or before December 1, 1941; and, provided further, that such taxes shall remain payable separately according to years, and any person, or corporation, having an interest in, or lien, or mortgage upon any property affected by this act shall be entitled to take advantage of the provisions hereof. This act shall not apply to any real estate taxes, the tax certificates for which have been sold or assigned to any purchases other than the county, nor to special assessments levied for local improvements, nor special assessments levied for drainage or irrigation districts.

(2) The auditors and treasurers of each county shall accept in full payment and discharge of all such delinquent real estate taxes, including interest and penalty thereon, payments made in accordance with the provisions of this act, and the sheriff of each county shall accept in full payment of all delinquent personal property taxes, including interest and penalties, payments made hereunder.

(3) The Board of county commissioners may, on or before December 1, 1941 upon application of any person owning property upon which taxes, either real or personal, are delinquent for the year 1939, or prior years, permit the payment of any such delinquent taxes, except special assessments levied for local improvements and special assessments levied by drainage or irrigation districts, on the reduced amounts hereinbefore provided for, in not to exceed ten

(10) annual installments, with interest at the rate of 4% per annum from April 1st, 1941, payable on or before October 15th of each year, provided that ten per cent (10%) of the principal is paid when the extension is allowed ten per cent (10%), on the following October 15th, and ten per cent (10%) on each succeeding year until the amount is fully paid; and upon the payment in full of such installments, with accrued interest, such delinquent taxes shall be cancelled and discharged of record.

§ 2. AMENDMENT.] That Section 2 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 2. The Board of county commissioners shall require the owner of the property upon which there is delinquent taxes and who applies for an extension hereunder, to enter into a contract with the county wherein the owner agrees to pay the full amount of the balance of the principal of such delinquent taxes; provided that no owner shall be entitled to enter into such an extension contract unless he shall have first paid any delinquent taxes for the year 1940, and the subsequent years; and provided further, that such owner shall stipulate in his contract that if he fails to pay taxes subsequently to become due against the property described in said contract on or before the date of delinquency, his contract may be cancelled.

§ 3. AMENDMENT.] That Section 3 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 3. Upon the execution and delivery of an extension contract as herein provided, all proceedings for the collection of delinquent taxes, including any tax deed proceedings, which may be pending, shall be suspended and shall remain suspended while such contract is in force; provided, that upon the failure of the owner, or his successor in interest, to pay one or more installments due upon such contract, or upon the failure to pay any installments of taxes for the year 1940, or any subsequent years, prior to the date of delinquency, the board of county commissioners shall have the power, in its discretion, to declare such contract cancelled, and thereupon the proper officers shall proceed to enforce the collection, in the manner provided by law, of the full amount of the unpaid delinquent taxes, with penalty and interest, as though no extension contract had been made.

§ 4. AMENDMENT.] That Section 4 of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 4. Any owner who has entered into an extension contract under the provisions of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939, and which contract is in force when this act goes into effect, shall have the right to discharge the interest in full upon his obligation under any existing contract by paying interest at 4% from April 1st, 1941. Any owner who has entered into an extension contract, or his successor in interest, or any lien or mortgage holder, shall have the right to pay the full amount remaining unpaid upon such extension contract, at any time while such contract is in force.

§ 5. It is hereby declared to be the object and purpose of this act to provide for the payment of the delinquent taxes herein specified upon the reduced basis herein provided in order to permit taxpayers to place themselves upon a current tax paying basis but it is also declared to be the future fixed policy of this State that no further reductions in the payment of taxes shall be given, and that no further extension of the period of redemption from tax sales or suspension of the issuance of tax deeds shall be granted.

§ 6. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed, except that such parts of Chapter 240 of the Session Laws of North Dakota for 1937 as amended by Chapter 227 of the Session Laws of North Dakota for the year 1939 as may be necessary for the enforcement of any contracts made pursuant thereto shall remain in force.

§ 7. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 15, 1941.

CHAPTER 274

S. B. No. 43—(Committee on Taxes & Tax Laws)

EXCISE TAX

An Act to amend and re-enact Sub-Section 4 of Section 1, and Section 2, of Chapter 241 of the Session Laws of North Dakota for 1939, and to repeal Sub-Section 9 of Section 3 of Chapter 241 of the Session Laws of North Dakota for 1939, being an act to impose a tax on the storage, use or consumption in this state of tangible personal property, as such terms are defined therein; to provide certain exemptions therefrom; to provide for the collection of such tax and the administration of the act; to fix fines and penalties for the violation of the provisions of the act, and to re-adopt Sections 1, 3, (excepting Sub-Section 9 of Section 3) 4, 5, 6, 8, 9, and 10 of said act by reference, and to amend and re-enact Sections 7, 11, and 14 of said Chapter 241 of the Session Laws of North Dakota for 1939.

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

§ 1. AMENDMENT.] That Sub-Section 4 of Section 1 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

(4) "Tangible personal property" means tangible goods, wares and merchandise, gas, electricity, and water, when furnished or delivered to consumers or users within this state, and also means machinery, appliances, apparatus, and other like property when leased for use within this state, or when purchased without this state, and used or operated by the owner or lessee thereof within this state.

§ 2. Amendment.] That Section 2 of Chapter 241 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted to read as follows:

§ 2. Tax Imposed.] An excise tax is hereby imposed on the storage, use or consumption in this state of tangible personal property purchased at retail for storage, use or consumption in this state, at the rate of two per cent (2%) of the purchase price of such property.

§ 3. Repeal.] That Sub-Section 9 of Section 3 of Chapter 241 of the Session Laws of North Dakota for 1939, be and the same is hereby repealed.

§ 4. Provisions of Use Tax Law Applicable.] All of the provisions of Section 1, except Sub-Section 4 thereof (which is separately re-enacted herein), Section 3, except Sub-Section 9 thereof, Section 4, Section 5, Section 6, Section 8, Section 9, and Section 10, of Chapter 241 of the Session Laws of North Dakota for the year 1939, are hereby incorporated into and made a part of this Act; and the Tax Commissioner is hereby authorized and empowered to enforce the provisions thereof, and for that purpose, shall exercise all

of the powers and duties conferred upon him by the Use Tax and Sales Tax Laws in effect in this State.

§ 5. Provisions of Sales Tax Act Applicable.] All of the provisions of Section 5, Sub-Sections 4 and 5 of Section 10, and Sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, of Chapter 249 of the Session Laws of North Dakota for the year 1937, and any amendment or re-enactment thereof, are hereby incorporated into and made a part of this Act; and the Tax Commissioner is hereby authorized and empowered to enforce all of the powers and duties conferred upon him by the provisions of said Chapter 249 of the Session Laws of North Dakota for the year 1937, and any amendment or re-enactment thereof.

§ 6. Amendment.] That Section 7 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 7. Unlawful Advertising.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this Section within this State shall be guilty of misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each offense or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

§ 7. Amendment.] That Section 14 of Chapter 241 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 14. Unlawful Sale or Soliciting.] It shall be unlawful for any agent, canvasser, or employee of any retailer, not authorized by permit from the Tax Commissioner of the State of North Dakota to collect the tax as herein provided, to sell, solicit orders for or deliver any tangible personal property in this State. Any such agent canvasser or employee violating the provisions of this Act shall be guilty of a misdemeanor and subject to a fine of not to exceed one hundred (\$100.00) dollars for each such offense or to imprisonment for not to exceed thirty (30) days or to both such fine and imprisonment in the discretion of the court.

§ 8. Severability Clause.] If any section, subsection, clause, sentence, or phrase of this act is, for any reason, held to be unconstitutional and invalid, such decision shall not effect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence or phrase hereof, irrespective of whether any one or more

of the sections, subsections, clauses, sentences, or phrases, be declared unconstitutional.

Approved March 15, 1941.

CHAPTER 275

S. B. No. 121—(Gronvold, Bond, Kehoe, and Troxel)

FARM MACHINERY TAXATION, EXEMPTION

An Act to exempt new farm machinery, purchased to be used in farming operations from personal property tax in first year after the purchase.

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

§ 1. FARM MACHINERY, TAXATION, EXEMPTION.] All new farm machinery, purchased to be used by the buyer in his farming operations, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase, were this Act not in force.

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

Approved March 6, 1941.

CHAPTER 276

H. B. No. 330—(Delayed Bills Committee)

HAIL INDEMNITY TAX ABATEMENT

An Act to Amend and Re-enact Section 189b29 of the 1925 Supplement to the Compiled laws of North Dakota for 1913 as amended by Section 18 of Chapter 137 Session Laws of North Dakota for 1933, providing for the abatement of Hail Indemnity Tax, correction of records and reduction from surplus and Declaring an Emergency.

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

§ 1. AMENDMENT. That Section 189b29 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended by Section 18 of Chapter 137, Session Laws of North Dakota for 1933, be and the same is hereby amended and re-enacted to read as follows:

§ 189b29. ABATEMENT OF HAIL INDEMNITY TAX AND CORRECTION OF RECORDS.] The Commissioner of Insurance may make proper correction of the hail insurance tax records on applications submitted to him in the manner and form he shall determine. In cases of erroneous listings of lands for hail insurance purposes, before the Commissioner may approve the corrections, proofs satisfactory to him shall first be submitted. Provided, that such applications, in order to be considered, must be filed before the levy for hail indemnity tax be determined for that year, and before adjustment of loss, if any, for such year is made. Provided, further, that in all such cases where holders of the superior liens have on proper showing paid general taxes without the inclusions of the hail indemnity tax, and where such taxes still remain of record, when three years have elapsed after passing of title on foreclosure of such superior liens without the premises reverting to the original owner, such hail indemnity taxes shall be cancelled from the records of the counties and the Hail Insurance Department. Provided further, that as far as pertains to hail taxes for any year prior to 1932, the county commissioners, with the approval of the Commissioner of Insurance, may in case of error abate any hail insurance tax wrongfully levied and refund any tax wrongfully collected under the provisions of this Act upon presentation to them of a written application. The Commissioner of Insurance is hereby invested with authority to make compromise settlements, including cancellation and satisfaction of records, of hail indemnity taxes not constituting prior liens where the hail indemnity tax lien is subject to extinction by mortgage foreclosure; however, in case the ownership of the land reverts to the original mortgagor, the balance of the taxes shall again become a lien against the land, provided, however, that the amount of cancellations or compromises made upon State Land Department property or real estate acquired by tax deed proceedings by the various counties, shall be deducted from the Hail Insurance Surplus Fund, and no subsequent levy shall be required to compensate for the loss thereof.

§ 2. 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 8, 1941.

CHAPTER 277**H. B. No. 329—(Committee on Delayed Bills)**

**CANCELLATION OF PENALTY AND INTEREST CERTAIN
HAIL TAXES**

An Act Providing for the Cancellation of Penalty and Interest on 1937 and Prior Hail Indemnity Taxes; Reduction from Surplus Fund of the State Hail Insurance Department of the amounts cancelled; Declaring an Emergency.

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

§ 1. CANCELLATION OF PENALTY AND INTEREST OF THE 1937 AND PRIOR HAIL INDEMNITY TAXES.] Upon the passage and approval of this Act, it shall be the duty of the State Hail Insurance Department to cancel off and discharge all penalty and interest upon hail indemnity taxes for the year 1937 and prior, and to deduct from the Surplus Fund of the State Hail Insurance Department the amounts so cancelled and further providing that no levy shall hereafter be made by the Hail Insurance Department to compensate for said cancellations.

§ 2. 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 7, 1941.

CHAPTER 278**H. B. No. 248—(Bymers, Nelson of Cass, Arndt, Schwartz, Rygg
and Sagehorn)**

INCOME TAX, AMENDMENT

An Act to Amend and Re-enact Section 2346a16 of the 1925 Supplement to the Compiled Laws of 1913, as amended by Chapter 253 of the Session Laws of 1933; to enact a Reciprocity Clause and declaring and Emergency.

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

§ 1. AMENDMENT.] That Section 2346a16 of the 1925 Supplement to the Compiled Laws of 1913 as amended by Chapter 253 of the Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 2346a16. GROSS INCOME DEFINED.] (1) The words "gross income" include gains, profits, and income derived from salaries,

wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use or interest in such property; also from interest, rent, dividends, securities or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatsoever, including all salaries, wages and commissions of whatever kind received from the State of North Dakota or any of its political subdivisions, and includes and applies to the salaries and compensation of the following officers of the State of North Dakota: Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads (now called Public Service Commission), Attorney General, Commissioner of Agriculture and Labor, Tax Commissioner, all Judges of the Supreme Court and of the District Courts, all county officials including Sheriffs, State's Attorneys, County Auditors, Treasurers, Register of Deeds, Superintendents of Schools, Clerks of Court, County Judges, County Surveyors, Coroners, and each and every elected state or county official who is now in office or who may be elected to office, and any salary, wages or compensation of officers or employees of the United States or agencies or instrumentalities including those in the military, naval and postal forces of the United States to the extent the collection of state taxes thereon is not prohibited by the terms of the "Public Salary Act of 1939" (it being hereby declared the policy of this state to comply with the provisions of said act) and all other gains, profits, and income which the state may now or hereafter constitutionally tax.

(2) The term "gross income" does not include the following items, which shall be exempt from taxation under this Act:

a. Proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured.

b. The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity, contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

c. The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

d. Interest upon obligations of the United States or its possessions or upon obligations of the State of North Dakota or any political subdivisions of the State of North Dakota except that interest upon non-tax-exempt securities at present or in future shall be included in gross income and be subject to tax.

e. Any amount received through accident or health insurance for personal injuries or sickness, plus the amount of damages re-

ceived whether by suit or agreement on account of such injuries or sickness.

§ 2. RECIPROCITY CLAUSE.] The Tax Commissioner of the State of North Dakota is hereby charged with the administration of this Act. Such Tax Commissioner shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed and efficient administration, and may enter into reciprocal agreements with the authorized tax officials of other states to assist in the enforcement and to avoid injustices to taxpayers from double taxation.

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

§ 4. DATE OF EFFECT.] This Act shall be effective on all income received during the year ending December 31, 1940, as provided in this Act.

§ 5. 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 6, 1941.

CHAPTER 279

S. B. No. 151—(Bond and Troxel)

TAX COLLECTION PERSONAL PROPERTY

An Act to Amend and Re-enact Subsection (e) of Section 1 of Chapter 279 of the Session Laws of 1931, the Same being an Amendment of Section 2166 C. L. 1913 as Amended by Section 3 of Chapter 241 of the Session Laws of 1929, Relating to Collection of Personal Property Taxes by County Sheriff, and Declaring an Emergency.

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

§ 1. AMENDMENT.] Subsection (e) of Section 1 of Chapter 279 of the Session Laws of 1931, the same being an amendment of Section 2166 C. L. 1913 as amended by Section 3 of Chapter 241 of the Session Laws of 1929, is hereby amended and re-enacted to read as follows:

(e) After receiving such list from the County Treasurer, which list shall give the name and/or number of the school district in which tax debtor named therein resides, the sheriff shall on the first day of each month thereafter make out and file with the County Treasurer a statement of the personal property taxes collected, giving the name of the taxpayer, the name of the township and the

name and/or number of the school district wherein he resides, and the post office address, of the taxpayer, and the amount of the tax and the amount of penalty and interest collected thereon. Upon receiving payment of any personal property tax specified upon list furnished by the County Treasurer as aforesaid, the sheriff shall make four copies of a receipt therefor, which receipt shall contain the information herein above required to be given by the sheriff in his statement to the County Treasurer of taxes collected, one of which receipts shall be given to the taxpayer, one shall be retained by the sheriff and one shall accompany the statement furnished to the County Treasurer as aforesaid, and one shall be delivered to the County Auditor together with a duplicate of the statement furnished to the County Treasurer as aforesaid. The sheriff shall pay to the County Treasurer all personal property taxes collected as shown by his said statement at the time of delivering said statement to the County Treasurer. And the sheriff, on or before January 1st of each year, shall also file with the County Auditor a full and complete statement of taxes collected, as herein provided, together with the list of uncollected taxes as required by Section 2169 of the Compiled Laws of North Dakota for the year 1913 or Acts amendatory thereof. Failure by any sheriff to file any of the reports herein required shall subject him to a penalty of five dollars (\$5.00) for failure to file such report and such penalty shall be deducted from salary due him or which may thereafter become due him.

The sheriff shall retain in his office the original delinquent tax list furnished him by the County Treasurer, and it shall be his duty to collect at any time any taxes remaining uncanceled, unabated or unpaid, and upon sending his notices for each succeeding year he shall include any unpaid balances together with interest, penalty and costs, with the new delinquent amount, which shall be collected in the same manner as the current delinquent tax.

§ 2. As the purpose of this amendment is to eliminate a duplication of receipts now required by the Section amended and to reduce the expense of the county in collection of personal property taxes, this act is hereby declared to be an emergency measure, and the same shall be in full force and effect from and after its passage and approval.

Approved March 15, 1941.

CHAPTER 280

S. B. No. 116—(Bond and Blank)

LISTING OF REAL AND PERSONAL PROPERTY FOR
ASSESSMENT

An Act to Amend and Re-enact Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as Amended by Chapter 229, of the Session Laws for 1939, Relating to the Manner of Listing Real and Personal Property for Assessment Purposes, and Providing that as to Stocks of Merchandise, the Average Value thereof for the Year Preceding the Time of Assessment, Shall be taken as the Value thereof for Assessment Purposes, and Declaring an Emergency.

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

§ I. AMENDMENT.] Section 2093 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 229 of the Session Laws for the year 1939, is hereby amended and re-enacted to read as follows:

§ 2093. (1) All real property subject to taxation shall be listed and assessed every odd numbered year with reference to its value on April first of that year and shall not be re-assessed in the following year, except by order of the board of county commissioners or Tax Commissioner. Property assessed in odd numbered years shall be taxed upon the assessed valuation as equalized by the State Board of Equalization in such year and in the following year except as herein otherwise provided. All real property becoming taxable in any intervening year shall be listed and assessed with reference to its value on April first in that year.

(2) All personal property except stocks of merchandise, shall be listed and assessed annually with reference to its value on April first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve months period preceding April first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data, shall be available, at all times, for examination by the assessor and the other taxing officers.

(3) In every even numbered year at the time of assessing personal property, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, and all buildings or other structure of any kind, whether completed or in process of completion, or improvements on any structures of over one hundred dollars (\$100.00) in value, the value of which has not been previously added to or included in the valuation of the land or lots on which they have been erected, excepting

farm buildings now exempt from taxation. Whenever after the first day of April and before the first day of June in any year, it is made to appear to the assessor by the oath of the owner or owners, that any buildings, structure or other improvement or tangible personal property, which is listed for taxation for the current year has been destroyed or injured by fire, flood or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property, an amount which in his judgment, fairly represents such deduction as should be made; no deduction shall be made on account of damages covered by insurance, or damages amounting to less than one hundred dollars (\$100.00). In case of an abatement by the board of county commissioners and Tax Commissioner of the valuation of any parcel of real estate as assessed in any odd numbered year pursuant to Chapter 227, Session Laws of 1917 (amending Section 2165, 3646; post) or acts amendatory thereof, the valuation as abated shall be the assessed valuation in the even numbered year next following, except as otherwise herein provided.

§ 2. 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 17, 1941.

CHAPTER 281

S. B. No. 203—(Committee on Delayed Bills)

AUTHORIZING REASSESSMENT AND TAXATION OF CERTAIN REAL AND PERSONAL PROPERTY

An Act Authorizing and directing the Board of County Commissioners of the counties in this State in counties where tax levies upon taxable real and personal property have been declared null and void and vacated by Courts of competent jurisdiction to meet and make proper tax levies upon the property so involved for the year or years in which such tax levies have been vacated; providing for the giving of notice of such meeting to the owners of such property or their successors in interest; the levying and extension of taxes upon such property; making such taxes a lien upon such property and further providing that all general statutes relating to due and delinquent taxes and the collection thereof shall be applicable to the tax levies made under the provisions hereof and making the Act retroactive.

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

§ 1.] Where for any reason the County Commissioners of any county in this State have heretofore failed or shall hereafter fail to

make a proper levy of taxes upon the taxable real or personal property in their counties, and where such levy for any reason has been adjudged invalid or void, and ordered vacated or set aside upon any grounds by a Court of competent jurisdiction the Board of County Commissioners shall have the power and it shall be their duty to convene for the purpose of making a proper levy of taxes upon the taxable real and personal property involved for the years during which the levies were found or declared to be void and invalid or ordered vacated.

§ 2.] Whenever the judgment vacating such levy has become final or within ten (10) days thereafter, the County Auditor of such county shall give notice by registered mail to the person or persons owning such property or in possession thereof, or their agents or successors in interest, that a meeting will be held by the Board of County Commissioners of such county giving the time and place of such meeting, which notice shall state that at such meeting the county commissioners will make a tax levy upon the property involved, and shall describe the property in general terms, and shall notify such owner or owners, or persons in possession thereof, their agents or their successors in interest, to appear before the Board of County Commissioners at such meeting within twenty (20) days after the mailing of such notice to show cause, if any, why a tax levy should not be made on the property involved for the year or years in which the tax levy or levies have been declared void and vacated.

If the person or persons so notified do not appear or if they do appear and fail to give a good and sufficient reason why such tax levy should not be made upon the property involved, such tax levy shall be made.

The notice provided for herein shall be sent to such owner or owners, or persons in possession thereof, their agents or their successors in interest, by registered mail addressed to them at the post-office address as shown by the record in the office of the Register of Deeds, the County Auditor or the County Treasurer of such county, and the United States post office registry receipt shall be evidence of service of the notice provided for in this Act.

§ 3.] That after the County Commissioners have levied such tax the County Auditor in such county shall apply the consolidated mill levy for the year or years for which such levy is made to the equalized assessed valuation of the property involved and spread the proper tax charges upon the tax list of the county.

§ 4.] That the taxes levied pursuant to this Act shall be spread at the time provided by law for the extension of other real and personal property taxes upon all taxable property in such county.

That such taxes shall become due and delinquent and shall

constitute a paramount lien upon the real and personal property so taxed; and all of the general provisions of law relative to the levy and collection of taxes shall be applicable to the taxes levied under the provisions of this Act.

Approved March 22, 1941.

CHAPTER 282

S. B. No. 179—(Stucke, Bridston, Beaton, Aandahl)

TAXATION OF RURAL ELECTRIC COOPERATIVES

An Act to encourage rural electrification; classifying the personal property of rural electric cooperatives and imposing a gross receipts tax on such cooperatives in lieu of all other taxes on their personal property; providing for the collection of such tax and appropriating the proceeds; and repealing all Acts and parts of Acts in conflict herewith.

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

§ 1. CLASSIFICATION.] The personal property on non-profit, cooperative corporations engaged in the distribution, transmission and/or generation of electric energy for consumption in rural areas is hereby expressly classified for the purpose of taxation. Such corporations are hereinafter referred to as "Cooperatives."

§ 2. ANNUAL REPORT OF GROSS RECEIPTS.] On July 1 of each year, beginning July 1, 1941, each Cooperative shall file with the State Tax Commissioner, on forms prescribed by him, a report of its gross receipts derived from the furnishing of electric energy during the preceding calendar year. Such report shall be sworn to and verified by an officer of the Cooperative.

§ 3. TAX LEVIED IN LIEU OF PERSONAL PROPERTY TAX.] There is hereby levied on each co-operative as of July 1 of each year, a tax upon the gross receipts derived by it from the furnishing of electrical energy during the preceding calendar year. During the first five years in which such cooperatives engage in the distribution, transmission and/or generation of electricity the tax shall be one percentum, and thereafter the tax shall be two percentum. The tax hereby levied shall become due and be payable to the State Tax Commissioner on July 1 of each year and payment shall accompany the report of gross receipts provided for in Section 2 of this Act. The tax hereby imposed shall be in lieu of any taxes levied by the state, counties, cities, towns, villages, townships, school districts and other political subdivisions of the State on the personal property of the cooperative. The first payment of tax under this Act shall be

made on July 1, 1941, and shall be in lieu of all personal property taxes on the Cooperatives for the year 1941.

§ 4. PENALTY.] If the tax levied under this Act is not paid on the due date, a penalty of two per centum (2%) of the amount of tax shall be imposed for each month of delinquency.

§ 5. DEFINITION.] For the purpose of this Act, the personal property of the Cooperatives shall include the following property used by a Cooperative in connection with the distribution, transmission and/or generation of electric energy; all poles, wires, lines, transformers, generating equipment, meters, machinery, buildings, fixtures and improvements of every character upon land.

§ 6. ALLOCATION OF TAX.] The Tax Commissioner shall ascertain and determine the number of miles of distribution lines which each company has in each assessment district and the proceeds received from taxes paid by each company shall be allocated and paid over by the Tax Commissioner to each assessment district in proportion to the number of miles of distribution lines in each such assessment district.

§ 7. REPEAL.] All acts and parts of Acts in conflict herewith are hereby repealed.

§ 8. SEVERABILITY.] The provisions of this Act are severable and if any of its provisions shall be unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this Act.

Approved March 13, 1941.

CHAPTER 283

S. B. No. 40—(Committee on Taxes and Tax Laws)

SALES TAX ACT

An Act to amend and re-enact Section 2 of Chapter 249 of the Session Laws of North Dakota for 1937, as amended by Section 1 of Chapter 234 of the Session Laws of North Dakota for 1939, relating to the levying and imposing of a retail sales tax and the disposition of the funds collected therefrom, and to readopt Sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22 of Chapter 249 of the Session Laws of North Dakota for 1937 by reference, and to amend and re-enact Section 7 and paragraphs (1), (2), (3), (4), and (5) of Section 15 of said Chapter 249 of the Session Laws of North Dakota for 1937, and to amend and re-enact Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937, as amended by Section 2, Chapter 234 of the Session Laws of North Dakota for 1939, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 249 of the Session Laws of North Dakota for 1937, as amended by Section 1 of Chapter 234 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows:

§ 2. Tax Imposed.] There is hereby imposed, beginning the first day of July, 1941, and ending June 30, 1943, a tax of two per cent (2%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this act, sold at retail in the State of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this act, when sold at retail in the State of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events, except as otherwise provided in this act.

The tax herein levied shall be computed and collected as hereinafter provided.

§ 2. Provisions of Sales Tax Law Applicable.] All of the provisions of Sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22, of Chapter 249 of the Session Laws of North Dakota for 1937 are hereby incorporated into and made a part of this act; and the Tax Commissioner is hereby authorized and empowered to enforce the provisions thereof; and, for that purpose, shall exercise

all of the powers and duties conferred upon him by the Sales Tax Laws in effect in this State.

§ 3. Amendment.] That Section 7 of Chapter 249 of the Session Laws of North Dakota for 1937, is hereby amended and re-enacted to read as follows:

§ 7. Unlawful Acts.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

§ 4. Amendment.] That paragraphs (1), (2), (3), (4), and (5) of Section 15 of Chapter 249 of the Session Laws of North Dakota for 1937 be amended and re-enacted to read as follows:

§ 15. Penalties; Offenses.]

(1) Any person failing to file a return or corrected return or to pay any tax within the time required by this division shall be subject to a penalty of five per cent (5%) of the amount of tax due, plus one per cent (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the Commissioner and disposed of in the same manner as other receipts under this act. Unpaid penalties may be enforced in the same manner as the tax imposed by this act.

(2) Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or steam, gas, water, electricity and communication service at retail in this State after his license shall have been revoked, or without procuring a license within sixty (60) days after the effective date of this act, as provided in Section 11 of this Act, or who shall violate the provisions of Section 7 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1000.00 or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the Court.

(3) Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and shall, for each such offense, be fined not to exceed Five Hundred Dollars or be imprisoned in the county jail not exceeding one year, or be subject to both a fine and imprisonment, in the discretion of the Court.

(4) The certificate of the Commissioner to the effect that a

tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this act, shall be prima facie evidence thereof.

(5) Any person failing to comply with any of the provisions of this act, or failing to remit within the time herein provided to the State the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the County jail not exceeding six months or by a fine not exceeding Five Hundred Dollars, or by both such fine or imprisonment at the discretion of the Court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 5. Amendment.] That Section 25 of Chapter 249, Session Laws of North Dakota for 1937, as amended by Section 2 of Chapter 234 of the Session Laws of North Dakota for 1939, be amended and re-enacted to read as follows :

§ 25. Allocation of Revenue.] All monies collected and received under this act shall be paid into the State Treasury and shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund". Out of this fund the State Treasurer shall first provide for the payment of refunds allowed under this act. That the net amount of monies remaining in said "Retail Sales Tax Fund" shall be and shall constitute a special trust fund to be used and disbursed solely for the following purposes :

(1) That seventh-twelfths ($7/12$) of said trust fund shall be used and disbursed only for the payment of appropriations made pursuant to and for the purposes set forth in the State Equalization Fund Law. That the remaining five-twelfths ($5/12$) of said trust fund shall be used and disbursed only for the payment of appropriations to be expended by the Public Welfare Board for the purposes authorized by law ; provided, however, that appropriations made from the General Fund to be expended by said Public Welfare Board shall constitute and include appropriations from said five-twelfths ($5/12$) share of said trust fund.

(2) That the State Treasurer and State Auditor are hereby authorized and directed to make monthly transfers of all the amounts available in said trust fund, in the proportions provided herein to the State Equalization Fund and to be expended by said Public Welfare Board as provided by law.

§ 6. All monies now in the Retail Sales Tax Fund created by Chapter 249 of the Session Laws of North Dakota for 1937, as amended and re-enacted by Chapter 234 of the Session Laws of North Dakota for 1939, or collected pursuant to the provisions of said acts, are hereby appropriated and transferred into the Retail Sales Tax Fund created by this act, and shall be allocated and used as herein provided.

§ 7. Severability Clause.] If any section, sub-section, clause, sentence, or phrase of this act is for any reason held to be unconstitutional and invalid, such decision shall not effect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sub-section, clause, sentence or phrase hereof, irrespective of whether any one or more of the sections, sub-sections, clauses, sentences, or phrases, be declared unconstitutional.

§ 8. Emergency.] There is hereby declared to exist an emergency and this bill shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

CHAPTER 284

H. B. No. 319—(Crockett and Morrison)

PER CAPITA SCHOOL TAX

An Act to Amend and Re-enact Chapter 247 of the Session Laws of 1931, Providing for the Payment of per capita School Tax; Repealing Acts in conflict and declaring an Emergency.

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

§ 1. AMENDMENT.] Section 1 of Chapter 247, Session Laws of 1931 is hereby amended and re-enacted to read as follows:

§ 1. Per Capita School Tax.] The County Auditor shall each year levy a tax of one dollar (\$1.00) on each person twenty-one (21) years of age or over who on the first day of April in each year has resided in the State ninety (90) days or more, and no property shall be exempt from the collection of such tax by distress or otherwise, conditioned, however, that if the tax debtor has paid a per capita school tax for the same year in the county in which he claims residence for voting purposes, and shall present to the County Treasurer a tax receipt showing such payment, the County Treasurer is authorized to cancel the per capita school tax levied against such tax debtor for the year in which payment is shown in such tax receipt. It shall be the duty of each assessor to prepare and file with the County Auditor a list of the names and addresses (addresses) of all persons subject to the per capita tax herein required, and upon the request of the County Auditor, the governing board of any city, village or township shall furnish him, or cause to be furnished, a list of the names and addresses of all persons residing therein subject to the levy herein required.

Such tax when collected shall be distributed to the several

school corporations in the county in proportion to the number of children of school age residing within the territorial limits thereof.

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

§ 4. 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 7, 1941.

CHAPTER 285

H. B. No. 118—(Joint Committee on Refunding State Indebtedness)

TAX FOR PAYMENT OF STATE CAPITOL BUILDING CERTIFICATES

An Act Providing for the Levying of a Tax for the Payment of State Capitol Building Certificates and for the Payment of State Capitol Building Refunding Certificates.

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

§ 1. There shall be levied upon each dollar of assessed valuation of all of the taxable property within this state for the years of 1941, 1942, 1943, 1944 and 1945, a tax of one-tenth of one mill. All revenue as may be collected under such tax levy including all interest collected, shall be paid into the State Capitol Building Fund, and such fund shall be used only for the payment of outstanding State Capitol Building Certificates heretofore issued pursuant to Section 14, Chapter 205, Session Laws of 1931, and accrued interest thereon, and for the payment of State Capitol Building Refunding Certificates issued pursuant to law, and accrued interest thereon.

Approved February 24, 1941.

CHAPTER 286

S. B. No. 205—(Brant)

TAX DEED PROCEEDINGS

An Act Providing for the giving of notice and fixing the time of the expiration of the period of redemption on property sold to the county for delinquent taxes limiting the amount of delinquent taxes to be included; providing for the service of notice by registered mail and publication; prescribing the effect of failure to redeem; authorizing issuance of tax deeds; providing for classification and appraisal for property for sale; fixing the time of notice and terms of public and private sale; prescribing form of deed on resale; providing for distribution of proceeds; reserving the right to the owner to repurchase; authorizing cancellation of taxes; requiring tender of taxes in actions; repealing Chapters 235 and 238 of the Session Laws of 1939, and declaring an emergency.

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

§ 1. GIVING NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION.] The County Auditor on or before, the first day of June of each year, shall give notice of the expiration of period of redemption as to all tracts of real estate sold to the county, where three or more years have expired from the date of the original, or any subsequent, tax sale certificates issued (or deemed to have been issued) to the county, which has not been redeemed or assigned within three years from the date thereof.

§ 2. EXPIRATION OF PERIOD OF REDEMPTION.] The period of redemption shall expire on the first day of October after the service of the notice of the expiration of the period of redemption prescribed by this Act.

§ 3. AMOUNT OF DELINQUENT TAXES TO BE INCLUDED IN NOTICE.] The County Auditor shall include in the notice of the expiration of the period of redemption, all real estate taxes, where three or more years have expired from the date of the original, or any subsequent tax sale certificate, issued or deemed to have been issued, at the time of the service of such notice, provided that such notice shall separately show the amount of delinquent taxes, with penalties and interest, due for each year, and the total amount which is required to be paid to effect a redemption of the real estate from such tax deed proceedings.

§ 4. SERVICE OF NOTICE BY REGISTERED MAIL.] The County Auditor shall serve the notice of the expiration of the period of redemption (1) Upon the record title owner; (2) Upon all mortgagees, lien holders and other persons interested therein as may appear from the records of the Register of Deeds and the Clerk of Court of said county. That said notice shall be served by registered mail, a registry

and return receipt shall be demanded and filed with proof of service. The expense of such service by registered mail shall be added to the amount required to redeem, and paid by the person making the redemption in addition to the amounts stated in the notice. The Auditor shall make proof of such service by affidavit showing the names and addresses of all parties upon whom such notice was served with the date of mailing and shall attach the registry and return receipts thereto, and file such affidavit and receipts with the original notice of the expiration of the period of redemption. The Register of Deeds and the Clerk of the District Court shall within ten (10) days or immediately thereafter upon request by the County Auditor furnish him with a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lien holders, or otherwise in the real estate sold to the county for taxes upon which the notice of the expiration of the period of redemption must be served.

§ 5. FORM OF NOTICE FOR SERVICE BY REGISTERED MAIL.]
The notice of the expiration of the period of redemption which the County Auditor is required to serve by registered mail, shall be in the form as follows:

NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION.

To -----

the record title owner of the real estate hereinafter described, and to all mortgagees, lien holders and other persons interested in said real estate:

I, -----County Auditor of-----County, North Dakota, hereby give notice that the real estate hereinafter described was, at the annual tax sale held in the county on the----- of December, 19---, offered for sale for delinquent taxes against it for the year----- and was sold to the county, that subsequent tax sale certificates have been issued to the county for the years hereinafter set forth; that more than three years have expired from the date of each of said tax sale certificates, that no redemption has been made therefrom, and that the same are still the property of such county, and unless redemption is made from each of said tax sale certificates on or before the first day of October, after the date of this notice, tax deeds will be issued to the county, granting to and vesting in it, the absolute title in fee to said real property, and foreclosing all rights of redemption, and all other rights of the owner, mortgagees, and lien holders and other persons interested therein as may appear from the records of the Register of Deeds and Clerk of the District Court of said county. There is given herewith the description of such parcels of real estate from such original and each subsequent tax sale certificates, so issued to the county exclusive of the cost of service of this notice.

Said property is described as follows, to wit: (description of real

estate and amount required for redemption stated separately.)

Given pursuant to authority of law this _____ day of _____
19____.

County Auditor of _____ County, North Dakota.

§ 6. SERVICE NOTICE BY PUBLICATION.] The County Auditor, on or before the first day of August of each year, shall serve notice of the expiration of the period of redemption by publication, on all tracts of real estate upon which such notice is served by registered mail. Such notice may include any number of parcels of real estate, and only one heading shall be necessary for the entire list. The Auditor shall include a charge of fifty (50¢) cents for each parcel in the amounts stated therein to reimburse the county in part for the publication thereof. Such notice shall be published once before the first day of August of each year, in the official newspaper of the county wherein such real estate is situated.

§ 7. FORM OF NOTICE FOR PUBLICATION.] The notice of the expiration of the period of redemption to be served by publication shall be in the form as follows:

I, _____ County Auditor, of _____ County, North Dakota, do hereby give notice that the real estate hereinafter described was sold at the annual tax sale on December _____, 19____, for delinquent taxes. That subsequent tax sale certificates have been issued to the county; that more than three years have expired from the date of each of said tax sale certificates. That no redemption has been made therefrom and that the same are still the property of this county, and that unless redemption shall be made from such tax sale, on or before the first day of October, from and after the date of this notice, the same will become the absolute property in fee of this county, and the former owner thereof, mortgagees, lien holders, and other persons interested therein will be forever foreclosed and barred from asserting any further rights to such real estate whatsoever. The following is a list of the real estate sold at such tax sale on which the period of redemption will expire on the first day of October. Opposite each description of such real estate appears: (1) The name of the record title owner thereof; (2) The amount which must be paid to redeem from such tax sale, before the period of redemption expires. That said sum includes the amount for which said land was sold, together with subsequent delinquent taxes for _____ and prior year, if any, and interest, penalties and cost of service. (List descriptions, names of owners and amount necessary to redeem.)

Given pursuant to authority of law this _____ day of _____,
19____.

§ 8. EFFECT OF FAILURE TO REDEEM.] The failure of the owner or any mortgagee or other lien holder, to redeem such lands from tax deed proceedings before the period of redemption expires,

shall operate: (1) To pass all of the right, title and interest of the owner, mortgagee or lien holder in and to said premises, to the county by operation of law; (2) To foreclose all rights and equities of redemption; (3) To waive all error, irregularities or omissions which do not affect the substantial rights of the parties, in tax deed proceedings, except jurisdictional defects.

§ 9. TAX DEEDS: WHEN ISSUED.] That after the expiration of the period of redemption, County Auditors shall issue tax deeds in the usual form, to the county for all real estate which was not redeemed within the time, and in the manner described by this Act. Such tax deed shall pass the absolute property in fee to the county free from all encumbrances whatsoever.

§ 10. CLASSIFICATION OF LAND FOR PURPOSE OF SALE.] That the County Commissioners shall classify all lands, except city and village lots, acquired by the county, according to their suitability for farming, grazing, forage or irrigational purposes. Such classification shall conform as nearly as practical to the classification of such lands adopted by county, State and Federal agencies in connection with the Land Use program and shall be considered in the determination of the market value and the fixation of the minimum sales price for the sale thereof.

§ 11. APPRAISAL FOR ANNUAL SALE.] All real estate acquired through tax deed proceedings shall be appraised by the Board of County Commissioners at least thirty (30) days prior to the annual sale prescribed by this Act. Such appraised price shall be sufficient to cover all general taxes, special assessments, hail indemnity taxes, penalties and costs, which were levied and extended against the property at the time of the service of the notice of the expiration of the period of redemption, provided if the fair market value of such property is less than the total amount of such general taxes, special assessments, hail indemnity, penalties, interest and cost, the Board shall fix a fair and just minimum sales price for such property. Thereafter the Board shall set a date for hearing objections to the minimum sales price so determined, and the County Auditor shall, at least ten (10) days previous to such hearing, mail to the Auditor, of any city, or the Clerk of any village, or of any township board wherein such lands are located, a notice in writing, stating the time when the objections to the minimum sales price fixed by the Board will be heard. At such hearing any member of the governing body of any taxing district, or any representative thereof, shall be heard with reference to the fair market value of such lands and the Board shall thereupon make such changes in the minimum sales price of such property as it shall deem fair and just. The governing body of any taxing district may, if dissatisfied with the determination of the Board, appeal therefrom within ten (10) days to the District Court. Such appeal shall conform to the procedure prescribed by Sections

3298 and 3299 of the Compiled Laws of 1913, and Acts amendatory thereof, except that no bond shall be required to perfect such appeal. All determinations of minimum values shall, on appeal, be heard by the Court without a jury.

The County Auditor shall make such changes, if any, that may be ordered by the Court upon appeal and shall offer such lands for sale at the minimum sales price, determined by the final judgment of the Court.

§ 12. TIME OF ANNUAL SALE.] The annual sale of lands acquired by tax deeds shall be held at the county seat on the third Tuesday of November of each year and shall continue from day to day, until completed.

§ 13. NOTICE OF ANNUAL SALE.] Notice of the annual sale shall be given: (1) By posting a notice of such sale at the front door of the Courthouse at least fifteen (15) days prior to the date of sale. (2) By publishing a notice of such sale in the official newspaper of the county, once, not less than ten (10) days prior to the date of sale. Both such notices shall include a description of all real estate to be sold at such sale, with the minimum sale price thereof.

§ 14. MANNER AND TERMS OF ANNUAL SALE.] Each parcel of land shall be sold to the highest bidder therefor, but not for a sum less than the minimum sales price as fixed by the Board of County Commissioners, prior to the annual sale. Such sale may be made either in cash or one-fourth of the purchase price in cash and the balance in such annual equal installments as the purchaser and Auditor may agree upon, not to exceed a period of ten (10) years. Provided, however, that the purchaser shall have the right to pay any, or all, annual installments with interest, at any time prior to the maturity thereof. If such sale is for cash, the purchaser shall forthwith, pay the amount bid, to the County Treasurer. If the sale is for part cash and the balance in equal annual installments, the purchaser shall pay the amount of the first installment to the County Treasurer and shall be given a contract for deed, setting forth the terms of said sale, which shall be executed by the Chairman of the Board of County Commissioners and County Auditor. Such contract shall be in such form as the State Tax Commissioner may prescribe and shall give the County the right, upon any default of the purchaser, to cancel such contract by resolution, and give due notice thereof to the purchaser. The original contract shall be filed with the County Treasurer who shall endorse thereon all payments made by the purchaser. That the unpaid balance of the purchase price shall draw interest at the rate of four (4%) percent per annum. That upon the payment of the purchase price in cash or upon installments with interest, in full, the county shall execute and deliver to the purchaser a deed conveying all right, title and interest of the county in and to such property, to such purchaser. That upon execution and

delivery of such deed or such contract for deed, the real estate described therein shall be subject to taxation and be placed upon the assessment roll for taxation in the same manner as other private property.

§ 15. FORM OF DEED.] The deed which the county shall execute and deliver to the purchaser shall be in the form as follows:

COUNTY DEED.

This indenture made this_____day of_____between the County of_____, North Dakota, party of the first part and_____party of the second part, witnesseth:

WHEREAS, the real property hereinafter described was acquired by the county through tax deed proceedings for the non-payment of taxes levied and extended against said property for the years of 19___ to 19___ inclusive with interest and penalties, amounting to the sum of _____dollars and

WHEREAS, said real property was duly offered for sale, and sold, pursuant to authority of law, on the_____day of_____19___, and at said sale, said second party became the purchaser of the whole thereof, for the sum of_____dollars, which has been paid in full,

NOW, THEREFORE, the said county as party of the first part in consideration of the premises and pursuant to authority of law, does hereby grant, bargain, sell and convey to the second party, his heirs and assigns, that certain real property situated in said County of _____, North Dakota, described as follows, to wit: To have and to hold the above described real property with all of the appurtenances thereunto belonging to the said party of the second part,_____ heirs, and assigns forever.

IN WITNESS WHEREOF_____and_____ as Chairman of the Board of County Commissioners and Auditor, respectively, of said county, do hereby set their hands the day and year first above written and do cause the seal of said county to be affixed thereto.

COUNTY,
NORTH DAKOTA.

CHAIRMAN, BOARD OF COUNTY
COMMISSIONERS.

COUNTY AUDITOR.

STATE OF NORTH DAKOTA
COUNTY OF_____

ON THIS_____DAY OF_____, 19___, personally appeared before me a Notary Public within the aforesaid county and State_____ and_____ to me per-

sonally known to be the Chairman of the Board of County Commissioners and the Auditor, respectively of said county and acknowledged to me that they executed the foregoing deed for and on behalf of said county.

-----Notary Public,
for-----County,
North Dakota.

My commission expires-----

§ 16. DISTRIBUTION OF PROCEEDS OF ANNUAL SALE.] That the proceeds realized from the sale of such lands shall be apportioned as a regular tax payment as follows:

(1) That the County Treasurer shall issue a regular tax receipt in the name of the County commencing with the oldest year delinquent. Tax receipts shall be written for the original amount of the tax without penalty and interest. If the property was sold for an amount sufficient to cover all taxes including the year in which the county acquired tax title, tax receipts shall be written for all such years including hail insurance taxes and all special assessments and the remainder, if any, shall be credited to the General Fund of the county.

(2) If the property is sold under a contract, the County Treasurer shall issue a tax receipt for the oldest year's taxes without penalty and interest and all subsequent payments made on such contracts shall be applied in a similar manner.

(3) That if the property is sold for less than the total amount of the taxes due, including the year in which a tax deed is issued, the Treasurer shall write receipts beginning with the oldest year and for as many subsequent years as the proceeds realized from such sale will satisfy and the remainder of any unpaid general taxes, special assessments, or hail indemnity taxes, shall be cancelled by the Board of County Commissioners by general resolution at the time prescribed by the terms of this Act.

§ 17. PRIVATE SALE.] That all parcels of real estate not sold at the annual November sale, may be sold by the County Auditor at private sale at any time before the next annual November sale, provided that no such sale shall be made by the County Auditor at a price less than the minimum sales price fixed by the Board of County Commissioners prior to the annual November sale.

§ 18. TERMS OF PRIVATE SALE AND DISTRIBUTION OF PROCEEDS.] All private sales of real property made between the annual November sales, shall be made upon the same terms and conditions as sales are authorized to be made at the annual November sale, provided, however, that if such property is sold at private sale to any other person than the original owner or his successor in interest, such sale shall be held in abeyance for a period of thirty (30) days from the date of notice to the owner or his successor in interest given

by registered mail by the county auditor, during which time the original owner or his successor in interest may make redemption by payment in full of delinquent taxes, penalty and interest charged against such real estate. Provided, further, that if no redemption is made by the original owner or his successor in interest during said period of thirty (30) days, then the sale shall be final and the purchaser shall be entitled to a deed as provided herein, and the proceeds realized therefrom shall be apportioned in the same manner as the proceeds of the annual November sale are distributed.

§ 19. RIGHT OF OWNER TO REPURCHASE.] The owner, or his successor in interest, shall have the right to repurchase all real estate heretofore or hereafter, forfeited to the county under tax deed proceedings, so long as the tax title thereto remains in the county. Such purchase may be for cash or upon contract for deed made by and between the Board of County Commissioners and the owner, or his successor in interest. The consideration of such contract shall include: (1) The total amount required to be paid in the notice to effect a redemption. (2) The total amount of all subsequent taxes with interest, penalties and costs. Provided that if the fair market value of such property at the time of the repurchase thereof, is less than the total amount to be paid to effect a redemption, together with all subsequent taxes, interest, penalties and costs, the Board shall fix a fair and just sales price for such property, and shall require the owner to pay at least twenty-five (25%) percent of the total contract in cash and the remainder shall be payable in not to exceed ten (10) annual equal installments as the Board of County Commissioners may determine, which installments shall bear interest at four (4%) percent per annum until paid in full. Such contract shall further provide that if the vendee or his successor in interest, fails to pay one or more of the installments, when due with interest, the Board of County Commissioners may cancel such contract and thereupon all payments and improvements made by the vendee or his successor in interest, shall be forfeited to the county as liquidated damages for breach of contract unless otherwise expressly provided. That upon the full performance of such contract, the county shall execute and deliver a deed to the purchaser which shall be executed in the same manner as tax deeds and shall have the same legal effect as prescribed by the terms of this Act.

§ 20. CANCELLATION OF TAXES.] That after any real estate has been sold for cash or upon contract for deed, which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the County Commissioners shall, by general resolution, provide for the cancellation of all general taxes, hail indemnity taxes, and special assessments remaining of record, against the premises sold at the date of such sale, provided however, that so long as the county retains title to any real estate acquired by tax deed, such

real estate shall be exempt from all general property taxes and special assessments.

§ 21. TENDER OF TAXES.] That whenever any action at law or in equity is brought to test the validity of any deed issued and delivered by the county to the purchaser of lands acquired through tax deed proceedings, the Court shall not proceed with the trial of such action until the party assailing the validity of such deed, shall, within the time required by the Court, deposit with the Clerk thereof, for the benefit of the party claiming title under such deed, an amount equal to the sum paid by such party to the county for the purchase of the property covered by such deed, together with an amount sufficient to pay the defendants statutory costs of the action, to be determined by the order of the Court.

§ 22. SAVINGS CLAUSE.] This Act shall not be construed so as to apply to or affect the validity of any tax deed proceedings had, or contracts for sale of public lands made prior to its effective date, but shall be liberally construed to carry out the purposes hereof.

§ 23. REPEAL.] That all of Chapters 235 and 238 of the Session Laws of 1939 are hereby expressly repealed.

§ 24. EMERGENCY.] This Act is hereby declared an emergency measure and shall be in full force and effect from its passage and approval.

Approved March 15, 1941.

CHAPTER 287

H. B. No. 120—(Committee on Tax and Tax Laws)

TAX DEED PROPERTY LEASING

An Act to Amend and Re-enact Section 4 of Chapter 237 of the Session Laws of 1939 relating to the Authority of County Commissioners to Lease Real Property Acquired by Tax Deed and not sold or leased; to limit term of lease; to Permit Longer Leases to Co-operative grazing Associations, soil Conservation Districts, and Individuals; to Limit Expense of Supervising and Collecting Rentals; to Provide that net Revenue be Distributed to Taxing Districts, and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 237 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 4. All the net revenue derived from said leases including all Federal payments made in connection therewith, in an amount not

less than 90% of the total revenue collected, shall be paid into the County Treasury of the respective counties. On or before the 10th day of January in each year the County Treasurer of each county in this State shall apportion and distribute all such net revenues, so paid into the State, county treasury, to the (State), county, city, village, school district, township or other taxing districts, in the same proportions that current general fund levies in the taxing districts wherein said lands are located, bear to the total net revenue so collected.

SUB-SECTION A. An emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1941.

CHAPTER 288

S. B. No. 79—(Committee on Taxes & Tax Laws)

TAX LEVIES, COUNTY PURPOSES

An Act to amend and re-enact subdivisions (a), (b) and (c) of Section 4 and Section 10 of Chapter 235 of the Session Laws of 1929 relating to limitations upon the rate of tax levies for general and special county purposes; Providing for exceptions to such levies; Authorizing the levy of taxes for emergency purposes and limiting the use thereof.

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

§ I. AMENDMENT.] That subdivision (a), (b) and (c) of Section 4 of Chapter 235 of the Session Laws of 1929 be amended and re-enacted to read as follows:

(a) That the county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of ten mills on the dollar of its net taxable valuation.

(b) That the county commissioners shall annually levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of net taxable valuation, such levy shall be within the amount produced by the ten mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies.

(c) That the ten mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county

purposes, including taxes levied for road and bridge purposes. Provided that the mill limitation shall not apply :

(1) To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.

(2) To tax levies made to pay the county tuition provided for by Section 1224 of the Supplement of the Compiled Laws for 1913.

(3) To taxes levied for the purpose of combating the grasshopper pest, pursuant to Section 2868a1 of the Supplement to the Compiled Laws for 1913.

(4) To taxes levied for the purpose of combating gophers pursuant to Section 2661 of the Compiled Laws for 1913.

(5) To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the ten mill limitation for general and special county purposes.

§ 2. AMENDMENT.] That Section 10 of Chapter 235 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows :

That the governing body of any taxing district may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of one mill on the dollar of its net taxable valuation.

Each taxing district is authorized to create a "General Reserve Fund", and that all taxes levied for emergency purposes by any taxing district, when collected, shall be covered into such, "General Reserve Fund" and shall be used only for such emergency purposes as the governing body of the taxing district shall, by resolution, determine, to meet the mandatory obligations of the taxing district.

That any unexpended balance, remaining in such "General Reserve Fund," at the end of any fiscal year, shall be kept in such fund and that whenever the amount in such fund is, in the judgment of the governing body of the taxing district, sufficient to meet its emergency requirements, then such annual tax levies for emergency purposes shall be discontinued.

That the levy of a tax for emergency purposes of one mill, authorized herein, shall be subject to the ten mill limitation prescribed by this Act.

Approved March 17, 1941.

CHAPTER 289

H. B. No. 263—(Smart)

WARRANTS FOR CURRENT EXPENSES, TAXING DISTRICTS

An Act to amend and Re-enact Section 2079b13, Supplement to the 1913 Compiled Laws, as Amended by Chapter 247 of the Session Laws of 1933, and by Chapter 283 of the Laws of 1935; Repealing all Acts; and Declaring an Emergency.

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

§ 1. AMENDMENT.] That Section 2079b13, Supplement to the 1913 Compiled Laws, as amended by Chapter 247 of the Session Laws of 1933, and by Chapter 283 of the Laws of 1935, is hereby amended and re-enacted to read as follows:

§ 2079b13. WARRANTS FOR CURRENT EXPENSES.] In case any taxing district is unable to sell its certificates of indebtedness, it may issue warrants in payment of current expenses, in excess of cash on hand, but not in excess of 85% of taxes levied for such fiscal year but uncollected, and not otherwise encumbered plus 50% of the uncollected and not otherwise encumbered taxes of the four preceding (preceding) years and the funds derived from the collection thereof shall constitute a special fund and the exclusive source of revenue for the payment of warrants issued during the fiscal year for which such taxes were levied. If warrants be issued in excess of 85% of such taxes levied, such warrants shall possess no validity as against the taxing district but the officials knowingly and willfully issuing the same shall be personally liable for the payment thereof. Provided, however, that the governing board of any political sub-division may, in the event that there has not been sufficient funds in the treasury of such subdivision to pay the salaries and wages of the officials and employees, including publication fees for official printing by the county official newspaper of such sub-divisions in full for a period of six months, by resolution authorize the issuance of warrants to such officials, employees and the county official newspaper for salary, wages and official publication fees, whereby one-half of such salaries, wages and official publication fees shall be paid in cash by the Treasurer of such political sub-division to such officials, employees and the county official newspaper, and a warrant issued for the balance thereof, which shall be registered and paid as other warrants are registered and paid; provided further, that this act shall be construed to relieve the treasurer of such political sub-divisions of liability to other warrant holders because of the payment of salaries, wages and official publication fees as provided in this act.

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

§ 3. 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 14, 1941.

CHAPTER 290

H. B. No. 250—(Schwartz)

WHOLESALE LIQUOR TRANSACTION TAX

An Act to Amend and Re-enact Section 1, Section 3 and Section 9 of Chapter 242 of the 1939 Session Laws of North Dakota, Relating to the Wholesale Liquor Transaction Tax, and Making a Savings Clause, providing for Distribution of the Same, and providing for Violations and Penalties therefor, and Declaring an Emergency.

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

§ I. AMENDMENT.] That Section I of Chapter 242 of the 1939 Session Laws of North Dakota, is hereby amended and re-enacted to read as follows:

§ I. A tax is hereby imposed upon all sales by licensed wholesale liquor dealers to licensed retail liquor dealers within the State of North Dakota, of alcohol and alcoholic beverages, excluding malt beverages, containing more than four per cent (4%) of alcohol by weight, according to the following schedule:

(a) On all sales of alcoholic beverages, excluding malt beverages, containing more than 4% of alcohol by weight but not more than 24% of alcohol by weight, a tax equal to 11% of the sale price.

(b) On all sales of alcoholic beverages containing not more than 50% but not less than 24% of alcohol by weight, a tax equal to 12½% of sale price.

(c) On all sales of alcohol and alcohol substitutes, regardless of proof, a tax equal to 25% of the sale price.

The authority is hereby vested in the State Treasurer of the State of North Dakota to determine what constitutes alcohol substitutes.

All proceeds from sales under subdivision A to the extent of four per cent of the sales price, and under subdivision B to the extent of four and one-half per cent of the sales price shall be placed in a fund to be known as the Charitable Institutions Revolving Fund. The State Treasurer shall cover into said Fund monthly, all revenues collected under the provisions of this Act, not otherwise appropriated for administrative expenses, for the benefit of the State Hos-

pital for the Insane, The Grafton State School and the State Tuberculosis Sanatorium. There is hereby appropriated to the Board of Administration all of the moneys so collected and covered by the State Treasurer into the Charitable Institutions Revolving Fund during each biennium to pay the expenses of maintenance and operation of the State Hospital for the Insane, the Grafton State School and the Tuberculosis Sanatorium. The Board of Administration shall allocate from such fund and credit to each county the proportion that the total quarterly charges against said county for institutional care bears to the total quarterly charges against all counties for such institutional care; and shall allocate to each of said institutions its portion of the amounts so credited to all counties.

§ 2. AMENDMENT.] That Section 3 of Chapter 242 of the 1939 Session Laws is hereby amended and re-enacted to read as follows:

§ 3. Fifteen days after the expiration of the first calendar month after the effective date of this Act all licensed wholesale liquor dealers are required to file with the State Treasurer a list showing the respective prices to retailers of all alcohol and alcoholic beverages coming within the terms of this Act, which list shall be sworn to by any duly authorized officer of the respective wholesaler. Thereafter such list shall be filed quarterly on April 1, July 1, October 1 and January 1, and such list shall be the same as the price list furnished by such licensed wholesale liquor dealer to licensed retail liquor dealers. It shall be unlawful for any licensed wholesale liquor dealer to sell or to offer for sale any brands of alcohol, spirituous liquors or wines except such brands as are shown in the price list on file with the State Treasurer. Prices shown on such price lists shall be the prices at which such merchandise is to be invoiced until the price list on file with the State Treasurer is superceded by the filing at a succeeding quarterly date of another price list as herein specified. Provided, however, that such sale price may be increased by the amount of any additional Federal taxes which may be imposed on such merchandise.

Within thirty days after the passage and approval of this Act, every liquor distiller and rectifier doing business in the State of North Dakota, must file with the State Treasurer a list of all their wholesale dealer accounts, together with a description, including the boundary lines, of their wholesale dealer's territories, which give the wholesale dealer sole right of sale of distilleries and rectifiers brands, consisting of spirituous liquors and wines containing more than four per cent (4%) of alcohol by weight, within said territories.

§ 3. AMENDMENT.] That Section 9 of Chapter 242 of the 1939 Session Laws is hereby amended and re-enacted to read as follows:

§ 9. Any person violating any of the provisions of this Act

shall upon conviction, as a first offense, be fined not more than Five Hundred Dollars (\$500.00) or imprisonment in the County jail for not more than ninety days, or by both such fine and imprisonment. Any subsequent offense shall be punishable by not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

§ 4. 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 10, 1941.

UNFAIR TRADE ACT

CHAPTER 291

S. B. No. 172—(Braun, Bridston, Blank and Topp)

NORTH DAKOTA UNFAIR TRADE PRACTICES ACT

An Act Defining and prohibiting unfair sales and unfair trade practices, prohibiting the advertising or offering for sale or selling merchandise below actual cost for the purpose or having the effect of injuring competitors or destroying competition, and providing penalties for the violation and remedies for the enforcement of the provisions thereof.

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

§ 1. This Act shall be known and designated as the "North Dakota Unfair Trade Practices Act."

§ 2. (1) When used in this act, the term "cost" shall mean the actual invoice cost of the merchandise or the replacement cost of the merchandise whichever is lower; less all trade discounts, advertising allowances, including customary discounts for cash, to which shall be added (a) transportation including cartage cost, not otherwise included in the invoice cost or the replacement cost of the merchandise; provided, that where a manufacturer publishes a list price, proof of such list price, less all discounts, shall be prima facie evidence of "cost."

(2.) When used in this Act the term "replacement cost" shall mean the cost per unit at which the merchandise sold or offered for sale could have been bought by the seller at any time prior to the

date of sale or the date upon which it is offered for sale by the seller.

(3) When one or more items are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, each and all of said items shall, for the purpose of this Act, be deemed to be advertised, offered for sale, or sold, and the price of each item named shall be governed by the provisions of paragraphs (1) or (2) of Section 2, respectively.

(4) The terms "sell at retail," "sales at retail," and "retail sale" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the seller's business, of title to tangible personal property to the purchase for consumption or use other than resale or further processing or manufacturing, provided, however, that sales to contractors or subcontractors engaged in any type of building operation or the repair of buildings or other improvements upon real estate shall be deemed sales for consumption and not for further processing or manufacturing. The terms shall include any transfer of such property where title is retained by the seller as security for the payment of the purchase price.

(5) The terms "sell at wholesale," "sales at wholesale," and "wholesale sales" shall mean and include any transfer for a valuable consideration made in the ordinary course of trade or the usual conduct of the seller's business, of title to tangible personal property to the purchase for purposes for resale or further processing or manufacturing, provided, however, that sales to contractors engaged in any type of building operation or the repair of buildings or other improvements upon real estate regardless of further processing or manufacturing of the material sold, shall be deemed retail sales and not wholesale sales. The above terms shall include any transfer of such property where title is retained by the seller as security for the payment of the purchase price.

(6) The term "retailers" shall mean and include every person, partnership, corporation or association engaged in the business of making sales at retail within this state provided that, in the case of a person, partnership, corporation or association engaged in the business of making sales at retail and sales at wholesale, such term shall be applied only to the retail portion of such business.

(7) The term "wholesaler" shall mean and include every person, partnership, corporation or association engaged in the business of making sales at wholesale within the state, provided that, in the case of a person, partnership, corporation or association engaged in the business of making both sales at wholesale and sales at retail, such terms shall be applied only to the wholesale portion of such business.

§ 3. It is hereby declared that any advertising, offer to sell, or

sale of any merchandise, either by retailers or wholesalers, at less than cost as defined in this Act, with the intent, or effect of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or otherwise injuring a competitor, impair and prevent fair competition, injure public welfare, and are unfair competition and contrary to public policy and the policy of this Act, where the result of such advertising, offer or sale is to tend to deceive any purchaser or prospective purchaser, or to substantially lessen competition, or to unreasonably restrain trade, or to tend to create a monopoly in any line of commerce. The inhibition against sales below cost as defined herein, shall embrace any scheme of special rebate, collateral contract or any device of any nature whereby such result is, in substance or in fact, effected in violation of the spirit and intent of this Act.

§ 4. Any retailer or wholesaler who shall advertise, offer to sell, or sell any article of merchandise at less than cost to such retailer or wholesaler as defined in this Act, or who gives, offers to give, or advertises the intent to give away any article of merchandise, with the intent, or with the effect of injuring competitors and destroying competition shall be guilty of a misdemeanor. Proof of any such advertising, offer to sell or to give away, or sale or gift of any article of merchandise by any retailer or wholesaler at less than cost as defined in this Act, shall be prima facie evidence of a sale below cost.

§ 5. In addition to the penalties provided, the Courts of this State are invested with the jurisdiction to prevent and restrain violations of this Act by injunctive proceedings, and it shall be the duty of the Attorney-General and the several State's Attorneys to institute suits in equity in behalf of the State, to prevent and restrain violations hereof. Any person damaged, or who is threatened with loss or injury; by reason of a violation of this Act, shall be entitled to sue for and have injunctive relief in the District Court against any damage or threatened loss or injury by reason of a violation hereof.

§ 6. The provisions of this Act shall not apply to sales at retail or sales at wholesale; (a) where merchandise is sold in bona fide clearance sales, if advertised, marked and sold as such; (b) where perishable merchandise must be sold promptly in order to forestall loss; (c) where merchandise is imperfect or damaged, or is being discontinued and is advertised, marked and sold as such; (d) where merchandise is sold upon the final liquidation of any business; (e) where merchandise is sold for charitable purposes or to relief agencies; (f) where merchandise is sold on contract to departments of the government or government institutions; (g) where the price of merchandise is made in good faith to meet legal competition; (h) where merchandise is sold by any officer acting under the

order or direction of any court; provided, however, that any retailer or wholesaler claiming the benefits of any of the exemptions herein above provided, shall have the burden of proof of facts entitling such retailer or wholesaler to any of the benefits of said exemptions.

§ 7. Any party of record to any civil action or proceedings instituted or brought pursuant to the provisions of this Act may be required to testify in such proceedings and to produce books, papers, tariffs, contracts, agreements and documents before the Court in such proceedings, providing, however, that no person compelled under the provisions of this section to testify or produce evidence tending to incriminate him shall be prosecuted for any crime which such testimony or evidence tends to prove or to which the same relates. This section shall not exempt any person from prosecution for perjury.

§ 8. If any section, sentence, clause or provision of this Act shall, for any reason, be held invalid or unconstitutional, the validity of the remaining parts hereof shall not be affected thereby.

Approved March 17, 1941.

VALIDATIONS

CHAPTER 292

S. B. No. 136—(Committee on Judiciary)

LEGALIZING CERTAIN ACKNOWLEDGEMENTS ON DEEDS

An Act to legalize the execution and acknowledgment of certain deeds, mortgages and other instruments in writing, and the record thereof, and making the same or certified copies thereof, admissible in evidence.

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

§ 1. ACKNOWLEDGMENT, FILING AND RECORDING LEGALIZED.]
The execution, acknowledgment, filing and recording of all deeds, leases, including oil and gas leases, mortgages and other instruments in writing affecting the title of real property in this State, in good faith made, taken or certified to prior to the first day of January, 1941, and which have been filed or recorded in the proper counties of this State, be, and the same are hereby declared to be legal and valid for all purposes, anything in the laws of the State of North Dakota, or of any other state, territory or country at the

time of such execution, acknowledgment, witnessing, filing or recording, to the contrary notwithstanding.

§ 2. ACTS OF EXECUTORS, ADMINISTRATORS, DEPUTIES, OFFICERS OR ATTORNEYS-IN-FACT LEGALIZED.] The acts of all properly appointed and constituted executors, administrators, officers, or corporations, deputy public officials and attorney-in-fact, done in good faith, in the execution and acknowledgment of such instruments, are hereby declared to be valid for all purposes, notwithstanding the fact that such executor, administrator, officer, deputy officer or attorney-in-fact may not have signed the same in the form provided by law in force at that time, or that the same was not sealed or stamped as required by laws in force at the time of such execution, and notwithstanding the fact that the certificate of acknowledgment thereon may not be in the form required or sealed as required by any laws in force at the time of making the same.

§ 3. ACKNOWLEDGMENTS LEGALIZED.] The acts of all notaries public, justices of the peace, or other officers, done in good faith in taking or certifying to acknowledgment of such instruments, whether within or without the State, and whether such officers were qualified or otherwise by law at the time to do so or not, are hereby declared legal and valid for all purposes.

§ 4. GOOD FAITH PRESUMED.] Good faith shall be presumed by the part of all persons and officers in the execution, acknowledgment, filing and recording of such instruments and it shall be prima facie presumed that such officer acted within the scope of his authority. Provided, that nothing in this Act shall be construed to validate any deed, transfer or other instrument in writing where there shall be now pending any suit, action or proceeding of any kind affecting the title to any real property owned by the State of North Dakota or any subdivision thereof, or of any person, firm or corporation.

Approved March 7, 1941.

CHAPTER 293**S. B. No. 131—(Committee on Judiciary)**

VALIDATING CERTAIN MINERAL DEEDS**An Act Validating the Record of Mineral Deeds in the Office of the Register of Deeds of the Counties of the State Made Prior to the Passage and Approval of this Act.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Any record of a mineral deed that has been actually made in the office of the Register of Deeds of any County of the State prior to the passage and approval of this Act, is hereby validated and declared to be fully operative as constructive notice notwithstanding that such deed was not certified for transfer by the County Auditor as provided by Section 2212 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 252 Session Laws of 1915, as amended by Chapter 211 Session Laws of 1925, as amended by Chapter 271 Session Laws of 1927, as amended by Chapter 121 Session Laws of 1931, and notwithstanding that at the time such deed was filed for record and actually recorded there may have been delinquent taxes or special assessments on the land described in such deed.

Approved March 7, 1941.

CHAPTER 294**S. B. No. 132—(Committee on Judiciary)**

VALIDATING RECORD OF DEEDS AND MORTGAGES**An Act Validating the Record of all Deeds and Mortgages in the Office of the Register of Deeds of the Counties of the State made prior to the Passage and Approval of this Act, and Declaring an Emergency.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Any record of a deed or mortgage, in which real estate is described, that has been actually made in the office of the Register of Deeds of any County of the State prior to the passage and approval of this Act, is hereby validated and declared to be fully operative as constructive notice notwithstanding such deed or mortgage shall have failed to contain the post office address of the grantee or mortgagee named in such deed or mortgage, as directed by Chap-

ter 249 of the Session Laws of North Dakota for 1929, if said deeds or mortgages shall have been otherwise entitled to record.

§ 2. 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 7, 1941.

VETERANS

CHAPTER 295

H. B. No. 340—(Committee on Appropriations)
Approved by Committee on Delayed Bills

SPECIAL GUARDIAN FOR VETERANS

An Act to Amend and Re-enact Section 15 of Chapter 247 of the Session Laws for the Year 1939 Relating to the Commitment of Veterans; Appointing the Veteran's Service Commissioner as Special Guardian; Authorizing the Transfer of Veterans to Federal Veteran's Administration Hospitals; Requiring the County Judge to Give Written Notices of the Commitment of Veterans and Declaring an Emergency.

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

§ I. AMENDMENT. Chapter 247, Laws of North Dakota, 1939, is hereby amended and re-enacted to read as follows:

(a) Whenever it appears that a veteran of any war, military occupation or expedition is eligible for treatment in a United States Veterans Administration Hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the chairman of the Commissioners of Insanity is hereby authorized to communicate with the official in charge of such hospital with reference to available facilities and eligibility, and upon receipt of a certificate from the official in charge of such hospital the commissioners may then direct such veteran's commitment to such United States Veterans Administration Hospital. In any case where such procedure is not feasible and as an alternative to such procedure, the Commissioners of Insanity may direct such veteran's commitment to the State Hospital for the Insane in this State until facilities are available at such United States Veterans Administration Hospital. Thereafter such veteran upon admission to such United States Veterans Administration Hospital shall be subject to the rules and regu-

lations of such hospital and the officials of such hospital shall be vested with the same powers now exercised by superintendents of State hospitals for mental diseases within this State with reference to the retention of custody of the veteran so committed, and upon admission of such veteran to such United States Veterans Administration Hospital by transfer from the State Hospital for the Insane, under such commitment, the superintendent of the State Hospital for the Insane shall be relieved of all further and future responsibility therein. Notice of such pending proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied.

(b) That the Veterans Service Commissioner is hereby empowered to act as the special guardian of the person of each incompetent veteran; that as such guardian the said Veterans Service Commissioner shall have the authority to transfer or consent to the transfer of any such incompetent veteran to the Veterans Administration Hospital at St. Cloud, Minnesota. Such transfer may be made at any time prior or subsequent to commitment of such incompetent veteran in the State Hospital for the Insane at Jamestown; that the said commissioner shall have the authority to do and perform all acts and things necessary or required by State or Federal law to effect the transfer of any such incompetent veteran to a Veterans Administration Hospital pursuant to the terms of this act.

(c) That the County Judge of each county, within three days after the commitment of any incompetent veteran to the State Hospital for the Insane at Jamestown, shall give written notice to the Veterans Service Commissioner, at Fargo of such commitment which notice shall be accompanied by a copy of the order of the commitment of such veteran to said institution.

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

Approved March 13, 1941.

VITAL STATISTICS

CHAPTER 296

S. B. No. 201—(Committee on Delayed Bills)

FURNISHING INFORMATION RELATING TO PATERNITY OF CHILDREN TO THE STATE REGISTRAR OF VITAL STATISTICS

An Act Specifying the Duties of the Clerks of the District Court and of the County Court with Increased Jurisdiction Relating to the Furnishing of Information to the State Registrar of Vital Statistics.

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

§ 1. CLERKS OF DISTRICT COURTS AND OF COUNTY COURTS WITH INCREASED JURISDICTION TO FURNISH INFORMATION TO THE STATE REGISTRAR OF VITAL STATISTICS.] The clerk of the district court or the clerk of the county court with increased jurisdiction in which any decree of adoption is entered or in which any order, judgment, or decree is entered determining or relating to the paternity of any child born in the State of North Dakota shall notify the State Registrar of Vital Statistics of the entry of such order, judgment, or decree, and shall supply such information relating thereto as the State Registrar of Vital Statistics may require upon such forms as may be furnished by the State Registrar of Vital Statistics.

Approved March 14, 1941.

CHAPTER 297

S. B. No. 202—(Committee on Delayed Bills)

PROOF OF BIRTH

An Act Providing for Proof of Birth, the Correction of Birth Records, the Issuance by the State Registrar of Vital Statistics of a Certification of the Record of the Proof of Birth, Providing that All Records of State Registrar of Vital Statistics and of local registrars are Confidential, Providing a penalty when local registrars disclose confidential information; and Repealing Chapter 109 of the Session Laws for the Year 1939 and Declaring an Emergency.

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

§ 1. APPLICATION FOR RECORDING DELAYED PROOF OF BIRTH.] An application may be made to the State Registrar of Vital Statis-

tics to have recorded in his office delayed proof of the birth of any person who was born in the State of North Dakota, or in that part of the territory of Dakota from which the State of North Dakota was formed. Such application may be made by any such person who wishes to establish a record of his birth, or by the parent, or legal guardian of such person.

§ 2. CONTENTS OF APPLICATION.] An application under this Act shall be in writing and shall state :

1. The name of the person of whose birth a record is to be made;
2. The time and place of birth of such person;
3. The sex and color or race of such person;
4. The name of the father and of the mother of such person, if known; and
5. Such other facts as the State Registrar of Vital Statistics may require.

If the person for the proof of the birth of whom such proceeding is brought has been legally adopted, a certified copy of the decree of adoption shall be filed with the application.

§ 3. CORRECTION OF ERRORS IN BIRTH RECORDS.] The State Registrar of Vital Statistics may make correction of any error in birth records and to that end may receive and file amended birth certificates or affidavits and other proof showing that former records are incorrect.

§ 4. ADDITION TO RECORD IN CASE OF ADOPTION OR DETERMINATION OF PATERNITY.] Whenever a certified copy of a decree of adoption or a report of adoption or of the determination of any court determining paternity in any case is filed in the office of the State Registrar of Vital Statistics, such Registrar shall make notation thereof on any record of birth on file in his office.

§ 5. PROOF TO BE FILED WITH APPLICATION.] The State Registrar of Vital Statistics may prescribe reasonable rules and regulations relating to the proof that may be submitted in support of an application to record delayed proof of birth or in support of an application for the correction of error in records of birth to the end that the records in the office of such Registrar may truthfully state the facts concerning the birth of any person born within this State, and may permit the return of documentary proof.

§ 6. PROCEDURE WHEN APPLICATION FILED.] Upon the filing of an application with the State Registrar of Vital Statistics for the recording of the proof of birth of any person, the Registrar shall hear and determine such application and the proofs submitted in connection therewith. For the purposes of this Act, the State Registrar of Vital Statistics, any deputy State Registrar of Vital Statis-

tics, and the Director of the Division of Vital Statistics may administer oaths to witnesses giving written or oral evidence. If the Registrar finds that the person described in the application was born at the time and place stated therein, such Registrar shall make a record showing that the application has been granted, that the person described in such application was born at the time and place shown in such proof, and such other facts as may be pertinent to such record.

§ 7. CERTIFICATES AND OTHER RECORDS ARE CONFIDENTIAL.] All certificates, applications, affidavits, proofs or other records filed with the State Registrar of Vital Statistics relative to births shall be deemed confidential and shall not be open to inspection by any person except the person whose birth has been recorded if such person is an adult, and if such person is a minor, by the legal parents or general guardian thereof. In other cases, access to such records or certified copies thereof may be obtained only upon an order of the district court, and such court shall issue such order only when it has been shown to the satisfaction of the court that the information contained in the original records on file in the office of the State Registrar of Vital Statistics is material and necessary to litigation pending in any court and that the ends of justice will be best served by the production of such original records. This section shall not preclude the State Registrar of Vital Statistics from furnishing such records or reports from such records to the Federal Government or any department or agency thereof when such records are required for statistical purposes or from permitting the inspection of such records when in the opinion of such Registrar such inspection will facilitate the correction of the records in his office. Information obtained from such records may be furnished without charge to any State department upon the order of the Attorney General made upon the written application of the executive head of the department showing the name of the individual relative to whom such information is required and stating that such information is required in the proper administration of the work of such department. Any information so furnished to any department shall be deemed confidential.

§ 8. REGISTRAR'S CERTIFICATE OF RECORD OF BIRTH; FEE FOR AND EFFECT OF.] The State Registrar of Vital Statistics, upon the payment of a fee of fifty cents, shall issue to any person entitled thereto a Registrar's certificate of the record relating to the proof of a birth. Such certificate shall be issued under the hand and seal of such Registrar and shall be prima facie evidence of the facts therein stated and shall be accepted as such proof in any court or before any commission, bureau, board, or agency in this State. Such certificate shall be based on the facts as shown in the records of the State Registrar of Vital Statistics on the date of the issuance of such certificate.

§ 9. FORM OF CERTIFICATE OF RECORD OF BIRTH.] The

Registrar's certificate of record of birth shall be dated, signed, and sealed by the Registrar of Vital Statistics or by a deputy State Registrar of Vital Statistics, and shall be in substantially the following form:

The State Registrar of Vital Statistics for the State of North Dakota does hereby certify that according to the records in his office, _____, was born at _____, in the county of _____, within the State of North Dakota, on the _____ day of _____, in the year of _____.

Such certificate may also set forth the sex and color or race of the person described therein and may also state the names of the persons who sustain to him the legal relationship of father and mother at the time the certificate is issued and such other facts as the Registrar shall deem pertinent. If the person described in the certificate has been legally adopted prior to the issuance of such certificate, the certificate shall state the names of the persons who have so adopted him as his legal parents.

§ 10. CERTIFICATE OF PROOF OF BIRTH ONLY INFORMATION REGISTRAR TO ISSUE.] No information other than the certificate of proof of birth described in this Act shall be issued by the State Registrar of Vital Statistics except upon the request of the person in relation to the birth of whom the information is requested. Upon the request of the person described therein, or if such person is a minor upon the request of his legal parents or general guardian, the Registrar may furnish a certified copy of the birth certificate provided for by statute.

§ 11. LOCAL REGISTRAR'S RECORDS CONFIDENTIAL; PENALTY.] A local registrar shall not permit the inspection of any records made by him and shall not disclose any information obtained by him as local registrar to any person except the State Registrar of Vital Statistics, or officers or employees of the State Department of Vital Statistics. Any local registrar violating the provisions of this section shall be guilty of a misdemeanor.

§ 12. RETROACTIVE EFFECT.] The procedure specified in this Act relating to the filing of delayed proof of birth shall apply to all persons heretofore or hereafter born.

§ 13. ACT SUPPLEMENTARY.] This Act is supplementary to Sections 446 to 457, both inclusive, of the 1913 Compiled Laws of the State of North Dakota and other laws relating to the recording of births.

§ 14. REPEAL.] That Chapter 109 of the Session Laws for the year 1939 is hereby repealed.

§ 15. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after May 1, 1941.

Approved March 17, 1941.

WATER CONSERVATION

CHAPTER 298

H. B. No. 166—(Committee on Drainage and Irrigation by Request)

IRRIGATION DISTRICTS

An Act to Amend and Re-enact Sections 8247a1, 8247a2, 8247a3, 8247a4, 8247a5, 8247a10, 8247a16, 8247a17, 8247a47, 8247a57 and 8247a60 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Sections 1, 2, 3, 5, 6, 11, 21, 22, 30, 35, and 37 of Chapter 253 of the Session Laws of North Dakota for 1939 relating to Irrigation Districts, their Functions, Powers and Duties.

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

§ 1. AMENDMENT.] That Section 8247a1 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 1 of Chapter 253 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a1. Whenever a majority of the electors within an area containing 80 acres or more of land, susceptible of irrigation, desire to provide for the irrigation of such land, they may propose the organization of an irrigation district under the provisions of this Act, and when so organized the district shall have the powers conferred, or that may be conferred, by law upon irrigation districts; provided, that no district shall, when so organized, contain less than five electors as the term elector is herein defined, and provided further, that where irrigation works, ditches, or canals have been constructed before the passage of this act of sufficient capacity to irrigate the lands thereunder, for which lands the water taken in such canals or ditches is appropriated, such canals or ditches and franchises under which same are maintained and operated, and the lands irrigated by such canals or ditches, shall be exempt from the operation of this act unless such irrigation district is created to acquire and own such irrigation works, canals, ditches, water rights and franchises. The term "elector" as used in this act shall include any entryman of government land or person owning not less than

ten acres of land, subject to assessments for construction or other costs, within the proposed or existing district who is a resident of the State of North Dakota. A purchaser of land under contract shall be deemed to be the owner thereof. Each elector shall have at least one vote, and any elector owning more than forty acres, subject to assessments for construction or other costs, within a proposed or existing district shall have one additional vote for each additional forty acres, but no elector shall be entitled to cast more than five (5) votes in any district election regardless of the number of acres of land owned in the district.

The word "elector" as defined and used in this act shall also include:

1. Guardians, executors, administrators, and trustees, residing in North Dakota, vested with the control and jurisdiction over lands within a proposed or existing district. A certified copy of Letters of Guardianship, Letters of Administration, Letters Testamentary or of the instrument creating the trust shall be presented to and filed with the clerk of the district election board. Any such guardian, executor, administrator or trustee, whether an individual or a corporation, may by an instrument in writing, duly acknowledged, designate an agent to vote in his or its behalf. Such instrument appointing such agent, together with a certified copy of Letters of Guardianship Letters Testamentary, Letters of Administration or instrument creating the trust, as the case may be, shall be presented to and filed with the clerk of the district election board by such agent.

2. Corporations, organized and existing under the laws of the state of North Dakota, owning lands within a proposed or existing district and co-owners of land therein.

3. The United States of America and the State of North Dakota, if government or state owned lands are situated in a proposed or existing district.

Where such land is owned by co-owners, said co-owners may by an instrument in writing designate one of their number to cast the vote for said owners. Such instrument shall be acknowledged by such co-owners and shall be presented to, and filed with the clerk of the district election board.

Where such land is owned by a corporation or by the United States, or by the State of North Dakota, such corporation, and any department or agency of the United States of America or of the State of North Dakota, shall, in order to participate in any district election, by an instrument in writing, executed and acknowledged by the proper officer or officers of such corporation, department or agency, designate an agent to vote in its behalf. Such instrument shall be presented to and filed with the clerk of the district election board by such agent.

§ 2. AMENDMENT.] That Section 8247a2 of the Supplement

of the Compiled Laws of 1925 as amended and re-enacted by Section 2 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a2. A petition shall be filed with the State Engineer signed by a majority of the electors of the proposed district who shall own a majority of the whole number of acres contained within the proposed district, requesting that the territory described in said petition be organized under the provisions of this act. Such petition shall set forth the name and address of each petitioner, and a description of his land. The petition shall also describe the boundaries of the district. The petition shall be accompanied with a map of the proposed district. Such map shall show the location of the proposed canals or works by means of which it is intended to irrigate the lands of the proposed district, but canals that merely pass through said lands, and which do not irrigate any of the same, need not be shown. If the water supply be from natural streams, the flow of such stream or streams shall be stated in cubic feet per second.

If the water supply for the district is to be gathered by a storage reservoir, or reservoirs, the map shall show the location thereof and shall state their capacity in acre feet.

Such map shall be drawn to a scale of not less than two inches to the mile. Typical cross sections of the proposed canal or canals, and all canals existing within the boundaries of the proposed district and shown on the map, and of all proposed dams and embankments, shall be given in sufficient detail to show the contemplated method of construction, and the capacity of the typical canals required for the irrigation of the lands within the proposed district shall be stated. Such cross sections shall be drawn to a scale required by the State Engineer, and such map and cross sections shall be certified to by an irrigation engineer. The petition must be accompanied by a good and sufficient bond, to be approved by the State Engineer, in double the amount of the probable cost of organizing such district, including the cost of the first election therein, conditioned that the sureties will pay all costs in case said organization shall not be approved by the electors.

Within ten days after the filing of such petition, and the approval of such bond, the State Engineer shall file a certified copy of such petition with the board of county commissioner (s) of each county wherein the proposed irrigation district is situated.

The State Engineer shall examine the petition, maps, papers and data pertaining to the proposed irrigation district and shall fix a time and place for hearing such petition. A notice stating that such petition will be heard, and stating the time and place of hearing, must be filed with the county auditor of each county wherein such district is located. Such notice shall be published once each week for two weeks prior to the date of such hearing in the official newspaper of the county wherein the proposed irrigation district is locat-

ed, and if such district is located in more than one county, then such notices shall be published in the official newspaper of each such county. Prior to such hearing the State Engineer shall prepare, or shall cause to be prepared, a report showing the probable cost of the proposed irrigation works and the practicability and feasibility of the plan of irrigation suggested or proposed by petitioners for the irrigation of the lands within such district. A copy of such report shall be filed with the county auditor of each county wherein the proposed irrigation district is situated and such report shall be open to public inspection. The State Engineer shall also submit such report to the electors of the proposed district at the meeting set for hearing the petition for the organization thereof.

At the time set for hearing, the State Engineer may, with the consent of petitioners amend the plan of irrigation proposed in said petition and may, with the written consent of the owners of the additional land affected, enlarge the boundaries of the proposed irrigation district. The State Engineer may adjourn such hearing from time to time and on the final hearing may make such changes in the proposed boundaries as he shall find to be proper and shall establish and define the boundaries; provided however, that the boundaries of the irrigation district proposed in the petition shall not be changed until each owner of land affected thereby has in writing consented to the inclusion of his land in such district.

§ 3. AMENDMENT.] That Section 8247a3 of the Supplement of the Compiled Laws of 1925 as amended and re-enacted by Section 3 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a3. (1). When the State Engineer shall have found and determined that the establishment of such irrigation district is advisable, and that the plan proposed for irrigating the lands therein is practicable and economically sound, he shall make an order establishing such irrigation district subject to the approval of the electors of the district at an election called by the State Engineer for that purpose as hereinafter provided. If the district embraces 10,000 acres of land, or more, the State Engineer shall divide the district into three sub-divisions which shall be as nearly equal in size as may be practicable, and which shall be numbered, and one director shall be elected from each division. Such order shall set forth: (a) the time and place of holding such election, (b) the boundaries of the district, (c) the name and address of each elector who has petitioned for, or consented in writing to the organization of such irrigation district and a description of the land owned by each such elector, and (d) the plan or method proposed for the irrigation of such lands. A copy of such order shall be filed with the County Auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

(2). If, however, the State Engineer shall determine that the plan of irrigation proposed is not practicable or that such plan is not economically sound, he shall make an order denying the petition for the organization of such irrigation district and shall state his reasons for his action. A copy of such order shall also be filed with the county auditor of each county in which the proposed irrigation district is situated.

(3). Upon making his order establishing such irrigation district the State Engineer shall give notice of an election to be held in such district for the purpose of determining whether or not the electors of the district approve the establishment and organization thereof as an irrigation district. Such notice shall describe the boundaries as established by the State Engineer and shall designate a name for such district, and said notice shall be published once each week for two weeks prior to such election in a newspaper in the county in which the district is situated, and if no newspaper is published in such county, then in a newspaper published in an adjoining county, and if situated in more than in one county such notice shall be published in a newspaper published within each of such counties. Such notice shall be substantially in the following form:

NOTICE OF ELECTION

Notice is hereby given that on the-----day of-----, 19---, a special election will be held within the territory hereinafter described for the purpose of submitting to the electors of said territory the question as to whether or not the order of the State Engineer establishing an irrigation district known as----- Irrigation District shall be approved, such district comprising and including the following described lands, to wit:

(Here describe lands embraced in the district.) The ballot will be in the following form:

For Irrigation District.

YES-----
NO -----

Notice is further given that a board consisting of three directors will be elected who will serve as hereinafter provided if the creation of the district is approved. Polls will be open from 9:00 A. M. to 7:00 P. M.

Dated this-----day of-----, 19-----

Signed-----

STATE ENGINEER.

(4). The board of directors of an irrigation district shall consist of three directors who shall be residents and electors of the district. One director elected at the election for the organization of the district shall serve until the first Tuesday in March following the first regular district election, one director shall serve until the first Tuesday in March following the second regular election and

one director shall serve until the first Tuesday in March following the third regular election. The term of office of the directors elected at such first election shall be determined by lot at their first meeting. Directors elected at subsequent elections shall serve for three years and until their successors are duly elected and qualified. In case the office of any director shall for any reason become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose place he has been appointed to fill. In the event that a vacancy shall occur in the office of two directors, the State Engineer and remaining district director shall fill the vacancy; and in the event that the office of all of the directors shall become vacant, the State Engineer shall appoint the members of the board and they shall serve until the next general election of the district.

(5). Prior to the holding of such election, the State Engineer shall appoint from the electors of the district one clerk and two judges who shall constitute a board of election for such district. If the members appointed do not attend at the opening of the polls on the day of election, the electors present at that hour may elect the election board or fill the place of an absent member thereof.

(6) Such election shall be conducted in accordance with the general election laws of the State. After the polls are closed, the election board shall proceed to canvass the votes cast thereat, and the clerk of the election board shall certify to the State Engineer the result of such election. The clerk of the board shall then securely wrap the ballots cast at such election and shall express or mail same by registered mail to the State Engineer who shall also canvass the ballots and verify the result. The State Engineer shall file and retain in his office the ballots cast at such election.

(7). If upon a canvass of the votes cast and after such canvass has been verified by the State Engineer it appears that a majority of all votes cast are "Irrigation District.....YES", the State Engineer shall by an order declare such territory duly organized as an irrigation district under the name and style therefor designated and shall declare the persons receiving the highest number of votes duly elected as directors. The State Engineer shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the register of deeds of each county in which any portion of the irrigation district is situated and shall also file a copy of such order with the county auditor of each county in which any portion of the district is situated, and from and after the date of such filing, the organization of such district shall be complete. The State Engineer shall immediately make out and mail, by registered mail, to each person elected to the office of director a certificate of election signed by him. The directors shall thereupon enter upon the duties of their office.

(8). The State Engineer shall also file in the office of the

Secretary of State a copy, duly certified by him, of such order, declaring such territory to be duly organized as an irrigation district, and the Secretary of State shall make and issue to the State Engineer a certificate under the Seal of the State, of the due organization of such district and shall record such certificate and the said order of the State Engineer. Such certificate of the Secretary of State or a copy thereof, authenticated by him, shall be prima facie evidence of the organization and existence of such irrigation district.

§ 4. AMENDMENT.] That Section 8247a4 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 5 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 8247a4. After receiving their certificates of election the directors shall take and subscribe to an oath of office of substantially the same tenor as the oath of office prescribed for county officials and each member of said board of directors shall execute an official bond in the sum of One Thousand Dollars (\$1,000.00). Such oath of office and bond shall be filed in the office of the State Engineer.

The directors elected at the first election shall meet at the time and place designated by the State Engineer and shall organize by selecting one of their members as chairman of the board. A temporary secretary shall be designated until a permanent secretary of the board has been appointed. After the organization of the board, a majority of the directors shall constitute a quorum for the transaction of such business as may come before the board. The board shall appoint a secretary, a treasurer and an assessor of the district and such other officers or employees as the board shall deem necessary for the efficient conduct of the district's business and shall fix their compensation. Officers and employees appointed by the board shall hold office during the pleasure of the board. The office of secretary, assessor and treasurer may be held by the same person. Each succeeding board of directors shall choose or appoint its officers as herein provided.

The assessor shall execute an official bond in the sum of \$500.00, the district treasurer, an official bond in the sun(sum) of not less than double the amount of money that may come into his hands, the amount to be determined by the board of directors, but such bond shall not be less than \$1,000.00. Other employees and appointive officers shall execute bonds in such sums as the board may prescribe. The official bonds of the assessor, treasurer and other officers and employees shall be approved by the board. Such bonds shall be filed in the office of the State Engineer. In case any district organized hereunder is appointed fiscal or other agent of the United States or is authorized by the United States to make collections of money for and on behalf of the United States in connection with any Federal reclamation or irrigation project, such treasurer and each director shall execute an additional official bond in such sum as the Secretary

of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization; and such additional bonds may be sued upon by the United States or by any person damaged by failure of such officer or district to fully, promptly, faithfully perform their duties. All official bonds herein provided shall be in the form prescribed by law for official bonds of county officers except the obligee named in such bond shall be the irrigation district. The directors elected subsequent to the organization of the district shall assume the duties of their office the first Tuesday in April after their election and shall hold office until their successors are elected and qualified.

Every elective or appointive officer or employee of whom a bond is required under this act shall be deemed to be bonded in the State Bonding Fund upon notice of such election or appointment being given by the Secretary of the district to the State Commissioner of Insurance. Upon notification by the Commissioner of Insurance of the amount of premium of such bond or bonds, the secretary of the district shall forthwith remit the same.

§ 5. AMENDMENT.] That Section 8247a5 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 6 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a5. The regular election of irrigation districts shall be held on the first Tuesday in February of each year.

Fifteen days before any election is held under the provisions of this act, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in the district a notice of the election specifying when the polls will be opened and when the polls will be closed and the polling place or places. Such notice shall be in substantially the following form:

“Notice is hereby given that on the ____ day of _____, 19____, an election will be held at _____ (Here designate the polling place) for the purpose of electing _____ members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at ten o'clock A. M. and will be closed at five o'clock P. M. of that day.”

Failure to give such notice shall, however, not invalidate the election of a director elected at any regular election.

Prior to the date of such election, the board shall appoint from the electors of the district, one clerk and two judges who shall constitute the board of election. If the board shall fail to appoint such board of election, or if the members appointed do not attend at the opening of the polls on the day of election, the electors of the district

present at that hour may appoint the election board or fill the place of an absent member thereof. The board of directors shall, in its order or resolution appointing the board of election, designate the time and place where the election shall be held.

Any person desiring to be a candidate at such election shall file his or her name with the secretary of the board not less than ten days before such election. At least five days before such election the secretary shall prepare and have typewritten, mimeographed or printed an official ballot containing all names thus filed. Such ballot shall be headed "Official Ballot" and shall contain all names thus filed. Such ballot shall also show the name of the district and shall state the number of persons to be voted for. Such ballot shall also have blank spaces below for writing in other names; provided nothing herein shall prevent any person desiring to be a candidate at such election, and who has failed to file as herein provided, from furnishing stickers to be attached to the ballot by the elector. Such stickers shall not be over one-half inch in width and have printed thereon one name only.

§ 6. AMENDMENT.] That Section 8247a10 of the Supplement to the Compiled Laws of 1925, as amended and re-enacted by Section 11 of Chapter 253 of the Session Laws for the year 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a10. The Board of directors shall hold regular meetings in their office or usual place of meeting on the first Tuesday of January, March, July, and November in each year at two o'clock in the afternoon of that day, and the board may also hold such special meetings as may be required for the transaction of the district's business. All special meetings shall be called by the secretary upon the order of the chairman of the board or upon the request in writing of the other two members. Such order must be entered of record on the minutes of the meeting and notice of such special meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such special meeting; provided, however, that a special meeting of the board may be called at any time by the chairman without notice and the meeting thus called shall be legal and valid if all members of the board of directors are present.

A majority of the members shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a concurrence of at least a majority of the board. All records of the board must be open to the inspection of any elector during business hours. The board may cause to be published in one newspaper of general circulation in the district a brief statement of the proceedings of each regular or special meeting if such publication can be done at an expense not exceeding one-third of the legal rate for advertising notices.

§ 7. AMENDMENT.] That Section 8247a16 of the Supple-

ment to the Compiled Laws of 1913 as amended and re-enacted by Section 21 of Chapter 253 of the Session Laws of 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a16. The district assessor shall, between the first Monday in March and the first Monday in June of each year, examine each tract of land or legal subdivision of land in the district, including entered and unentered public lands of the United States, subject thereto under any act of Congress, and all other lands publicly or privately owned, and shall determine the benefits which will accrue to each of such tracts or subdivisions on account of the construction, acquisition, or operation of irrigation works, and the amount so apportioned or distributed to each tract of land as finally equalized shall be and remain the basis for fixing the annual assessments levied against such tracts or subdivisions in carrying out the provisions of this act. The assessor shall make, or cause to be made, a list showing the apportionment or distribution of assessments, which list shall contain a description of each unit or tract of land assessed in the district, and the name of the record owner thereof; or he may prepare a map on a convenient scale showing each unit or tract of land with the amount per acre apportioned thereto; provided that where all lands on such statement or map are assessed at the same amount or rate per acre, a general statement to that effect shall be sufficient. A copy of such list or map shall be filed in the office of the county auditor of each county in which the district is situated, one copy shall be filed in the office of the State Water Conservation Commission and one copy shall remain in the office of the board of directors for public inspection.

Whenever any assessment is made it shall be apportioned and spread upon the lands in proportion to the benefits received; provided, however, that the payment of bonds, district improvement warrants and other obligations incurred by the district, shall be held to be the obligation of the district and all real property within the district shall be subject to assessment for any deficiency in any fund created for the payment of bonds, district improvement warrants or other obligations.

The assessment of any property in the name of a person not the owner thereof shall in no way invalidate the assessment of any unit or tract of land.

The assessor shall also determine and list the amount payable for each tract obligated by contract, if any, to the United States or any department or agency of the United States, or to the State Water Conservation Commission, or to any person, firm or corporation or to another irrigation district for the payment of water charges.

§ 8. AMENDMENT.] That Section 8247a17 of the Supplement to the Compiled Laws of 1925, as amended and re-enacted by Sec-

tion 22 of Chapter 253 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a17. On or before the fifteenth day of June in each year the assessor must complete his assessment roll and deliver it to the secretary of the district. The board of directors shall thereupon at its regular meeting in July proceed to equalize such assessments. At least ten days before the board of directors meets the Secretary shall give notice of such meeting by posting notice thereof in at least three conspicuous places within the district designated by the board of directors but failure to post such notices shall not invalidate assessments as equalized by the board of directors. Until such meeting is held the assessment roll shall remain in the office of the secretary for the inspection of all persons interested.

§ 9. AMENDMENT.] That Section 8247a47 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 30 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a47. RE-DIVISION OF DISTRICT: DIRECTORS.] In case of the inclusion of any land in any district by proceedings under this act, the board of directors shall, if the district contains, or will contain after the inclusion of such land, ten thousand acres or more, at least thirty days prior to the next general election, make an order re-dividing the district into three divisions as nearly equal in size as may be practicable, which shall be numbered, and one director shall thereafter be elected from each division.

§ 10. AMENDMENT.] That Section 8247a57 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 35 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a57. RE-DIVISION OF DISTRICT.] At least thirty days before the next general election of such district the board of directors thereof shall, if the district embraces or contains ten thousand acres, or more, make an order dividing the district into three divisions as nearly equal in size as practicable, which shall be numbered, and one director shall be elected from each division.

§ 11. AMENDMENT.] That Section 8247a60 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 37 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a60. The board of directors of an irrigation district may, if deemed advisable, file, or cause to be filed, in the district court of any county, in which lands of the districts are situated, a petition praying that the proceedings had for the issuance of bonds or improvements warrants or, if the board deems it advisable, the proceedings had preliminary to the making of any contract, or for

levying assessments or taking any special action, be examined, approved and confirmed by the court. Such petition shall state the facts concerning the proceedings had for the issuance of bonds, improvement warrants, the making of any contract, levying any assessment or any special action of the board, as the case may be, and shall state generally that the irrigation district was organized and that the directors were elected and qualified, but the petition need not set forth the proceedings resulting in the organization of the district or the election of the directors.

Approved March 7, 1941.

CHAPTER 299

S. B. No. 174—(Gronvold)

PROVIDING FOR DISSOLUTION OF IRRIGATION DISTRICTS

An Act Providing for the Dissolution of Irrigation Districts; Providing for the Sale of the Assets of such Districts; Providing for the Disposition of Cash Assets of the District after all District Obligations have been Fully Paid; Repealing all Acts and Parts of Acts in Conflict herewith; and Declaring an Emergency.

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

§ 1. DISSOLUTION OF IRRIGATION DISTRICT: PETITION; DUTY OF BOARD OF DIRECTORS; NOTICE OF ELECTION.] Whenever the electors of an irrigation district owning a majority of the number of acres of irrigable land therein shall petition the board of directors to submit to the electors of the district at a special election, or at the next regular election of the district, the question of the dissolution or discontinuance of such irrigation district, and the sale of its property, the board of directors, if the district has no outstanding or unpaid bonds or district improvement warrants or if the holders of district bonds or district improvement warrants consent thereto in writing, shall adopt a resolution calling a special election or providing for the submission of such question to the electors at the next regular district election. Notice that the question of the dissolution of the district and the sale of the district property will be submitted to the vote of the electors at a special election or at the next general district election, as the case may be, shall be published once each week for at least two consecutive weeks in a newspaper in each of the counties in which the district is located, if a newspaper is published therein, and such notice shall be posted in the district in three conspicuous places designated by the board of directors. If the district is divided into subdivisions or precincts, such notice shall be posted in a conspicuous place in each such subdivision or precinct.

Such election shall be held not less than twenty days nor more than thirty days after the last publication of such notice and the posting thereof.

§ 2. **BALLOTS.]** The board of directors shall provide printed, typewritten, or mimeographed ballots for such election, which ballots shall be substantially in the following form:

“Shall -----Irrigation District of-----
County, North Dakota, be dissolved and its property sold: .

YES (For Dissolution and Sale of District Property) --

NO (Against Dissolution and Sale of District
Property) -----

The board of directors shall cause such ballots to be prepared and placed in the hands of the election officers of the district prior to the opening of the polls on the day of such election.

§ 3. **CONDUCT OF ELECTION; CANVASS AND REPORT OF ELECTION.]** Such election in all respects shall be conducted in the same manner as the election of directors of the district. Immediately after the polls are closed, the election board or boards shall publicly open and proceed to canvass the ballots and shall declare the result of such canvass. The chairman shall securely wrap all ballots, lists, tally sheets, oaths and affirmations, and other documents relating to the progress of the election and shall deliver them to the secretary of the board of directors of the district. The board of directors shall meet on or before the third day after such election and shall proceed to publicly canvass such election returns and by resolution shall declare the result of such election which resolution shall be entered immediately in the records of the district. A certified copy of such resolution and all ballots, lists, tally sheets, and other documents pertaining to the election shall be forwarded to the State Engineer by registered mail or express.

§ 4. **PROCEDURE WHEN ELECTION FAVORS DISSOLUTION.]** If a majority of the votes cast at the election are in favor of dissolving the district, the board of directors shall cause to be published in the official newspaper of the county, if there is one, and if there is no such newspaper, then in such newspaper as the board shall designate, a notice to the creditors of the district, except holders of district bonds or district improvement warrants, requiring all persons having claims against the district to submit and file such claims with the secretary of the board of directors within one year after the first publication of the notice at the place specified in such notice. The notice shall be published as many times as the board shall direct, but not less than once each week for three consecutive weeks. The secretary of the district shall mail, or cause to be mailed, by registered mail a copy of such notice to each creditor, except the holders of district bonds or district improvement warrants, known to him or of record in his office. After such notice is given, a copy thereof

with the affidavit of publication and affidavit of mailing shall be filed in the office of the secretary of the district. Any claim not thus presented, except claims of holders of district bonds or warrants, shall be forever barred against such districts and against all officers thereof or property therein. Nothing contained in this Act shall be construed to limit or impair the rights of owners or holders of district bonds or district improvement warrants.

§ 5. RESUBMISSION OF QUESTION OF DISSOLUTION AFTER UNFAVORABLE VOTE.] If a majority of the votes cast at the election are against dissolving the district and selling the property thereof, no subsequent election upon the question of dissolution of the district shall be held until after the expiration of at least one year.

§ 6. RESOLUTION OF DISSOLUTION: WHEN EFFECTIVE; DUTIES OF DISTRICT OFFICERS.] If a majority of the votes cast at the election are in favor of dissolving the district, the board of directors, in its resolution declaring the result of the election, shall declare that the district will be dissolved when the obligations of the district have been fully paid. The board of directors and other officers of the district shall continue to act and function until the property and assets of the district have been disposed of in conformity with the provisions of this Act and until all obligations of the district have been settled and paid.

§ 7. SALE OF DISTRICT PROPERTY AUTHORIZED; APPOINTMENT OF APPRAISERS.] If a majority of the votes cast at an election held under the provisions of this Act favor dissolution and sale, the canals, franchises, and other property of the district may be sold at not less than a valuation to be determined by a board of three appraisers. One member of such board of appraisers shall be appointed by the board of directors of the district, one shall be appointed by the State Engineer, and the two appraisers thus selected shall choose the third appraiser. The board of appraisers shall be sworn by an officer authorized to administer oaths by law and who has an official seal. Such board shall appraise the canals, franchises, and all other property of the district at its cash value, and to determine such value, with the consent of the board of directors of the district, may employ engineers, accountants, and such expert assistance as may be necessary. The compensation of such engineers, accountants, and others shall be fixed by the board of directors. The board of directors shall fix the compensation of appraisers, but such compensation shall not exceed ten dollars per day and necessary expenses for each day engaged in such work.

§ 8. DUTY OF APPRAISERS; ADVERTISEMENT OF SALE.] The board of appraisers shall appraise all of the property of the district and shall make a report of its appraisal to the board of directors. A copy of such report shall be filed by the secretary of the district with the State Engineer. The board of directors shall advertise for

sale all of the property of the district and shall publish a notice once each week for two consecutive weeks specifying that sealed bids will be received, opened, and considered by the board at the time and place specified in such notice, and setting forth a description of the property. At the time and place designated in such notice, or as soon thereafter as the board can meet, it shall open and consider all bids received for the purchase of the property, and it shall have the power to reject any and all bids which do not, in the judgment of the board, offer a fair and just consideration.

§ 9. PRIVATE SALE; WHEN PERMITTED; PROCEEDS OF SALE.] If all bids are rejected by the board, it, by private negotiation, may sell and convey the property or any part thereof for cash at not less than the appraised value thereof, or may agree to sell and convey the property at not less than the appraised value for part cash and part in deferred payments bearing interest at such rate as shall be mutually agreed to between the board and the purchaser. The title to any property so sold shall remain in the district until the purchase price thereof has been fully paid. All moneys realized from the sale of the property shall be deposited with the county treasurer designated as the custodian of district funds, and such moneys shall be paid out only upon warrants duly authorized by the board of directors and signed by the chairman and secretary thereof.

§ 10. SALE OR TRANSFER OF PROPERTY AUTHORIZED.] In carrying out the provisions of this Act for the discontinuance of an irrigation district and the sale of its property and assets, the board of directors may sell, transfer, and convey all of the canals, franchises, and other property owned by the district to the purchaser thereof.

§ 11. LIQUIDATION OF DISTRICT INDEBTEDNESS.] After the sale of the property and franchises of an irrigation district, the board of directors, with the moneys realized from such sale together with such other funds as such district may have, shall make settlement, payment, and redemption of all outstanding bonded or other indebtedness of the district, but in no case shall such board pay more than the par value of outstanding bonds or warrants, as the case may be, with interest up to the time of payment. If the amount realized from the sale of such district property, together with other moneys of the district, shall be insufficient for the payment of all the indebtedness of the district, such district shall not be dissolved or discontinued until such indebtedness is fully paid, and assessments shall continue to be made against the lands in the district in the manner provided by law for the levy of assessments to pay bonds and other indebtedness of irrigation districts until a sufficient amount is raised to pay in full all obligations of such district.

§ 12. SALE DOES NOT AFFECT VESTED RIGHTS; APPURTENANT RIPARIAN RIGHTS CONTINUE.] The sale of the canals, franchises,

and property of an irrigation district shall not in any manner whatsoever be held or construed to affect or impair vested rights, and the right to the use of water acquired under the laws of North Dakota shall be and remain appurtenant to the irrigated land.

§ 13. SALE DOES NOT AFFECT OR RELEASE ASSESSMENT LIENS; DUTY OF COUNTY TREASURER.] The sale of the property and franchises of an irrigation district shall not affect or release the lien of any assessment made by the district upon the lands therein, and such lien shall not be removed until such assessment is paid or the property sold for the payment thereof. The county treasurer shall collect any such assessment in the same manner as provided by law for the collection of the assessments of an irrigation district, and the laws of the state for the collection and sale of land for taxes shall continue to be applicable to the collection of any such assessments.

§ 14. REPORT OF DISSOLUTION: WHEN AND WHERE FILED.] After all the property of the district shall have been disposed of and all the obligations thereof shall have been paid, the directors of such district shall file in the office of the county auditor of each county in which such district is situated, and in the office of the State Engineer, a report signed by the chairman of the board and attested by the secretary, and bearing the seal of the district, stating that the district has disposed of its property and franchises, that all of the obligations of the district have been fully paid, and that the district has been disorganized and dissolved. Such report shall be recorded in the miscellaneous records of the register of deeds in each of the counties in which the district is located, and from and after such filing and recording, such irrigation district shall be deemed to be dissolved.

§ 15. SURPLUS MONEYS OF DISTRICT, HOW DISPOSED OF.] If a disorganized irrigation district shall have moneys in its treasury after the payment of all the debts and obligations of the district, such moneys shall be apportioned and paid to each landowner who has fully paid all assessments against his land in the same proportion that the last assessment of such owner's land bears to the total of all assessments last made, levied, and assessed against all lands in the district.

§ 16. REPEAL.] All acts or parts of acts in conflict with this Act are hereby repealed.

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

Approved March 13, 1941.

CHAPTER 300

H. B. No. 167—(The Committee on Drainage and Irrigation by Request)

STATE WATER CONSERVATION COMMISSION

An Act to Amend and Re-enact Sections 11, 21 and 22 of Chapter 256 of the Session Laws of North Dakota for the year 1939 relating to the Powers and Duties of the State Water Conservation Commission, relating to State Water Conservation Commission Bonds and Declaring an Emergency.

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

§ 1. That Section 11 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ II. AMENDMENT.] CO-OPERATION AND CO-ORDINATION WITH ALL EXISTING AGENCIES.] The State Water Conservation Commission is hereby authorized and empowered to investigate, plan, co-operate and make all contracts or compacts necessary or requisite:

(1) With the United States and any department, agency or officer thereof; (2) with the States of Minnesota, South Dakota, Montana and Wyoming and with any other state, and with any department or officer of any state; (3) with the Dominion of Canada or any of its provinces and, (4) with any agency or department or officer of either of them, who may be empowered, authorized and concerned with questions and problems involving water conservation, flood control, water pollution, irrigation, soil reclamation, or vested with any of the powers or duties imposed by this act upon the State Water Conservation Commission for any of the purposes expressed herein.

This power herewith so granted shall extend to all waters, whether considered as intra-state or inter-state. The State Water Conservation Commission is specially authorized and empowered to co-operate with the United States or any of its agencies concerned with investigation, planning, conserving, utilizing, developing, and handling water in any form for purposes of water conservation, flood control, prevention of water pollution or soil reclamation, or with any other resources of the State, and concerned with the administration of the public works program of the State or any part thereof; and it is further authorized to act and to fully contract with the United States, or with any department, agency or officer thereof with full power of purchase, sale, or lease for carrying out, developing, or administering any federal project within the State of North Dakota, or partly within the State, and also to accept and to use any funds provided by the United States or any agency thereof for any such purposes.

§ 2. That Section 21 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ 21. AMENDMENT.] WATER CONSERVATION COMMISSION REVENUE BONDS.]

1. The Commission is hereby authorized to provide resolution, at one time or from time to time, for the issuance of State Water Conservation Commission Revenue Bonds not exceeding a total of three million dollars, for the purpose of paying the cost as hereinbefore defined of any one or more such works and for the purpose of acquiring lands and preparing and developing same for irrigation, the principal and interest of which bonds shall be payable from the special fund herein provided for such payment. Such bonds shall mature at such time or times, either serially or at one time, in not more than thirty (30) years from their date, or dates, as may be fixed by such resolution, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, at not to exceed 105 per cent of the par value thereof, on any interest paying date, upon thirty days notice, which shall be published once in a newspaper of general circulation in Burleigh County. The board shall determine the rate of interest such bonds shall bear, not exceeding five per centum (5%) per annum, the time, or times, of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination, or denominations, of the bonds and the place, or places, of payment of principal and interest thereto, which may be at any bank or trust company within or without the State. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. All such bonds shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State. Such bonds may be secured by such works or lands, as the case may be, and the income derived therefrom, and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, lands, property and facilities to be acquired out of the proceeds of such bonds and as hereinafter provided.

2. Provisions may be made for the registration of any of the bonds in the name of the owner as to the principal alone or as to both principal and interest. The bonds authorized under the provisions of this act may be issued and sold from time to time, and in such amounts as may be determined by the Commission and the Commission may sell the bonds in such manner and for such price as it may determine to be for the best interests of the state, but no such sale shall be made for less than the par value of each bond. The

proceeds of such bonds shall be used solely for the payment of the cost of the works or the cost of acquiring lands and preparing or developing such lands for irrigation, as the case may be, and shall be paid out in such manner and under such restrictions as the Commission may provide. Prior to the preparation of definitive bonds, the Commission may under such restrictions issued temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued without any other proceedings or happenings of any other condition and things which are specified and required by this act or by the constitution of this state.

3. Each resolution providing for the issuance of bonds shall set forth the purpose or purposes for which the bonds are to be issued, and the bonds authorized by each such resolution shall constitute a separate series. The bonds of each series shall be identified by a series of letter or letters, and may be sold and delivered at one time or from time to time.

4. Whenever the Commission shall find it necessary to insure or guarantee the payment of a part of the principal or interest of any series of Water Conservation Commission Revenue Bonds, in order to sell or market such bonds, it is hereby authorized, and the Commission may, in its discretion, enter into an agreement to pledge, hypothecate, obligate, place under trust indenture, or agree to deposit in a trust fund, moneys appropriated by Chapter 95 of the Session Laws of 1939 for "construction bond guarantee", and in addition thereto, moneys now or hereafter appropriated, to thus guarantee and insure the payment of the interest on and principal of State Water Conservation Commission Revenue Bonds, and from and with moneys thus appropriated the Commission may guarantee or insure, or agree to pay, the interest on and principal of such bonds, not exceeding, however, twenty per cent of the par value of any such bonds or series of bonds. The Commission shall not thus pledge, hypothecate, or place under trust indenture, or agree to thus pledge, hypothecate or place under trust indenture an amount in excess of the total amount of moneys appropriated by Chapter 95 of the Session Laws of 1939 and moneys subsequently appropriated in addition thereto for such purposes. Any agreement entered into by the Commission to thus pledge, hypothecate or place under trust indenture any amount in excess of moneys appropriated for such guarantee fund purposes shall be, and is hereby, declared null and void. The appropriation of such funds, and the use thereof by the Commission to guarantee or insure the payment of not to exceed twenty per cent of the par value of any of its bonds, shall not be construed to be pledging the credit of the state of North Dakota nor the guaranteeing by the state of any Water Conservation Commission Revenue Bonds. Moneys appropriated to enable the State Water Conservation Commission to guarantee the payment of the interest or principal of its bonds to the extent of not to exceed twenty per cent of

the par value thereof, shall be available to the Commission as a continuing revolving fund, and moneys so appropriated, and any unexpended balances thereof, shall not revert to the state general fund at the end of any biennial fiscal period but shall be available for use by the Commission to insure and guarantee, to the extent herein provided, the payment of interest and principal of its said bonds until otherwise required by law.

§ 3. AMENDMENT.] That Section 22 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ 22. LIEN UPON BOND PROCEEDS.] All moneys received from bonds of any series issued pursuant to this act shall be placed in the Water Conservation Commission Bond Payment Fund and shall be used solely for the purpose of paying the cost of the works or projects for the construction of which such bonds have been issued, or for the purpose of acquiring lands and preparing and developing same for irrigation, and there shall be, and is hereby, created and granted a lien upon such moneys, until so used in favor of the holders of the bonds or the trustee hereinafter provided for in respect to such bonds.

§ 4. 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 14, 1941.

WEIGHTS AND MEASURES

CHAPTER 301

H. B. No. 146—(Kee, Olson of Barnes, Bymers, Johnson of Cass and Crockett) (Companion Bill to House Bill 20)

WEIGHTS AND MEASURES INSPECTION FEES

An Act to amend and re-enact Section 9 of Chapter 311 of the Session Laws for the Year 1931 as amended and re-enacted by Chapter 269 of the Session Laws for the year 1933; relating to fees for inspection of Weights and Measures, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 9 of Chapter 311 of the Session Laws for the year 1931 as amended and re-enacted by

Chapter 269 of the Session Laws for the year 1933 is hereby amended and re-enacted to read as follows:

§ 9. The Chief Inspector or other employee of the Department of Weights and Measures shall charge and collect fees annually in accordance with the following schedule:

For inspection and sealing of railroad and track scales of capacity of 20 tons and upwards.....	\$ 8.00
For inspection and sealing of vehicle scales and livestock scales of 8000 pounds capacity and over.....	4.00
For inspection and sealing dormant scales, less than 8000 pounds capacity, or hopper scales each.....	2.00
For inspecting and sealing movable platform scales (other than coin weighing machines or scales)50
For inspecting and sealing all counter or computing scales each50
For inspecting and sealing every patent balance, beam steel yard or other instrument used for weighing other than the above enumerated, each.....	.50
For inspecting and sealing any two bushel or one bushel measure25
For inspecting and sealing any other dry measure, each.....	.10
For inspecting and sealing any liquid measure or computing pump50
For inspecting and sealing liquid measures of five gallon or less capacity, each25
For inspecting and sealing any board of cloth measure, each..	.10
For calibrating truck tanks of 1000 gallon capacity and under	5.00
For calibrating truck tanks over 1000 gallon capacity.....	10.00

Where weighing and measuring devices have been rejected and have been re-conditioned or replaced by new equipment the same must be re-inspected and certificate issued before being put in use and the same fees charged for such re-inspection or certification as enumerated above. When the Inspector or other employees of the Department of Weights and Measures shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted or out of repair, it shall be his duty to correct such scale or measure and he shall collect for such service one dollar and twenty-five cents (\$1.25) per hour for the actual time consumed in making such corrections and shall receive just compensation for any material used in such corrections.

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

Approved March 4, 1941.

CHAPTER 302

H. B. No. 175—(Gackle and Haugen)

WEIGHING OF FUEL

An Act Requiring Fuel to be Weighed and Scale Weight Ticket Delivered Purchaser at Time of Delivery Thereof in any City or Village; Declaring Failure to do so a Misdemeanor and Prescribing Penalty Therefor.

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

§ 1. FUEL REQUIRED TO BE WEIGHED, CORRECT SCALE WEIGHT SLIP DELIVERED, MISDEMEANOR, PENALTY.] Any person, partnership, association or corporation, selling or delivering within any City or Village in this State, where adequate weighing facilities exist, any coal lignite or briquette fuel without the same being first weighed or without a duplicate scale weight slip showing the true weight thereof, being delivered the purchaser, therewith, shall be guilty of a misdemeanor and on conviction punished by a fine of not less than ten or more than one hundred dollars, or by imprisonment in the county jail for not to exceed thirty days.

Approved March 4, 1941.

WORKMEN'S COMPENSATION

CHAPTER 303

H. B. No. 115—(Allen and Tuff by Request)

INCLUDING ELECTIVE OFFICIALS UNDER THE WORKMEN'S COMPENSATION ACT

An Act to include certain elective officials of the State and of the counties thereof Under the Terms of the Workmen's Compensation Act, and to Amend and Re-enact Section 4 of Chapter 286, Session Laws of 1935 (Being Section 10-1 of Chapter 162 of the Session Laws of 1919, as amended) Relating to Disbursements of the Workmen's Compensation Fund; Repealing All acts or Parts of Acts in Conflict Herewith.

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

§ 1. That all elective officials of the State of North Dakota, including the members of the Legislative Assembly, and all elective

officials of the several counties of the state, shall be considered as employees of the State of North Dakota and of the counties thereof, as the case may be, within the meaning of the North Dakota Workmen's Compensation Act, as amended.

§ 2. AMENDMENT.] That Section 4 of Chapter 286, Session Laws of 1935, (being Section 10-1 of Chapter 162, Session Laws of 1919, as amended) be amended and re-enacted to read as follows:

§ 4. The Workmen's Compensation Bureau shall disburse the Workmen's Compensation Fund to such employees of the employers as have paid into the said fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wherever such injuries have occurred, or to their dependents in case death has ensued, and such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of such injured or deceased employee, but no compensation shall be paid on account of injuries occurring outside of the State of North Dakota, nor because of death due to an injury occurring outside of the State of North Dakota, unless such employee is a duly qualified peace officer in this State, receiving injury or meeting with death outside of the State of North Dakota in the course of his employment, or unless the employer and the Bureau shall have previously contracted for insurance protection for employees while working outside of the State in the employment in which the injury occurred. Providing that no such contract, with the exception as herein stated, shall be issued to any employer unless his principal plant and main or general office is located in North Dakota, and at least two-thirds of whose entire pay-roll is used or expended for work performed in the State of North Dakota, and appeals relative to the injuries received under such insurance outside of the State of North Dakota shall be triable in the District Court of Burleigh County, North Dakota.

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

Approved March 17, 1941.

CHAPTER 304

H. B. No. 153—(Fitch, Beede and Bergesen)

EXEMPTION OF FLYING EMPLOYEES FROM WORKMEN'S
COMPENSATION ACT

An Act Exempting flying employees engaged in interstate commerce from the Workmen's Compensation Act, and declaring an emergency.

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

§ 1. EXEMPTING CERTAIN FLYING EMPLOYEES.] Pilots, copilots, stewardesses, and other regularly flying employees of a regularly established air line operating under a certificate of convenience and necessity granted by the competent authorities of the United States of America, and operating regularly scheduled flights in interstate or foreign commerce shall be exempt from the compulsory provisions of the Workmen's Compensation Act and amendments thereto while such employees are engaged in work, the duties of which primarily involve interstate or foreign flying operations. Employees not regularly engaged in interstate or foreign flying operations, and the flying employees of any such airline which has its principal operating base in North Dakota, shall not be included in this exemption.

§ 2. 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 4, 1941.

CHAPTER 305

S. B. No. 118—(Committee on Insurance)

WORKMEN'S COMPENSATION ACT, AMENDMENT

An Act amending and re-enacting the Workmen's Compensation Act by amending and re-enacting Section 2 of Chapter 162 of the Session Laws of 1919 as amended by Chapter 142 of the Session Laws of 1921, Chapter 222 of the Session Laws of 1925, and Chapter 286 of the Session Laws of 1935; Subsection "C" of Section 3 of Chapter 162 of the Session Laws of 1919 as amended by Chapter 260 of the Session Laws of 1929 and Chapter 286 of the Session Laws of 1935; Paragraph "o" of Subsection "G" of Section 1 of Chapter 251 of the Session Laws of 1939; Section 15 of Chapter 162 of the Session Laws of 1919; Section 16 of Chapter 162 of the Session Laws of 1919; and Chapter 351 of the Session Laws of 1923, being Section 396a29 of the 1925 Supplement.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 162 of the Session Laws of North Dakota for the year 1919, as amended by Chapter 142 of the Session Laws of 1921, Chapter 222 of the Session Laws of 1925, and Chapter 286 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 2. Whenever used in this Act: "Employment" includes employment by the State and all political subdivisions thereof, and all public and quasi-public corporations therein, and all private employments.

"Hazardous employment" means any employment in which one or more employees are regularly employed in the same business or in or about the same establishment, except agriculture and domestic service, and except also any employment of a common carrier by steam railroad.

"Employee" means every person engaged in a hazardous employment under any appointment, or contract of hire, or apprenticeship express or implied, oral or written, including aliens, and including poor relief workers, except workers engaged in repaying to counties relief monies which the counties have been compelled by statute to expend for poor relief and also including minors, whether such minors are lawfully or unlawfully employed, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and excluding those engaged in illegal enterprises or occupations, and also excluding any executive officer of the business concern who receives a salary of more than twenty-four hundred dollars (\$2400.00) per year. Where one performs services for another for a remuneration whether salary, commission or otherwise he is presumed to be an employee unless the contrary is shown.

"Executive officer" means and includes only the president, vice presidents, secretaries and treasurers of a business corporation whose duties are solely those of such executive office. If such executive officer also performs duties of an employee of the concern, such employment is not exempt.

"Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, and every person, partnership, association, and private corporation, including any public service corporations, and the legal representative of any deceased employer, or the receiver or trustee of a person, partnership, association or corporation, carrying on a hazardous employment.

"Injury" means only an injury arising in the course of employment, including an injury caused by the wilful act of a third person directed against an employee because of his employment, but shall not include injuries caused by the employee's wilful intention to injure himself or to injure another, or by his voluntary intoxication. The term "injury" includes in addition to any injury by accident, any disease which can be fairly traceable to the employment. Compensation shall not be paid, however, for any condition which existed prior to the happening of a compensable injury or for any disability chargeable to such condition. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where said disease follows as an incident to and in its inception is caused by a hazard to which an employee is subjected in the course of his employment. A disease shall be deemed to be fairly traceable to the employment if there is apparent to the rational mind upon consideration of all the circumstances, a direct, causal connection between the conditions under which the work is performed and the disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. The disease need not to have been foreseen or expected, but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

The term "injury" also includes injury to artificial members, and the term "artificial members" includes only such devices as are substitutes for, and not mere aids to, a natural part, organ, limb or other part of the body. If the employer claims an exemption or forfeiture under any portion of this section, the burden of proof shall be upon him.

"Partial Disability" includes disfigurement resulting from an injury such as to diminish ability to obtain employment.

"Wages" shall include the market value of board, lodging, fuel

and other advantages which can be estimated in money which the employee receives from the employer as a part of his remuneration.

"Weekly Wages" shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding his injury; provided that where, by reason of the shortness of the time during which the workman has been in the employment or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly earnings which, during the twelve months previous to the injury, were being earned by a person in the same grade of employment at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district. If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with a larger regular wage, only such larger wages shall be taken in consideration in computing his average weekly wages.

"Child" includes step-children, adopted children, posthumous children, and acknowledged illegitimate children, but does not include married children unless dependent. "Brother" and "Sister" include step-brothers and step-sisters, half-brothers and half-sisters, and brothers and sisters by adoption, but do not include married brothers nor married sisters unless dependent. All of the above terms and the term "Grandchild" include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. "Parent" includes step-parents and parents by adoption. "Widow" includes only decedent's wife living with or dependent for support upon him at the time of his injury. "Widower" includes only the decedent's husband dependent for support upon her at the time of her injury. "Adopted" and "adoption" includes only legal adoption prior to the time of the injury.

Any term shall include the singular and plural and both sexes where the context so requires.

§ 2. AMENDMENT.] That subsection C of Section 3, Chapter 162 of the Session Laws of 1919 as amended by Chapter 260 of the Session Laws of 1929 and Chapter 286 of the Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 3C. If the injury cause temporary or permanent total disability, the North Dakota Workmen's Compensation Fund shall pay to the disabled employee during such disability, a weekly compensation equal to sixty-six and two-thirds per cent of his weekly wage. Provided, however, that if the disability be permanent total disability, the total amount payable to the disabled employee for weekly compensation shall not exceed fifteen thousand dollars (\$15,000.00) for all claims based upon injuries or disabilities received upon and after March 7th, 1929.

§ 3. AMENDMENT.] That Paragraph "o" of subsection "G" of Section 1 of Chapter 251 of the Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 3G(o). Provided, however, that if a compensation claimant dies and there is due to his or her estate any sums not exceeding eighty dollars, the Bureau may pay to the spouse of such claimant, if living, or in the event of his or her death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the said claimant, the balance remaining due as hereinbefore limited without probate proceedings.

§ 4. AMENDMENT.] That Section 15, of Chapter 162, of the Session Laws of 1919, is hereby amended and re-enacted to read as follows:

§ 15. No compensation under this Act shall be allowed to any person, except as provided in Section eighteen, unless he or some one on his behalf, within the time specified in this Section shall make a written claim therefor. Such claim shall be made by delivering it at the office of the Workmen's Compensation Bureau or to any person whom the Bureau may by regulation designate or by depositing it in the mail properly stamped and addressed to the Bureau or to any person whom the Bureau may by regulation designate.

Every claim shall be made on forms to be furnished by the Bureau and shall contain all the information required by the Bureau. Each claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, shall be accompanied by a certificate of the employee's physician stating the nature of the injury and the nature and probable extent of the disability. For any reasonable cause shown the Bureau may waive the provisions of this section.

All original claims for a compensation for disability or death shall be made within sixty days after injury or death. For any reasonable cause shown the Bureau may allow original claims for compensation for disability or death to be made at any time within one year.

The filing of a claim with the Workmen's Compensation Bureau shall constitute a consent to the use by the Bureau in any proceeding by it or in any proceeding to which it is a party in any court of any information which was received by any doctor in the course of any examination or treatment of the claimant for injury or disease concerning which claim has been filed, and the filing of such claim shall authorize a doctor to disclose any such information to the Bureau or its representative.

§ 5. AMENDMENT.] That Section 16 of Chapter 162, of the Session Laws of 1919 is hereby amended and re-enacted to read as follows:

§ 16. After the injury the employee shall, as frequently and at

such times and places as may be reasonably required, submit himself to examination by a duly qualified physician designated or approved by the Workmen's Compensation Bureau. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. For all examinations the employee shall, in the discretion of the Bureau, be paid his reasonable traveling and other expenses and loss of wages incurred in order to submit to such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this Act shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

In case of any disagreement between physicians making the examination on the part of the Bureau and the employee's physician the Bureau shall appoint an impartial physician duly qualified, who shall make an examination.

§ 6. AMENDMENT.] That Chapter 351 of the Session Laws of 1923, being Section 396a29, 1925 Supplement, is hereby amended and re-enacted to read as follows:

§ 396a29. Any employer may by special contract with the Workmen's Compensation Bureau secure insurance protection against injuries to his own person or for his own death when such injury or death occurs in the course of his work in an industry in which he has insured his employees with the Workmen's Compensation Fund. The Workmen's Compensation Bureau, on receipt of an application for such employer's insurance, shall determine whether the employer applying is a good insurance risk, and may deny such special contract if in its opinion it is to the best interests of the Fund to do so. In case such contract is entered into, premium for such protection and compensation shall be based on a reasonable weekly wage for employees in the same class of industry, such reasonable wage to be determined by the Workmen's Compensation Bureau, and the injured employer, or, in case of death, his dependents shall be entitled to the same compensation as is provided in Chapter 162 of the Session Laws of 1919 and any amendments thereto for injuries or death of employee.

Approved March 18, 1941.

CHAPTER 306

S. B. No. 87—(Committee on Insurance)

WORKMEN'S COMPENSATION PAYMENTS

An Act to provide for payments from the North Dakota Workmen's Compensation Fund in certain cases where no actual dependency is shown and providing an option in certain cases.

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

§ 1. PROVIDING NON-DEPENDENCY PAYMENTS IN CERTAIN CASES.] If the death of an employee under thirty years of age results from an injury within six years after the time of sustaining such injury and also not more than one year after the cessation of any compensable disability resulting from the injury, or, if there has been no disability preceding death, if death takes place within one year after the injury, the North Dakota Workmen's Compensation Bureau shall pay:

a. A lump sum of \$1000.00 to the surviving parent, or to the surviving parents jointly if more than one parent survives, if there is no widow, widower, or child, and if there is no dependency of the parent or parents, brothers, sisters, grandparents or grandchildren;

b. A lump sum of \$1000.00 to the surviving grandparent, or to the surviving grand parents jointly if more than one grandparent survives, if there is no widow, widower, child, or parent, and if there is no dependency on the part of the brothers, sisters, grandparents, or grandchildren, and only if the deceased lived with and was cared for by such grandparent or grandparents.

§ 2. OPTION.] If a dependency award has been made on account of the death of an employee under thirty years of age to a dependent parent or to dependent parents under this Act and there is no surviving widow, widower, or child, and no other person is dependent to any degree, or to a dependent grandparent or dependent grandparents under this Act if such deceased employee lived with and was cared for by such grandparent or grandparents, and there is no surviving widow, widower, child, or parent and no other person is dependent to any degree, and the present value of such award in either case when figured under the provisions of paragraph "I", subsection "G", of Section 3 of this Act amounts to less than the sum provided in this Act where no dependency is shown, such parent, parents, grandparent, or grandparents, as the case may be, may elect to accept the lump sum provided in this Act in lieu of such weekly dependency compensation. If dependency awards have been made to two parents or to two or more grandparents, all must concur in the election to take under such option, and a payment made under this section shall be in lieu of all dependency awards made under this Act.

Approved February 24, 1941.

YOUTH COUNCIL

CHAPTER 307

S. B. No. 96—(Gronvold and Hill)

COMMUNITY YOUTH COUNCIL

An Act Providing for the establishment of a Community Youth Council, prescribing the duties thereof.

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

§ 1.] The establishment of a Community Youth Council in each city, village, or township, is hereby authorized. Such a Council may be initiated by the mayor of any city, by the president of the city commission, by the chairman of the Board of Trustees of any village, or by the chairman of the Board of Supervisors of a township, or by the superintendent or principal of the schools of the community. The officer so initiating the Council shall appoint as additional members thereof representatives of the local government, the churches, the American Legion, and of all service or women's clubs or welfare organizations in the community. All members of the Council shall serve without compensation.

§ 2.] The duties of the Council shall be to make a survey of the youth of the community; to coordinate the leisure activities provided for them by the various organizations of the community and to provide the place, method and means for useful, supervised activities for those out of school, out of work and without an opportunity for proper development; to provide for this last class of healthful outlet for its energies and love of adventure shall be the first duty of the Council.

§ 3.] The initiating officer shall call the Council into being on petition of any organization or of five residents of the community or on his own motion. The Council shall organize by the selection of a chairman and a secretary and adoption of such rules and regulations for future meetings and activities as it may deem desirable for the purpose of carrying out the objects of this Act. Three members shall be sufficient to organize the Council and shall constitute a quorum.

Approved March 7, 1941.

INITIATED MEASURES

Approved

CHAPTER 308

AN ACT ALLOCATING SALES TAX PROCEEDS FOR SCHOOLS AND RELIEF

An Act Requiring That All Proceeds of any Sales Tax Heretofore or Hereafter Enacted Be Disbursed Only for Education Through the State Equalization Fund and for Relief Through the State Public Welfare Fund.

Be It Enacted by the People of the State of North Dakota:

§ 1. All moneys coming into the State Treasury from and after the effective date of this Act, as the proceeds of any sales tax heretofore or hereafter adopted by the Legislature of the State of North Dakota, after deducting actual expenses for administrating such Sales Tax Act, shall be placed in a separate fund and no disbursements shall be made therefrom save and except for the purpose of meeting the appropriation for education through the State Equalization Fund and for relief through the State Public Welfare Fund.

§ 2. REPEAL.] All Acts or parts of Acts so far as in conflict with this Act are hereby repealed.

Approved June 25, 1940.

77,962 to 55,810.

CHAPTER 309

AN ACT EARMARKING SALES TAX MONIES FOR
SCHOOLS AND RELIEF

An Act Amending and Re-enacting Section 2 of Chapter 234 of the Session Laws of North Dakota for 1939, and Providing That the Net Amount of all monies remaining in "the Retail Sales Tax Fund" in the State Treasury to the Credit of the State, Shall Be and Shall Constitute a Special Trust Fund to Be Used Solely, in Proportions herein prescribed, in Paying Disbursements Authorized by Chapter 29, 80, 83 and 84 of the Session Laws of North Dakota for 1939; and, for the Proportionate Transfer by the Proper Officers of All Said Trust Funds to the State Equalization Fund and to the State Public Welfare Fund, and Repealing All Acts (Acts) or Parts of Acts in Conflict With This Act.

Be It Enacted by the People of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Chapter 234 of the Session Laws of North Dakota for 1939, amending and re-enacting Section 25 of Chapter 249 of the Session Laws of North Dakota for 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 25. ALLOCATION OF REVENUES.] All monies collected and received under this Act shall be paid into the State Treasury and shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund." Out of this fund the State Treasurer shall first provide for the payments of refunds allowed under this Act. That the net amount of monies remaining in said "Retail Sales Tax Fund" shall be and shall constitute a special trust fund to be used and disbursed solely for the following purposes:

1. That seventh-twelfths (7/12) of said trust fund shall be used and disbursed solely in paying disbursements authorized by Chapter 29 of the Session Laws of North Dakota for 1939, pursuant to Chapter 209 of the Session Laws of North Dakota for 1939, or as said acts may be amended. That the remainder of five-twelfths (5/12) of said trust fund shall be used and disbursed solely in paying disbursements authorized by Chapters (Chapters) 80, 83, and 84 of the Session Laws of North Dakota for 1939, or acts amendatory thereto.

2. That the State Treasurer and State Auditor are hereby authorized and directed to make monthly transfers of all the amounts available in said trust fund, in the proportions as herein provided, to the State Equalization and State Public Welfare Funds.

§ 2. INTENT.] That it is the intent of this Act that it shall not be construed to operate as a repeal of any of the appropriations made or authorized by Chapters 29, 80, 83 and 84 of the Session Laws of North Dakota for 1939.

§ 3. REPEAL.] That all Acts or parts of Acts in conflict herewith are hereby repealed.

Approved June 25, 1940. 79,393 to 52,731.

CHAPTER 310

AN ACT RE-ALLOCATING FUNDS APPROPRIATED TO INCREASE PAYMENTS ON BASIS OF NEED

An Act Amending and Re-Enacting Chapter 29 of the Session Laws of North Dakota for 1939, and Providing that the Amount Therein Appropriated for "Emergency Fund" shall be Increased from \$500,000.00 to \$1,000,000.00; and That the Amount Therein Appropriated for "Per Pupil Payment" Shall Be Decreased from \$1,000,000.00 to \$500,000.00; and Repealing All Acts or Parts of Acts in Conflict with this Act.

Be It Enacted by the People of the State of North Dakota:

§ I. AMENDMENT.] That Chapter 29 of the Session Laws of North Dakota for 1939 be, and the same is hereby amended and re-enacted to read as follows:

§ I. APPROPRIATION.] There is hereby appropriated out of any monies in the State Treasury, not otherwise appropriated, the sum of \$4,510,000.00, or so much thereof as may be necessary to make the payments provided for under the State Equalization Fund Law as provided for in Senate Bill No. 237 as passed by the 1939 Session of the Legislature, or as may be amended, for the biennium beginning July 1, 1939 and ending June 30, 1941, provided, however, that payments authorized for the school year ending on or about June 1, 1941, may be made from this fund up to October 1, 1941, to-wit:

(1)	High School correspondence work	----\$	100,000.00
(2)	Vocation education	-----	40,000.00
(3)	Emergency fund	-----	1,000,000.00
(4)	Non-resident high school tuition	-----	1,100,000.00
(5)	Teacher unit payment	-----	1,770,000.00
(6)	Per Pupil payment	-----	500,000.00

\$4,510,000.00

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

Approved June 25, 1940. 64,415 to 59,913.

INITIATED MEASURES Disapproved

MUNICIPAL CONTROL, LIQUOR

An Act Providing for a System of Municipal Control of the Purchase, Sale, Importation, Transportation, Handling, Possession, Dispensing and use of Alcohol and Alcoholic Beverages by any Incorporated City or Village of the State Having a Population of One Hundred Fifty Persons or More; the Division of Profits One-half of which shall be paid to the State Treasurer, which is by this Bill Appropriated to the North Dakota Old Age Assistance Fund and in Payment of the Cost of Administration of the Old Age Assistance Program; and the Duties of the State Tax Commissioner; Providing for Injunctions Against and Abatement of Liquor Nuisances; the Continuing in Force of the Present Statutory Regulations Prohibiting the Manufacture, Sale and Possession of Intoxicating Liquors; Providing Penalties for Violations of this Act and Repealing all Acts and Parts of Acts in Conflict Herewith.

Disapproved July 11, 1939.

41,814 to 170,538.

DIVERSION STATE HIGHWAY CONSTRUCTION FUNDS

An Act Providing that for a Period of Two Years no Contract shall be Let for New Highway Construction, nor shall any New Highways be Built, and Providing that all Monies now Allocated to the Counties and Derived from One-half of the License Fees for Motor Vehicles and from the One Cent Gasoline Tax and Heretofore Used for Road Building, Shall be Spent at the Discretion of the Board of County Commissioners, After they have First Used the Amount Necessary for Payment of the North Dakota Old Age Assistance Fund; and Further Providing that all Monies Derived from the State's Share of the Gasoline Tax and Motor Vehicle License Fees in Excess of the Sum of One Million Two Hundred Fifty Thousand Dollars Per Year be Appropriated for the Purpose of Providing the Counties' Share of the North Dakota Old Age Assistance Fund and Payment of the Cost of Administration for the North Dakota Old Age Assistance Fund Program, and Repealing all Acts or Parts of Acts in conflict Herewith.

Disapproved July 11, 1939.

39,789 to 172,513.

GROSS INCOME TAX

An Act Providing for the Raising of Public Revenues by Imposing a Tax upon the Privilege of Engaging in any Business, Trade, Profession, Occupation or Calling, to be Measured by Gross Income, to Provide that this Tax shall be a Replacement Tax to the Extent Herein Specified, to Provide for the Ascertainment, Assessment and Collection of said Tax, to Provide Certain Exemptions from the Tax, to Provide for the Administration Thereof, to Provide a Penalty for the Violation of the Terms of the Act, to Provide for the Disposition of Revenues, and to Provide an Appropriation for the Administration of this Act, and to Provide for an Appropriation of Twenty-five Per Cent (25%) of the Balance of all Monies Received Resulting from the Imposition of the Taxes Imposed by this Act to be Paid into the North Dakota Old Age Assistance Fund, and in Payment of the Cost of Administration of the Old Age Assistance Program and if any of said Amount is not Needed for Old Age Assistance it shall be Credited to the General Fund, and Repealing Chapter 249 of the 1937 North Dakota Session Laws and Senate Bill Number 76 of the 1939 North Dakota Session Laws, and all Acts or Parts of Acts in Conflict Herewith.

Disapproved July 11, 1939.

36,117 to 168,976.

REORGANIZATION OF THE FINANCES AND ADMINISTRATIVE FUNCTIONS OF THE STATE OF NORTH DAKOTA

An Act Providing for the Reorganization of the Finances and Administrative Functions of the State of North Dakota by Creating and Establishing the State Board of Finance and Administration, Defining its Powers, Duties and Obligations, Fixing the Terms and Compensation of the Members of Said Board, Making Certain Existing Appropriations Available for Its Use and Maintenance, and Transferring to Said State Board of Finance and Administration the Existing Powers, Duties and Obligations of the Existing Industrial Commission, Board of Administration, State Securities Commission, State Budget Board, State Auditing Board and State Publication and Printing Commission, Thereby Abolishing All of Said Boards and Commissions and Vesting in Said Board of Finance and Administration Full Power of Investment, Reinvestment, Sale and Purchase of Monies and Securities of the Trust Funds of the Workmen's Compensation Fund, State Fire and Tornado Fund, State Bonding Fund, State Hail Insurance Fund, and Teachers Insurance and Retirement Fund, and Making Appropriations in Excess of State Income Void, and Providing Penalties and Repealing All Acts or Parts of Acts in Conflict with This Act.

Disapproved June 25, 1940.

53,908 to 71,101.

**AN ACT INCREASING BASIS OF NEED PAYMENTS IN STATE
EQUALIZATION FUND**

An Act Amending and Re-enacting Section 4 of Chapter 209 of the Session Laws of North Dakota for 1939, and Providing That the Amount Allocated and Set Aside as an Emergency Fund to Aid Financially Distressed Schools Shall Be Increased from \$250,000.00 Per Year to \$500,000.00; and Repealing All Acts or Parts of Acts in Conflict With This Act.

Disapproved June 25, 1940.

57,675 to 58,333.

CLASSIFICATION OF TAXABLE PROPERTY

An Act Amending and Re-enacting Section 2122A of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, as Amended, Relating to Taxation and Providing for the Classification of Property and the Determination of the Taxes Thereon at a Percentage of its Value, Exempting Farm Buildings and Improvements from All Taxes, Providing for a Saving Clause, and Repealing all Acts and Parts of Acts in Conflict Herewith.

Disapproved November 5, 1940.

156,901 to 91,396.

ABATEMENT OF TAXES

A Bill for An Act Reducing Taxes, Abating Excessive Taxes, Making Act Applicable to Back, Current, and Future Taxes, Fixing Amount of Payment for Redemption from Tax Sales, Tax Certificates, Tax Deeds, and to Repurchase From County; and Fixing Amount for Liquidation of Settlement Tax Contracts; Providing for Deficit Caused by Abatement; and Limiting Levy for Paying Principal and Interest on Indebtedness of Counties, Cities, Towns, Villages, School Districts and Other Political Subdivisions and Providing for Deficit Caused Thereby; Providing Remedy for Reduction and Abatement; and Repealing Conflicting Acts.

Disapproved November 5, 1940.

166,864 to 63,213.

CONSTITUTIONAL AMENDMENTS

Approved

ARTICLE 55

COUNTY GOVERNMENT

(Submitted by Legislature)

§ 1. AMENDMENT.] That Section 167 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 167. The Legislative Assembly shall provide by general law for organizing new counties, locating county seats thereof temporarily, and changing the county lines; but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than five thousand bona fide inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

The Legislative Assembly shall also provide by general law for the consolidation of counties, and for their dissolution, but no counties shall be consolidated without a fifty-five per cent vote of those voting on the question in each county affected, and no county shall be dissolved without a fifty-five per cent vote of the electors of such county voting on such question.

§ 2. AMENDMENT.] That Section 170 of the Constitution of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 170. The Legislative Assembly shall provide by law for optional forms of government for counties, which forms shall be, in addition to that form provided by Sections 172 and 173 of the Constitution, and which forms shall specify the number, functions and manner of selection of county officers, but no such optional form of government shall become operative in any county until submitted to the electors thereof at a special election or a general election, and approved by fifty-five per cent of those voting thereon. The manner of exercising the powers herein granted shall be by general laws, but such laws shall provide that the initiative for the submission of the question of the adoption of one of the optional forms of county government may be had either by a vote of not less than two-thirds of the county legislative body or upon petition of electors of the county equal to at least fifteen per centum of the total number of voters of the county who voted for Governor at the last general elec-

tion. Among the optional forms of county government to be provided by the Legislative Assembly under this provision, at least one form shall provide for a county manager.

§ 3. REPEAL.] That Section 171 of the Constitution of the State of North Dakota be and the same is hereby repealed.

§ 4. AMENDMENT.] That Section 172 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 172. Until one of the optional forms of county government provided by the Legislative Assembly under Section 170 of the Constitution, as amended, be adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business, as shall be provided by law.

§ 5. AMENDMENT.] That Section 173 of the Constitution of the State of North Dakota, as amended, is hereby amended and re-enacted to read as follows:

§ 173. At the first general election after the adoption of this amendment, and every two years thereafter, there shall be elected in each county organized under the provisions of Section 172 of the Constitution, a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold office until their successors are elected and qualified; provided in counties having fifteen thousand population or less, the county judge shall also be clerk of the district court; provided further that in counties having a population of 6,000 or less, the register of deeds shall also be clerk of the district court and county judge. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Approved June 25, 1940.

67,804 to 64,519.

ARTICLE 56
GASOLINE MOTOR FUEL ACT
 (Submitted by Initiative Petition)

AN ACT TO AMEND THE CONSTITUTION OF THE STATE OF NORTH DAKOTA DEDICATING REVENUE FROM GASOLINE AND OTHER MOTOR FUEL EXCISE AND LICENSE TAXATION, MOTOR VEHICLE REGISTRATION AND LICENSE TAXES, AFTER DEDUCTING COST OF ADMINISTRATION AND STATUTORY REFUNDS, TO PUBLIC HIGHWAY PURPOSES.

§ 1. Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

Approved June 25, 1940.

91,149 to 49,324.

ARTICLE 57
TRANSFER POWER OF RAILROAD COMMISSION TO PUBLIC SERVICE COMMISSION
 (Submitted by Initiative Petition)

§ 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, three public service commissioners, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of two years and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms; provided, however, the tax commissioner shall hold his office for the term of four years and until his successor is elected and duly qualified; and provided, further, that the public service commissioners shall severally hold their offices for the term of six years and until their successors are elected and duly qualified.

The tax commissioner shall be elected on a no-party ballot and he shall be nominated and elected in the manner now provided for the

nomination and election of the superintendent of public instruction. The first election of a tax commissioner shall not occur until the year 1940.

At the general election in 1940 there shall be chosen two public service commissioners to fill the two terms expiring on the first Monday in January, 1941. The candidate at said election receiving the highest number of votes shall be elected for a term of six years, and the candidate receiving the next highest number of votes shall be elected for a term of four years. Thereafter there shall be chosen one such public service commissioner every two years.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission.

Approved June 25, 1940.

67,294 to 57,239.

CONSTITUTIONAL AMENDMENTS

Disapproved

LEGISLATIVE POWER, INITIATIVE AND REFERENDUM (Submitted by the Legislature)

A CONCURRENT RESOLUTION PROVIDING FOR THE AMENDMENT OF SECTION 25 OF ARTICLE 2 OF THE CONSTITUTION OF THE STATE OF NORTH DAKOTA, RELATING TO THE LEGISLATIVE POWER OF THE STATE, AND THE INITIATIVE AND REFERENDUM.

Disapproved June 25, 1940.

61,573 to 64,636.

RECALL (Submitted by the Legislature)

A CONCURRENT RESOLUTION PROVIDING FOR THE AMENDMENT OF ARTICLE 33 OF THE CONSTITUTION OF NORTH DAKOTA, RELATING TO THE RECALL.

Disapproved June 25, 1940.

60,049 to 62,501.

GRADUATED LAND TAX
(Submitted by Initiative Petition)

AN ACT TO AMEND AND RE-ENACT SECTION 176 OF THE CONSTITUTION OF THE STATE OF NORTH DAKOTA, AS AMENDED, BY ADDING THERETO THE WORDS "PROVIDED, THAT THE PEOPLE OR THE LEGISLATURE MAY PROVIDE FOR A TAX UPON LAND, GRADUATED ACCORDING TO AREA OR VALUE OR BOTH, SO AS TO INCREASE THE TAXATION RATE UPON THE LARGER HOLDINGS"; AND BY ADDING THE WORDS "THE PEOPLE OR", "FROM TAXATION IN WHOLE OR IN PART, NOT TO EXCEED \$5,000.00 (FIVE THOUSAND DOLLARS) OF THE VALUE OF ANY LAND OCCUPIED AS A RESIDENCE BY THE LEGAL OR EQUITABLE OWNER THEREOF, AND MAY EXEMPT," AND "SUCH EXEMPTION NOT TO APPLY TO TAXES FOR SPECIAL IMPROVEMENTS", SO THAT SAID SECTION 176 AS SO AMENDED AND RE-ENACTED SHALL READ AS FOLLOWS:

Disapproved November 5, 1940.

154,521 to 94,250.

REFERRED MEASURES
Disapproved

REPEAL GRAIN STORAGE COMMISSION
(Referendum of H. B. 1, 1939 Legislative Assembly)

Chapter 210, Session Laws 1939

AN ACT TO REPEAL CHAPTER 138 OF THE SESSION LAWS OF THE STATE OF NORTH DAKOTA FOR THE YEAR 1929 CREATING THE OFFICE OF GRAIN STORAGE COMMISSIONER, AND DECLARING AN EMERGENCY.

Disapproved July 11, 1939.

41,152 to 165,851.

RESOLUTIONS

House Concurrent Resolution "K"—(Twichell, Beede, Crockett and Fitch)

PETITIONING THE CONGRESS OF THE UNITED STATES TO AMEND THE AGRICULTURAL ADJUSTMENT ACT

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring:*

WHEREAS, conditions and circumstances beyond control of the people and government of the State of North Dakota have caused wholesale forfeiture of agricultural lands to the State of North Dakota, its agencies and political subdivisions, and

WHEREAS, the lands forfeited to various governmental agencies contain approximately 6,087,632 acres or sixteen per centum of the total area of agricultural and grazing lands within the State of North Dakota, and

WHEREAS, such situation has caused a maladjustment of the finances, not only of the State but all the political subdivisions of the State, and

WHEREAS, with the inception of the Agricultural Adjustment Act, the State of North Dakota through its agencies and at considerable expense, has placed all such lands possible under the Agricultural Adjustment Act and other agencies, in an effort to assist the Federal Government in solving this problem, and

WHEREAS, in return for such expenditures, the State of North Dakota received in soil conservation payments the following amounts:

1936	\$ 90,181.35	1939 (Soil)	\$10,000.00
1937	82,883.58	(Parity)	51,411.41
1938	130,891.25	1940 (Soil)	None
		(Parity)	29,481.23 and

WHEREAS, the Agricultural Adjustment Act provides that beginning with the calendar year of 1939 no total payment for any year, to any person, shall exceed \$10,000.00, which limitation, under definitions formulated by the Department of Agriculture has been interpreted to apply to a sovereign state, a political subdivision of a State, or any agency thereof, and

WHEREAS, said definition of the term "person" seems unjustified by the language used in said Act, and contrary to the usual and accepted meaning of said term when used in Legislative enactments, and

WHEREAS, all soil conservation payments received by the State

are used to lessen the tax burden and assist in defraying the cost of administrating these farms until such time that they can again be placed on the tax roll, and

WHEREAS, the cost of placing this volume of land under compliance exceeds said \$10,000.00 limitation, thus making it impossible for the State to continue such compliance without a loss to said State, and

WHEREAS, substantially all of said lands have been and are being farmed in accordance with fair and customary rental standards by bona fide farmers and their families actually residing on the tracts farmed,

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of North Dakota, the Senate concurring:

That the Congress of the United States is hereby petitioned to amend the Agricultural Adjustment Act so that payments may be made to the States of the Union, their agencies and subdivisions for compliance with said Act without regard to such \$10,000.00 limitation.

That House Resolution No. 3800 of the 76th Congress, passed by the House of Representatives April 17, 1939 and subsequently passed by the Senate, with amendments, and referred to conference committee, is endorsed and approved in principle as an appropriate amendment to said Act.

Copies of this amendment shall be sent to all members of the Congressional Delegation of the State of North Dakota, and to the presiding officers of the Senate of the United States and the House of Representatives.

Filed February 20, 1941.

Senate Resolution "A"—(Page and Solberg)

AAA AMENDMENT

WHEREAS, it has come to our attention that the AAA County Committeemen, representing the 53 counties of the State of North Dakota, at their recent State Convention in Fargo, went on record as being unanimously in favor of an Amendment to the AAA docket for North Dakota for 1941, providing that flax, when sown as a nurse crop for sweet clover, such acreage shall be classified as neutral, or non-soil depleting as was the case in 1940, and,

WHEREAS, it appears that there is a possibility that those charged

with the administration of the AAA in Washington may be reluctant to grant this change, and,

WHEREAS, North Dakota has for years been a leading State in Flax production, and many millions of dollars have come into our State thereby, and,

WHEREAS, flax is one of the crops of which our nation has never had a surplus, and,

WHEREAS, under our present AAA docket, flax production in our State will tend to be reduced almost to a vanishing point, thus, making us more a one-crop State than ever, and,

WHEREAS, flax and linseed oil are important items in our preparation for national defense, and importations of flax from South America are already slowing up and later may be much further reduced due to the shortage of boats as was the case in the World War:

NOW, THEREFORE, BE IT RESOLVED, that this body is heartily in favor of, and supports the action taken by the AAA County Committeemen at their State Convention;

BE IT FURTHER RESOLVED that our Senators and Representatives in Washington are hereby urged and requested to use their influence with those charged with the administration of the Agricultural Adjustment Act to the end that this regulation so inimical to the interests of North Dakota, may be amended.

BE IT FURTHER RESOLVED, that the Secretary of the Senate is hereby instructed to prepare as soon as possible, copies of this Resolution, and forward same to each of our Senators and Representatives in Congress to the Hon. R. M. Evans, Administrator, Agricultural Adjustment Administration, Washington, D. C. and to the Hon. N. E. Dodd, Director of the Western Division, Agricultural Adjustment Administration, Washington, D. C.

Filed February 4, 1941.

House Resolution "H"—(Stormon, McInnes, Levin, Myers and Beede)

AAA AMENDMENT

WHEREAS, it has come to our attention that the A. A. A. County Committeemen, representing the 53 counties of the State of North Dakota at their recent State Convention in Fargo, went on record as being unanimously in favor of an amendment to the A. A. A. docket for North Dakota for 1941, providing that flax, when sown

as a nurse crop for sweet clover, such acreage shall be classified as neutral, or non-soil depleting, as was the case in 1940, and

WHEREAS, it appears that there is a possibility that those charged with the administration of the A. A. A. in Washington may be reluctant to grant this change, and

WHEREAS, North Dakota has for years been the leading state in flax production, and many millions of dollars have come into our State thereby, and

WHEREAS, flax is one of the crops of which our nation has never had a surplus, and

WHEREAS, under the present A. A. A. docket, flax production in our State will tend to be reduced almost to the vanishing point, thus making us more a one-crop state than ever, and

WHEREAS, flax and linseed oil are important items in our preparation for National Defense and importations of flax from South America are already slowing up, and later may be much further reduced due to the shortage of boats, as was the case in the World War;

NOW, THEREFORE, BE IT RESOLVED, That this body is heartily in favor of and supports the action taken by the A. A. A. County Committeemen at their State Convention.

BE IT FURTHER RESOLVED: That our Senators and Representatives in Washington are hereby urged and requested to use their influence with those charged with the Administration of the Agricultural Adjustment Act to the end that this regulation so inimical to the interests of North Dakota may be amended.

BE IT FURTHER RESOLVED: That the Chief Clerk of the House is hereby instructed to prepare as soon as possible, copies of this Resolution and forward same to each of our Senators and Representatives in the Congress, and to the Hon. R. M. Evans, Administrator, Agricultural Adjustment Administration, Washington, D. C., and to the Hon. N. E. Dodd, Director of the Western Division, Agricultural Adjustment Administration, Washington, D. C.

Filed February 5, 1941.

House Memorial Resolution "F"—(Haag, Welder, Wolf of McIntosh)

JOHN BILLIGMEIER

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the Supreme Ruler of the Universe in His Infinite Wisdom has removed, in April, 1940, Hon. John Billigmeier from the midst of his family and community, and,

WHEREAS, he has served as a Member of the House in the 25th and 26th Legislative Assemblies, from the 36th Legislative District, and,

WHEREAS, his tenure of public office has always been of devotion of a high degree to those principles of good government, which are essential to efficient and good honest administration;

THEREFORE, BE IT RESOLVED, That this House of Representatives express its appreciation for the valuable service rendered by our distinguished citizen; and that we express our keen sorrow of his passing, and

BE IT RESOLVED, that this House of Representatives extend to his wife, Mrs. Billigmeier and sons, its sincere sympathy, and that this Resolution be printed in the House Journal and an enrolled copy of same be sent to his family at Fredonia, North Dakota.

Filed January 30, 1941.

House Memorial Resolution "C"—(Culver and Gress)

PETER BRAUN

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, Peter Braun, an old time resident and respected citizen of Stark County, North Dakota, and father of Representative George Braun, has been called by death;

THEREFORE BE IT RESOLVED, That this House of Representatives express its deep sympathy to Representative Braun and to the other members of the family, and that a copy of this Resolution be delivered by the Chief Clerk of the House of Representatives to Representative Braun.

Filed January 30, 1941.

House Memorial Resolution "J"—(Hogoboom, Morland and Olson
of Bowman)

H. W. BROWN

*Be It Resolved by the House of Representatives of the State of
North Dakota:*

WHEREAS, our late associate, Representative H. W. Brown of Golden Valley County, was on May 15th, 1940, called to his eternal rest,

AND WHEREAS, he was an honored member of this House of Representatives from the 39th Legislative District during the Twenty-fifth and Twenty-sixth Legislative Assemblies, and in private life a willing worker in any movement beneficial to the people in the community in which he lived,

THEREFORE, BE IT RESOLVED, That this House of Representatives express its deepest sympathy to Mrs. H. W. Brown and family, and that this Resolution be printed in the Journal of the House and an enrolled copy be sent by the Chief Clerk of the House of Representatives to Mrs. H. W. Brown at Beach, North Dakota.

Filed February 5, 1941.

House Concurrent Resolution "Q"—(Ireland, Nystrom and Juhola)

PETITIONING CONGRESS TO ENACT THE CAPPER BILL
ESTABLISHING A DIVISION OF COOPERATIVES IN THE
UNITED STATES DEPARTMENT OF AGRICULTURE

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring Therein:*

WHEREAS, Cooperation has proven beneficial to both producer and consumer and through years of successful operation in all democracies has established itself as a useful economic unit of well-ordered society, and

WHEREAS, Senator Arthur Capper of Kansas has introduced a bill (S. 650) to establish a Division of Cooperatives in the United States Department of Agriculture, the purposes of which are; to serve as a source of information and cooperation to producers and consumers in cooperative buying and selling; to conduct research and assemble statistical data; prepare publications on cooperative subjects, which will be placed on the distribution lists of Members of Congress; and authorizing the Secretary of Agriculture to establish cooperative relationships between this Division and those other

branches of the Department that carry on services in the cooperative field, and

WHEREAS, Honorable Henry A. Wallace, as Secretary of Agriculture, and many officials of outstanding farm and cooperative organizations have endorsed the provisions of the Capper bill as beneficial to agriculture and cooperatives,

NOW, THEREFORE, BE IT RESOLVED by the Legislative Assembly of the State of North Dakota, That we petition and urge Congress to take early and favorable action on the Capper Bill, S. 650; and that it be enacted into law during the present Congressional session, and

BE IT FURTHER RESOLVED, That attested copies of this Resolution be sent to the President of the Senate, the Speaker of the House of Representatives, the Secretary of Agriculture, and to the members of the North Dakota delegation in Congress.

Filed March 5, 1941.

Senate Concurrent Resolution "L"—(Thatcher and Braun)

SPECIFYING THE NUMBER OF COPIES OF THE REPORT OF THE CODE REVISION COMMISSION TO BE PREPARED FOR SUBMISSION TO THE TWENTY-EIGHTH LEGISLATIVE ASSEMBLY.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein:

WHEREAS, the Twenty-eighth Legislative Assembly of the State of North Dakota will have for consideration and adoption the revised code of the State of North Dakota prepared by the Code Revision Commission under the provisions of Chapter 110 of the Session Laws for the year 1939, and

WHEREAS, Section 2 of Chapter 186 of the 1937 Session Laws requires that five hundred copies of each Bill be printed unless it is otherwise ordered by motion or resolution of either branch of the Legislative Assembly, and

WHEREAS, the report of the Code Revision Commission will constitute a part of the Bill for the adoption of the said revised codes by the Twenty-eighth Legislative Assembly and it is necessary that said Commission shall be advised as to the number of copies of such report it will be required to submit to the Twenty-eighth Legislative Assembly.

NOW, THEREFORE BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring: That the

report of the Code Revision Commission containing the revision of the codes of the State of North Dakota shall not be printed, and that in lieu of such printing, the Code Revision Commission shall supply to the Twenty-eighth Legislative Assembly copies of such report prepared by a duplicating process, and fifty-four copies of said report shall be furnished to the Senate and one hundred eighteen copies thereof shall be furnished to the House of Representatives.

Filed March 7, 1941.

Senate Resolution "C"—(Brunsdale and Young)

**EXTENDING INVITATION TO JOHN COWLES, MINNEAPOLIS,
MINNESOTA, TO ADDRESS TWENTY-SEVENTH
LEGISLATIVE ASSEMBLY.**

WHEREAS, John Cowles is a distinguished citizen and resident of Des Moines, Iowa, publisher of newspapers in Des Moines, Iowa and Minneapolis, Minnesota, and a close student of foreign affairs, and

WHEREAS, John Cowles occupies the unique distinction of having accompanied Wendell L. Willkie on his recent trip abroad to gain first-hand knowledge of war conditions in Great Britain, and, has that knowledge and is ready to impart it to those interested, and

WHEREAS, upon invitation extended, John Cowles has accepted invitation to address Iowa, Minnesota and other legislatures, now in session since his return to Des Moines, Iowa, NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NORTH DAKOTA IN TWENTY-SEVENTH SESSION ASSEMBLED:

1. That this legislature hereby extends to John Cowles, Minneapolis, Minnesota, an invitation, at his early convenience, to come to Bismarck, North Dakota, and to address the North Dakota state legislature with the end in view that we may receive the benefit of his reactions and impressions as to war conditions in Great Britain as he observed them.

2. That a copy of this resolution, properly authenticated and suitably enrolled be forthwith prepared by the secretary of the Senate, who is further directed to forward the same to John Cowles, Minneapolis, Minnesota, by airmail, special delivery, in care of the Minneapolis Star Journal.

Filed March 3, 1941.

Senate Concurrent Resolution "F"—(Nelson of Grand Forks, O'Brien, Gronvold, Young, Thatcher and Owings)

DEFENSE PROGRAM

WHEREAS, the United States of America is now engaged in an extensive rearmament program in order that the nation may have adequate means of defense against possible attack from powerful forces that appear to seek world domination.

AND, WHEREAS, the State of North Dakota has available certain resources that should be of material aid in furthering the national defense program;

NOW, THEREFORE, be it resolved by the Legislative Assembly of the State of North Dakota now in session, that we urge that North Dakota be granted an opportunity to participate in the present defense program; and we further urge that a survey be made with a view of making our vast stores of low-cost fuel, as well as other natural resources, favorable sites for airfields and training camps, skilled labor, etc., available for building an adequate defense against possible aggression.

IT IS HEREBY directed that copies of this Joint Resolution be sent to the President of the United States and to the Representatives and Senators from the State of North Dakota, now in Washington, D. C.

Filed January 30, 1941.

House Memorial Resolution "I"—(Kindem)

ELLA HOFSTRAND

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, Ella Hofstrand, a much loved and respected pioneer of Benson County, North Dakota, and mother of Representative C. H. Hofstrand, has been called by death;

THEREFORE, BE IT RESOLVED, That this House of Representatives express its deep sympathy to Representative Hofstrand and to the other members of the family, and that a copy of this Resolution be delivered by the Chief Clerk of the House of Representatives to Representative Hofstrand.

Filed February 5, 1941.

House Concurrent Resolution "L"—(Haugland, Smart and Benno)

**URGING THE CONTINUANCE OF THE EXISTING EMBARGO
APPLYING TO ALL COUNTRIES WHERE FOOT-AND-MOUTH
DISEASE EXISTS.**

*Be It Resolved by the House of Representatives of the State of
North Dakota, the Senate Concurring Therein:*

WHEREAS, An outbreak of foot-and-mouth disease would not only seriously damage normal production of the nation's meat supply but would, by the restrictive measures which must be taken to eradicate it, disrupt the normal flow of commerce in the nation; and

WHEREAS, Experience with the disease in this country shows that this disruption of commerce might easily attain proportions which would seriously impede our national defense efforts;

NOW, THEREFORE, Be It Resolved, that we oppose the modification of the existing embargo applying to all countries where foot-and-mouth disease exists; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House is directed to transmit copies of this resolution to the President of the United States and to each of the Members of the Congress from the State of North Dakota, and also the Secretary of State, Washington, D. C.

Filed February 18, 1941.

Senate Memorial Resolution "C"—(Braun and Morgan)

HENRY FIELD

WHEREAS, the late Henry Field of the 12th Legislative District was called to his eternal reward on January 10th and, he represented said Legislative District for one (1) term as a member of the Senate, and during all his public service and during his life, as a private citizen, his was a splendid example of integrity, loyalty, conscientious endeavor, and good citizenship and,

WHEREAS, in his passing, North Dakota has lost a true friend, a leader in the preservation of sound, liberal government, honestly administered, a man whose desire and interest was the furtherance of all good and worthy causes for the betterment of the State, his local community, and his fellowmen:

THEREFORE, BE IT RESOLVED, by the Senate that we do hereby

express our heartfelt appreciation of the loyal service of our distinguished citizen, the late Henry Field, and that we further express the keen sorrow which we feel because of his passing; and,

BE IT FURTHER RESOLVED, that this resolution be printed in the Journal and that an engrossed copy be forwarded by the Secretary of the Senate to his wife, Mrs. Henry Field of Wahpeton, North Dakota.

Filed January 16, 1941.

Senate Concurrent Resolution "J"—(Committee on Appropriations)

**PAYMENT OF RENT BY FEDERAL AGENCIES IN STATE
CAPITOL**

WHEREAS, a number of Federal agencies are now located and transacting their business in the capitol building of the State of North Dakota without in any way compensating the State of North Dakota for such occupancy, and whereas the State of North Dakota is called upon to match many of these federal funds with State monies, now therefore,

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

THAT the Board of Administration be and is hereby authorized, empowered and requested to fix and determine a fair and reasonable monthly charge for light, heat and janitor service, if any is now being furnished, to be paid by each of such Federal Agencies and to demand payment thereof by such Agencies; such payment to commence the first day of March, 1941.

AND BE IT FURTHER RESOLVED that it is the sense of the Senate, the House of Representatives concurring, that the committee rooms, halls, passage-ways and other space in the capitol building used by the legislative assembly should not be used or leased to any Federal Agency or other departments of the state government of North Dakota except in cases of extreme emergency.

Filed March 4, 1941.

House Concurrent Resolution "B"—(Lillehaugen, Olson of Bowman,
Halvorson and Severson)

FOREIGN WARS

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the State of North Dakota, together with its sister States, comprising our great Nation, are deeply concerned over the dangers which threaten our country by reason of the terrible wars now raging in other parts of the world; and,

WHEREAS, the dreaded possibility that the United States may also be involved in these wars has increased to an alarming degree; and,

WHEREAS, The President of the United States, speaking at Philadelphia on October 23, 1940, declared:

"We will not participate in foreign wars and will not send our army, naval or air forces to fight in foreign lands outside of the Americas except in case of attack . . .

"To every man, woman and child I say this: Your President, and your Secretary of State are following the road of peace. We are arming ourselves, not for any foreign war. We are arming ourselves not for conquest or intervention in foreign disputes . . .

"I give to the people of this country this most solemn assurance: There is no secret treaty, no secret obligation, no secret understanding in any shape or form, direct or indirect, with any other nation in any part of the world, to involve this nation in any war or for any other purpose.

"We will not send our men to take part in European Wars."

Now Therefore, Be It Resolved by the House of Representatives, the Senate Concurring:

That we memorialize Congress that it be guided in its deliberations and acts by these solemn pledges made by the President before his election, to the end that this country may not become involved in foreign wars.

That we commend the efforts of all Congressmen and Senators who now oppose any action now contrary to these pledges given by the President.

BE IT FURTHER RESOLVED, That we as representatives of the State of North Dakota renew our pledge of loyalty to our Nation and our Flag and to the Commander in Chief of the Army and Navy to whom we pledge our lives and property upon instant call to defend them against any nation which should attempt to attack our shores or invade our land.

AND BE IT FURTHER RESOLVED, That a copy of this resolution be mailed to the President of the United States, to the Speaker of the House of Representatives in Congress, the President of the Senate, and to the members of Congress from the State of North Dakota.

Filed February 18, 1941.

House Concurrent Resolution "U"—(Fitch and Crockett)

**MEMORIALIZING THE CONGRESS OF THE UNITED STATES
TO MAINTAIN A MILITARY POST AT FORT LINCOLN.**

WHEREAS, Fort Lincoln is situated in approximately the center of an individual area comprising one hundred-fifty thousand square miles with a population of one million two hundred fifty thousand, and is supported by an excellent rail and highway network, and is adjacent to a proposed international airline joining the United States, Canada and Alaska, and

WHEREAS, Fort Lincoln is situated in the geographical center of the state and is the only military post in North Dakota and the only one between Fort Snelling in Minnesota and Missoula, Montana, and is the only military post between the Canadian Border on the north, and Fort Meade in the Black Hills section of South Dakota on the south, and

WHEREAS, the buildings and grounds comprising the military post of Fort Lincoln are in excellent condition and are capable of caring for many hundreds of citizens called to the service of their country during the present national emergency, Now, THEREFORE,

*Be It Resolved by the House of Representatives of the
Twenty-seventh Legislative Assembly of the State of North
Dakota the Senate Concurring Therein:*

That the Congress of the United States is hereby respectfully memorialized and urged to take such steps as are necessary to maintain Fort Lincoln as a military post.

Filed March 10, 1941.

Senate Memorial Resolution "F"—(Nelson of Grand Forks, Bridston, Bilden, Stucke and Gronvold)

GUSTAV I. GULLICKSON

"The silver cord is loosed, the golden bowl is broken, the pitcher is broken at the fountain, the wheel is broken at the cistern, the dust returns to the earth as it was, and the spirit has returned unto God who gave it."

A long and useful life has ended. The passing of Gustav I. Gullickson, the well-known Grand Forks painter, brought to the members of this Senate a sense of personal loss. Many of us remember the occasion during the Legislative session of 1937 when he presented to the State of North Dakota his copy of the famous painting depicting the signing of the Declaration of Independence.

Mr. Gullickson was born in a foreign land, but his proudest possession was his American citizenship; many of his paintings were of our public men and historic events.

In his passing the State loses a patriotic, faithful and conscientious citizen. Our deepest sympathy goes out to his widow.

BE IT RESOLVED that this resolution be printed in the Journal of the Senate as a tribute to the memory of Gustav I. Gullickson and that a duly attested copy thereof be forwarded to his widow.

Filed February 21, 1941.

Senate Concurrent Resolution "I"—(Committee on Game and Fish)

A RESOLUTION MEMORIALIZING THE UNITED STATES DEPARTMENT OF THE INTERIOR (FISH AND WILD LIFE SERVICE) TO ENACT MORE SUITABLE HOURS FOR THE TAKING OF MIGRATORY WATERFOWL DURING THE OPEN SEASON AS PROVIDED FOR BY THE FISH AND WILD LIFE SERVICE.

Be It Resolved by the Senate of the State of North Dakota and the House of Representatives Concurring:

WHEREAS, The Fish and Wild Life Service did find it necessary at a time when our migratory birds had been depleted to such an extent that some species were dangerously near the point of extinction, to provide strict regulations governing the hours for taking and daily bag limit, in order to protect and rehabilitate their numbers,

AND WHEREAS, the hours established, together with favorable hatching seasons have been instrumental in increasing our migratory

waterfowl to such numbers as to warrant more appropriate hours for hunting these birds,

AND WHEREAS, the enlargement of the daily bag limit together with a greater number of days of open season means nothing to the hunter unless he is permitted to shoot at a time when and where these birds are available,

AND WHEREAS, the hours for taking migratory game birds during the 1940 open season as established by the Fish and Wild Life Service were not the hours when these birds were available,

AND WHEREAS, in North Dakota it is light enough to see to shoot and retrieve dead or wounded birds one half hour before sunrise,

AND WHEREAS, in North Dakota migratory bird hunting consists largely of field shooting on account of the depletion of our duck waters,

AND WHEREAS, our field shooting is at its best during a very short period of the early morning daylight hours,

NOW THEREFORE, be it resolved by the Senate of the State of North Dakota, the House concurring, that we earnestly and emphatically recommend to the Department of the Interior (Fish and Wild Life Service) the necessity for establishing the hours for the taking of migratory waterfowl from one half hour before sunrise until sunset of each day of the open season.

BE IT FURTHER RESOLVED, that the Secretary of the Senate of the State of North Dakota transmit a copy of these resolutions to each member of Congress in both Houses of the United States Congress and to the Fish and Wild Life Service, Department of the Interior, together with card designating sunrise and sunset hours for North Dakota, with the request that this matter receive their most earnest consideration.

Filed February 19, 1941.

House Concurrent Resolution "O"—(Fitzharris and Coghlan)

MEMORIALIZING CONGRESS TO ENACT LEGISLATION GIVING TO THE UNITED STATES DISTRICT COURT OF THE STATE OF NORTH DAKOTA CRIMINAL JURISDICTION WITHIN THE LIMITS OF THE INDIAN RESERVATIONS IN THE STATE OF NORTH DAKOTA FOR THE ENFORCEMENT OF THE CRIMINAL LAWS AND THE PUNISHMENT OF CRIMES COMMITTED THEREIN BY INDIANS UPON PERSONS OF INDIAN BLOOD.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, the enforcement of the criminal laws within the Indian Reservations in the State of North Dakota has become burdensome financially and otherwise upon the counties wherein such reservations are located, and

WHEREAS, the Federal Government has made no provision to bear any part of the expense entailed in prosecution and punishment of crimes within such Indian Reservations, and the expense of the enforcement of the criminal laws is now borne by the counties, and

WHEREAS, Congress has heretofore enacted Sec. 329 of the Criminal Code of the United States conferring jurisdiction for the enforcement of the criminal laws and violations thereof within the limits of Indian Reservations in that State upon the District Court of the United States, and thereby relieve the counties of the heavy burden of expense connected therewith:

Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the Congress of the United States is hereby memorialized and petitioned to enact such legislation as may be necessary to transfer to the District Court of the United States for the State of North Dakota exclusive jurisdiction to hear, try and determine all actions and proceedings in which any Indian within the Indian Reservations in the State of North Dakota shall be charged with crimes as defined by the criminal laws of the State of North Dakota committed against any person of Indian blood within the limits of any Indian Reservation in the State of North Dakota, and confer exclusive jurisdiction to the District Court of the United States for the State of North Dakota to sentence any Indian person convicted of any crime as defined by the criminal laws of the State of North Dakota committed within such reservations and to impose like punishment or punishments as are provided by the criminal statutes of the State of North Dakota.

BE IT FURTHER RESOLVED that the Secretary of State of the State of North Dakota be authorized and directed to cause this Reso-

lution to be printed and copies thereof to be mailed to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and that copies be also sent by him to each of the Senators and Representatives in Congress from the State of North Dakota.

Filed March 10, 1941.

Senate Concurrent Resolution "H"—(Kehoe, Olson of Mountrail and Fowler) (Special Committee on Code Revision)

**APPOINTMENT OF AN INTERIM LEGISLATIVE COMMITTEE
ON CODE REVISION; PRESCRIBING THE DUTIES AND
COMPENSATION OF THE COMMITTEE.**

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, The Twenty-eighth Legislative Assembly of the State of North Dakota will have for consideration and adoption, the revised codes of the State of North Dakota prepared by the Code Revision Commission under the provisions of Chapter 110 of the Session Laws for the year 1939, and

WHEREAS, The Supreme Court of the State of North Dakota in the case of State vs. Berta E. Baker, 69 N. D. 488, 288 N. W. 202 held unconstitutional that part of Chapter 110 of the Session Laws for the year 1939 which provided that the Code Revision Commission shall determine upon the style of printing and binding to be used, shall advertise for bids for printing the code and shall let the contract to the lowest and best bidder for the printing of such code, the Twenty-eighth Legislative Assembly will have the problem of determining the style of printing and binding to be used in the new revised code if it is adopted, and of advertising for bids and contracting for the printing of such code, and

WHEREAS, The work of the Twenty-eighth Legislative Assembly in connection with the revised code will be greatly facilitated if a joint interim committee from the Legislative Assembly is appointed to consider the revised code and make recommendations thereon, and to make an investigation of the various styles for printing and binding of said code and of the various plans and methods to be pursued in the printing thereof, and report to the Twenty-eighth Legislative Assembly on said matters together with the cost of printing the code under the various methods investigated by said committee, and

WHEREAS, the Code Revision Commission in its report to the

Senate and House of Representatives of the Twenty-seventh Session of the Legislative Assembly of the State of North Dakota recommended the appointment of an interim committee to study the new code and all matters in connection therewith before the convening of the Twenty-eighth Session of the Legislative Assembly so that such committee could make a report of such matters to the Legislative Assembly.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

That a joint interim legislative committee which shall consist of four members of the Twenty-seventh Legislative Assembly of the State of North Dakota shall be selected and appointed as follows: Two members of the Senate to be selected by the President of the Senate with the approval of the members thereof; and two members of the House of Representatives to be selected by the Speaker of the House with the approval of the members thereof.

BE IT FURTHER RESOLVED, That upon the provision by the Legislative Assembly of the necessary funds to enable such joint interim legislative committee to perform the functions and duties imposed upon it herein, and during the Twenty-seventh Session of the Legislative Assembly, such interim legislative committee shall organize by electing one of its members as chairman.

BE IT FURTHER RESOLVED, That each member of the said joint legislative committee shall be entitled to his actual traveling expenses and in addition, to compensation of seven dollars per day while actually engaged in the work assigned to him by the joint legislative interim committee, including attendance at committee meetings.

BE IT FURTHER RESOLVED, That it shall be the duty of the committee to make a study of the revised codes of North Dakota being prepared under the provisions of Chapter 110 of the Session Laws for the year 1939, and of the various styles of printing and binding usable in such code, to advertise for bids for the printing of such code, and to report to the Twenty-eighth Legislative Assembly upon all of such matters including the cost of publication of the revised codes in the various styles and under the various plans considered by such committee.

BE IT FURTHER RESOLVED, That the Code Revision Commission shall, and it is hereby requested by the members of this Legislative Assembly to aid and assist such committee in every way possible in securing information and facts necessary to enable the committee to make its report to the Legislative Assembly and in the preparation of such report.

Filed February 22, 1941.

Senate Concurrent Resolution "N"—(Committee on Employment)

DANCE-LEGISLATIVE EMPLOYEES

WHEREAS it has always been the custom in each legislative session to have a mock session provided by the employees of each legislative session, and

WHEREAS following said mock session there be held a dance for employees, legislators, and friends, and

WHEREAS under a ruling of the Board of Administration, a Concurrent Resolution must be passed in order to obtain the use of House chambers and said corridor,

NOW THEREFORE, be it resolved by the Senate of North Dakota, House of Representatives concurring, that the Board of Administration be hereby requested to give permission to the employees of the Senate and House of Representatives the use of said state owned property, furnishing proper police to maintain proper order and decorum.

BE IT FURTHER RESOLVED that the Secretary of the Senate be requested to send one copy of this resolution to the Secretary of the Board of Administration of the State of North Dakota.

Filed March 4, 1941.

House Concurrent Resolution "Y"—(Committee on Employment)

AUTHORIZING TRANSFER OF FUNDS FOR LEGISLATURE

WHEREAS, there is not sufficient monies in the Mileage and Per Diem of Officers and Employees Fund as appropriated by the 26th Legislative Assembly, and

WHEREAS, there will be a balance of credit in the Mileage and Per Diem Members Fund, in the Printing Fund, and the Miscellaneous Fund,

NOW, THEREFORE BE IT RESOLVED, that the State Auditor is herewith instructed to transfer from the Mileage and Per Diem of Members Fund the sum of \$2000.00; from the Printing Fund the sum of \$5000.00, and from the Miscellaneous Fund the sum of \$1000.00, over to the Mileage and Per Diem Fund Officers and Employees, making a total transfer of \$8000.00.

Filed March 10, 1941.

Senate Concurrent Resolution "V"—(Committee on Employment)

RECORD OF BILLS—PREPARATION

WHEREAS, A complete record of action upon and disposal of all bills introduced in the Senate during this Session, should be made available to Senate Members as quickly as possible; such record to show what bills have been indefinitely postponed, withdrawn or passed, with notation of Journal date and page of amendments thereto;

Therefore, Be It Resolved by the Senate, the House of Representatives Concurring: That such compilation be at once prepared in a pamphlet similar in size to the Senate Journals; that Ruth Smith be employed for the Senate; working to prepare such compilation immediately. A copy of the same to be mailed as speedily as possible by the Senate mailing force to each member of the Senate, at the home address thereof. That the said Ruth Smith be and is hereby respectively retained on this work for the Senate for the period of three days after the adjournment of this Legislative Assembly, at her present pay; such compensation with the printing expense of such pamphlet and of mailing the same to be charged and paid as legislative expense.

Filed March 11, 1941.

Senate Concurrent Resolution "W"—(Committee on Employment)

SENATE JOURNALS, COMPLETION OF

Be It Resolved by the Senate, the House of Representatives Concurring:

That S. B. Salverson and Dwight Kamrath, Mailing Clerks of the Senate, of the Twenty-seventh Legislative Session, be retained for five days after the close of this Session to complete sending Senate Journals of the last days of the Session; and C. C. Morrison and J. O. Bergheim, Proofreaders in the Senate, be retained for two days after the close of the Session to finish proofreading the Journals of the Senate for the last day of this Twenty-seventh Legislative Assembly; and that Clarence Anderson and John Koehn, Pages of the Senate, be retained for two extra days after the close of the Session for the purpose of wrapping and either mailing or expressing to the members of the Senate, bill books, Journals, reports and files.

BE IT FURTHER RESOLVED, That each of the above named

employees, to-wit: S. B. Salverson and Dwight Kamrath as mailing clerks, be paid for said additional five days the sum of \$4.50 per day; and C. C. Morrison and J. O. Bergheim, proofreaders, be paid the sum of \$5.00 per day for two days; that Clarence Anderson and John Koehn as pages be paid the sum of \$4.50 per day for said additional two days; all the above to be paid as other legislative expense and paid when the respective claims are verified by the affidavits of said parties herein named, at the completion of such work.

Filed March 11, 1941.

Senate Memorial Resolution "E"—(Feton, Fowler, Brunsdale)

B. W. LEMKE

WHEREAS, the late Senator B. W. Lemke was called by death on November 30, 1940; and

WHEREAS, he had served the twenty-second legislative district for two terms as a representative, and was a member of the Senate for three sessions, during which time he was prominently associated with much of the more important phases of legislation during a critical time in the State's history:

THEREFORE, BE IT RESOLVED, by the Senate, that we express our appreciation for the qualities of good citizenship which always characterized his work; and for his adherence to high ideals and a sincerity of purpose during his tenure of office; and

BE IT FURTHER RESOLVED, that the Senate convey to his brothers and sisters the keen sorrow it feels at his passing; and that a copy of this resolution be forwarded by the Secretary of the Senate to them as follows:

Honorable William Lemke, Fargo, North Dakota
 Honorable Henry Lemke, Devils Lake, North Dakota
 Mr. Fred Lemke, Medicine Hat, Saskatchewan, Canada
 Mrs. R. T. Muir, Rock Lake, Idaho
 Mrs. C. F. Clark, Fort Benton, Montana
 Mrs. J. C. Shotton, c/o Mrs. Henry Botz, Cando, North Dakota
 Mrs. Henry Botz, Cando, North Dakota

Filed January 30, 1941.

Senate Memorial Resolution "D"—(Brunsdale, Fowler and Fetton)

HENRY LEUM

WHEREAS, the late Senator Henry Leum, of the eighth legislative district, was called to his eternal reward on July 23, 1940; and

WHEREAS, He served as a member of the House in the Twenty-fifth Legislative Assembly and as a member of the Senate in the Twenty-sixth Legislative Assembly; and

WHEREAS, His tenure of public office has always been characterized by a high degree of devotion to those principles of good government which are essential to its efficient and honest administration, and by a sincere endeavor on his part to further the well being of all in state and local matters:

THEREFORE BE IT RESOLVED, By the Senate that we express our heartfelt appreciation for the valuable services rendered by our distinguished citizen; and that we express our keen sorrow at his passing; and

BE IT FURTHER RESOLVED, That we extend to his wife, Mrs. Clara Leum, his sons, Paul, Mark, and Neil, our sincere sympathy; that this resolution be printed in the Journal and an engrossed copy of same be sent to his family at Mayville, North Dakota.

Filed January 28, 1941.

Senate Concurrent Resolution "G"—(Tweten)

INCREASE LOAN VALUE ON GRAINS AND FARM PRODUCTS

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

WHEREAS, approximately 85% of the citizens of North Dakota must derive all of their living from the production and sale of grain and other farm products; and

WHEREAS, the costs of all agricultural implements and all supplies necessary for the purpose of maintaining and continuing farm operations have greatly increased with the result that the present Government loan values allowed for grains and other farm products are not sufficient to cover the actual expense of farming operations and necessary living requirement.

Now, THEREFORE, BE IT RESOLVED, by the Senate of the State

of North Dakota, the House of Representatives concurring, That we memorialize Congress to pass such legislation as may be necessary to enable the Federal Government to increase the loan value on grains and farm products, at least 25% and especially upon the grains most universally raised in North Dakota, namely, wheat, rye, barley and corn.

BE IT FURTHER RESOLVED, that the Secretary of the Senate transmit a copy of this resolution to the Honorable Franklin D. Roosevelt, President of the United States, the Honorable Claude R. Wickard, Secretary of Agriculture, the Honorable Gerald P. Nye, Senior Senator from North Dakota, the Honorable William Langer, Junior Senator from North Dakota, and to the Honorable Usher L. Burdick and the Honorable Charles R. Robertson, Representatives in Congress from North Dakota.

Filed March 11, 1941.

Senate Memorial Resolution "B"—(Streibel)

WESLEY MATTHAEI

WHEREAS, our late associate, Senator Wesley Matthaei of Wells County, long a prominent member of this body and an outstanding citizen of this State was called by death since the last Legislative Assembly met.

THEREFORE, Be It Resolved, that this Senate express its deep sympathy to his brother Doctor D. W. Matthaei and to other relatives, and that a copy of this Resolution be sent by the Secretary of the Senate to Doctor D. W. Matthaei at Fessenden, North Dakota.

Filed January 16, 1941.

Senate Concurrent Resolution "O"—(Wog and Dahl)

MILITARY HIGHWAYS

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, The national defense agencies of the Federal Government have designated 985 miles of the North Dakota State Highway system as being highways of major importance in the defense emergency now facing this nation, and

WHEREAS, Surveys of this strategic military mileage have been made by the Public Roads Administration cooperating with the North Dakota Highway Department through the State-Federal Highway Planning Survey, said surveys disclosing that an important part of this mileage is still a dry-gravel road without a dustless surface, and other portions of the mileage are obsolete so that a substantial part of the designated mileage must be built to present day standards to provide for the movement of vast quantities of munitions and supplies and large numbers of men necessary for the effective operation of the defense forces of the national government and

WHEREAS, It is estimated that to bring the strategic military network of highways in North Dakota to the minimum standards required to meet the defense program of the United States will cost approximately \$20,600,000, and

WHEREAS, The North Dakota Highway Department has available during the coming biennium an estimated amount of less than \$1,000,000 of State funds that may be available for matching regular Federal Aid funds for expenditure on the strategic network of highways, the State funds thus available being collected from road use taxes on the motor vehicle owners of the State of North Dakota, and

WHEREAS, The North Dakota Highway Department is confronted with a serious shortage of available revenue to meet the normal demands of highway construction and maintenance on the State Highways system, it being estimated that in addition to the cost of standardizing the 985 miles of the strategic network it would require an additional expenditure of approximately \$21,000,000 to bring other portions of the State Highway system to modern minimum standards, and

WHEREAS, The Federal Government is now collecting in North Dakota through Federal gasoline taxes, lubricating oil taxes, and other excise taxes on the operation of motor vehicles, a sum substantially greater than the amount returned to North Dakota as Federal highway aid, and

WHEREAS, The North Dakota Highway Department contemplates cooperating with the Federal Government in improvement of the strategic military network so far as available funds will permit and the improvement of other sections of the State Highway system may be deferred, and intends to cooperate with the Federal Government in every way possible by using its engineering facilities in preparing surveys, plans and specifications for a strategic network of military highways, and

WHEREAS, The State of North Dakota is unable to provide any material increase in the amount of State funds available for matching regular Federal Aid funds on highway construction and it is not

feasible to accomplish the improvement of the strategic military network of highways on the present basis of matching Federal Aid funds with State funds,

NOW, THEREFORE, BE IT RESOLVED By the Senate of the Twenty-seventh Legislative Assembly, the House concurring, that the Congress of the United States be respectfully requested to give early and deliberate consideration to the need for emergency appropriations to expedite the construction of roads on the strategic military network, said funds to be appropriated for expenditure through the same agencies as regular Federal Aid and to be allocated among the several States on the same basis as regular Federal Aid at the present time, and

BE IT FURTHER RESOLVED That the Congress be respectfully requested to make such appropriations as may be necessary for improvements of the strategic military network available for expenditure on a basis that will reduce to a minimum the funds required by the States to carry out such defense program.

BE IT FURTHER RESOLVED That copies of this Resolution be sent to the President of the United States and to each member of the North Dakota Congressional delegation.

Filed March 11, 1941.

Senate Concurrent Resolution "M"—(Stucke and Owings)

**MEMORIALIZING CONGRESS TO CONSTRUCT THE PROPOSED
MISSOURI RIVER DIVERSION PROJECT**

WHEREAS, very extensive surveys and investigations have been carried on in connection with the Missouri River Diversion Project during the past year by the Corps of Engineers, U. S. Army and by the Bureau of Reclamation, and

WHEREAS, the Missouri River Diversion Project is for the purposes of lake and groundwater restoration, municipal and industrial water supplies, sewage and waste disposal, stock-watering, irrigation and other agricultural purposes, and

WHEREAS, the Missouri River Diversion is a project of immense magnitude and is not only of great benefit to the State of North Dakota, but also to the states of South Dakota and Minnesota, and is of great importance to the entire nation, and

WHEREAS, the Project is recognized as being sound and practicable from an engineering standpoint and a series of drought years and economic studies have shown there to be a most urgent need

for the project and that very extensive benefits will be derived from its construction and operation.

NOW THEREFORE, BE IT RESOLVED, That the Senate of the State of North Dakota, the House concurring therein, petition the Congress of the United States and the President of the United States to enact and approve such legislation or to carry out such measures as will provide for the immediate construction of the Missouri River Diversion Project.

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and the Senators and Congressmen from North Dakota.

Filed March 4, 1941.

Senate Resolution "B"—(Stucke and Brunsdale)

NATIONAL GUARD

Be It Resolved by the Senate of the State of North Dakota:

WHEREAS, pursuant to executive order of the President of the United States and the statutes in such case made and provided, this the 10th day of February, 1941, has been designated as mobilization day for the 34th Division, and today the 164th Infantry of the North Dakota National Guard is being inducted for one year of active training as a part of the National Defense Program, and

WHEREAS, we are proud that North Dakota is able to answer the call in this present emergency as it always has done in the past. We recall with a feeling of pride the military records of the State of North Dakota and rejoice that today North Dakota will tender to the service of our country a fine regiment of men under the direction and guidance of well trained and capable officers, and

WHEREAS, in every instance our soldiers have acquitted themselves in a manner that has brought distinction to the regiment and credit to the State of North Dakota, it is fitting that we should call to mind the service of our regiment in answering the call of 1898 for the Spanish American War; in responding to the call in 1916 for service on the Mexican border; and to remember their unselfish service and sacrifices in answering the call of 1917 during the World War.

NOW, THEREFORE BE IT RESOLVED BY THE SENATE: That we pause in our deliberations to extend to Colonel Earl R. Sarles, Com-

manding Officer of the 164th Infantry, and to his officers and men our very best wishes and to bid them God speed in their journey to the training camp, and we wish them to know that we appreciate their patriotism in laying aside their private business and personal affairs to undergo this training period to better enable our country to preserve and to defend our democratic ideals and institutions.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Colonel Earl R. Sarles, Commanding Officer of the 164th Infantry.

Filed February 12, 1941.

House Resolution "M"—(Crocket and Fitch)

NATIONAL GUARD

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, pursuant to executive order of the President of the United States and the statutes in such case made and provided, this the 10th day of February, 1941, has been designated as mobilization day for the 34th Division, and today the 164th Infantry of the North Dakota National Guard is being inducted for one year of active training as a part of the National Defense Program, and

WHEREAS, we are proud that North Dakota is able to answer the call in this present emergency as it always has done in the past, we recall with a feeling of pride the military records of the State of North Dakota and rejoice that today North Dakota will tender to the service of our country a fine regiment of men under the direction and guidance of well trained and capable officers, and

WHEREAS, in every instance our soldiers have acquitted themselves in a manner that has brought distinction to the regiment and credit to the State of North Dakota, it is fitting that we should call to mind the service of our regiment in answering the call of 1898 for the Spanish American War; in responding to the Call in 1916 for service on the Mexican border; and to remember their unselfish service and sacrifices in answering the call of 1917 during the World War.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES: That we pause in our deliberations to extend to Colonel Earl R. Sarles, Commanding Officer of the 164th Infantry, and to his officers and men our very best wishes and to bid them God speed in their journey to the training camp, and we wish them to know

that we appreciate their patriotism in laying aside their private business and personal affairs to undergo this training period to better enable our country to preserve and to defend our democratic ideals and institutions.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Colonel Earl R. Sarles, Commanding Officer of the 164th Infantry.

Filed February 10, 1941.

Senate Concurrent Resolution "Y"

NON-NAVIGABLE RIVERS, YELLOWSTONE, MISSOURI

WHEREAS, Sections 9 and 10 of the Rivers and Harbors Act of 1899, make it unlawful for any State to construct any bridge, dike or causeway over or in any navigable river or other navigable water of the United States without the consent of Congress and without the approval of the plans by the Chief of Engineers and the Secretary of war; and

WHEREAS, by the Federal Water Power Act of 1920, no State may construct or permit the construction of a water power development in any such navigable river except pursuant to a license from, and under the regulation of the Federal Power Commission; and

WHEREAS, the Supreme Court of the United States in a recent decision with respect to the navigability of a stream in the State of Virginia, under which decision, as stated in a dissenting opinion, "every creek which has enough water when conserved by control works to float a boat drawing two feet of water", is rendered navigable if such condition can be brought about by the expenditure of enormous sums of money; and

WHEREAS, the effect of said decision is to obstruct the State and other governmental subdivisions in the building of bridges over rivers and streams which no one has ever considered navigable; and

WHEREAS, the situation resulting from the newly prescribed test of navigability will operate to demoralize the activities of the State of North Dakota in the construction of highways, irrigation systems and other works of internal development in a manner never intended by Congress in passing the laws affecting the navigability of streams and the development of water power; and

WHEREAS, on the Yellowstone River and on that portion of the Missouri River above the south line of North Dakota, waterway

transportation has been found to be impractical and has long ago been abandoned and an urgent demand now exists that all of the waters of these two streams be used for purposes other than navigation; and

WHEREAS, in view of the said court decision, it is important that all rivers and streams in the State of North Dakota which are not navigable in their natural condition and which are not now considered navigable, be declared by the Congress of the United States to be non-navigable.

NOW THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House concurring therein, that the Senators and the Members of the House of Representatives of North Dakota in the Congress of the United States, be and they are respectfully urged to use their best efforts to secure the enactment of legislation by the Congress designating as non-navigable all of the Yellowstone River and that portion of the Missouri River above the south line of the State of North Dakota, and all rivers in North Dakota which are not navigable in their natural condition and which are not now considered navigable.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Senators and Congressmen of North Dakota.

Filed March 11, 1941.

House Concurrent Resolution "Z2"—(Twichell)

**COMMENDING THE ORIGINAL NORTH DAKOTA CAPITOL
COMMISSION FOR SERVICES RENDERED IN THE
CONSTRUCTION OF THE CAPITOL BUILDING.**

WHEREAS, the new State Capitol, in the commodious chambers of which this Legislative Assembly is convened, was planned and designed, and the construction of which was commenced under the direction and supervision of the original North Dakota Capitol Commission appointed in March 1931 by the Honorable George F. Shafer then Governor of North Dakota, consisting of the Honorable Geo. A. Bangs of Grand Forks, North Dakota, who served as its chairman, the Honorable Fred L. Conklin of Bismarck, North Dakota, who served as its vice-chairman, Honorable G. Angus Fraser, then Adjutant General of North Dakota, and Major Frank L. Anders, who served as its Secretary; and

WHEREAS, as a result of the careful planning, painstaking labors and rare judgment and wisdom exercised by the members of said Commission between March 1931 and January 1933, during which

time the members of said Commission served continuously without financial remuneration, our State now enjoys the use and benefits of the most modern and up-to-date Capitol in the United States—a building which, for elegance, beauty, utility, durability, convenience and commodious arrangements is unexcelled by any public building in the United States or Canada—a governmental structure which daily commands the admiration of hundreds of visitors from within and without the State, and in which all the people of North Dakota have a justifiable pride;

Now Therefore, Be It Resolved by the House of Representatives, the Senate Concurring:

That the Honorable Geo. A. Bangs; Honorable Fred L. Conklin, Honorable G. Angus Fraser, and Major Frank L. Anders, be officially commended for their patriotic and invaluable public services rendered to the State of North Dakota in designing, planning and inaugurating the construction of the new State Capitol, and do hereby express to each of them the gratitude and appreciation of the members of this Legislative Assembly for their unparalleled public service to this and succeeding generations of North Dakota citizens; and

BE IT FURTHER RESOLVED, that an engrossed copy of this Resolution, duly certified by the Secretary of State, be transmitted to each of the distinguished citizens herein commended, by the Governor, together with a letter conveying the compliments and respects of the members of this Legislative Assembly.

Filed March 10, 1941.

Senate Memorial Resolution "G"—(Young, Gronvold, Bond and Nelson of Grand Forks)

C. H. PORTER

Be It Resolved by the Senate of the State of North Dakota:

WHEREAS, C. H. Porter, an old time resident of LaMoure, North Dakota, was called to his eternal reward on November 13, 1940; and

WHEREAS, he was a prominent figure in county pioneer history, former county office holder, and State Senator from 1915 to 1919; and

WHEREAS, during all of his public service and during his life, as a private citizen, he was a splendid example of good citizenship

and his example and works in life have had a continuing influence in the progress of his community ;

THEREFORE, BE IT RESOLVED, by the Senate that we hereby express our heartfelt appreciation for the loyal service of our distinguished citizen, the late C. H. Porter, and our keen sorrow at his passing ;

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded by the Secretary of the Senate to each of his two daughters, Mrs. John Muir of LaMoure, North Dakota and Mrs. A. A. Stone of Minneapolis, Minnesota.

Filed February 28, 1941.

Senate Concurrent Resolution "A"—(Committee on Taxes and Tax Laws)

RELIEF AND DEBT SURVEY COMMISSION, CONTINUATION OF
Be It Resolved by the Senate of the State of North Dakota, the House Concurring, that:

WHEREAS, the Relief and Debt Survey Commission created pursuant to the Concurrent Resolution adopted by the 26th Legislative Assembly, has concluded an extensive survey of the relief and municipal debt problems existing in North Dakota, and has filed its report with the Governor as required by the Resolution ; and,

WHEREAS, it appears that, for reasons of economy, the Commission has not encumbered its report with elaborate statistical details but has confined its report principally to general conclusions and legislative recommendations ; and it further appearing that such Commission will be able to render valuable assistance to this Legislative Assembly in connection with proposed legislation relating to relief and municipal debt problems ; and that the Governor has recommended the continuance of such Commission for the duration of this session of the Legislature ;

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the State of North Dakota, the House of Representatives concurring ; that the Relief and Debt Survey Commission organized and created pursuant to the Concurrent Resolution adopted by the 26th Legislative Assembly, be continued for the duration of this session of the Legislature, to serve the Legislature, in an advisory capacity, in respect to proposed legislation pertaining to relief, municipal debt, local tax revenue and related matters ; provided that none of the members of

such Commission shall receive any compensation for serving on the Commission during this session of the Legislature.

Filed January 25, 1941.

Senate Resolution "Z"

RELIEF AND DEBT SURVEY COMMISSION, PAYMENT FOR
LEGAL SERVICES

Be It Resolved by the Senate of the State of North Dakota, That:

WHEREAS, The Relief and Debt Survey Commission has heretofore engaged and employed attorneys C. F. Kelsch and Geo. F. Shafer to prepare and present such bills as said commission recommended for passage by this assembly and which services have been performed, and

WHEREAS, the joint committee on the refunding of the state indebtedness did, on January 29, 1941, designate said attorneys as counsel for such joint committee in connection with preparation of all bills introduced by such committee for the refunding of state's indebtedness and to furnish all legal assistance required by said committee during this legislative session, which services have been performed, and

WHEREAS, said attorneys have prepared numerous other bills or assisted in the preparation of additional bills at the request of legislative committees of both branches of the legislature and various members thereof, which services have been performed by said attorneys, and

WHEREAS, it appears that there are sufficient funds in the appropriation for the Relief and Debt Survey Commission for the payment of reasonable attorney's fees for such legal services and that no further or additional appropriation is required.

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the State of North Dakota:

That the Relief and Debt Survey Commission shall authorize the payment for the legal services so rendered out of any unexpended funds appropriated to the commission.

Filed March 11, 1941.

Senate Concurrent Resolution "S"—(Public Welfare Committee)

RELIEF FUND LOANS

Requesting the Bank of North Dakota with the approval of the Industrial Commission to make loans to the Public Welfare Board of North Dakota to meet emergencies for funds to match Federal grants under the Social Security Programs or general relief requirements.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein: That

WHEREAS, the Public Welfare Board of North Dakota, as created by Chapter 221 of the Session Laws of 1935, is a department of the State of North Dakota ; and

WHEREAS, the Bank of North Dakota, under the provisions of Section 5192a15 of the 1925 Supplement to the Compiled Laws of 1913, is authorized, with the approval of the Industrial Commission of this State, to transfer funds and make loans to any state department, which funds shall be returned to the Bank of North Dakota with interest ; and

WHEREAS, State funds to match Federal funds for the Social Security Programs must be available thirty days prior to the beginning of each quarter in order to secure Federal matching funds in time to meet payments for that quarter, therefore,

BE IT RESOLVED that in the event of emergencies where funds appropriated by the Legislature for meeting Social Security or general relief requirements are not available in the State Treasury when needed, that the Industrial Commission be requested to approve loans and the bank of North be requested to make such loans if possible to do so, and further providing that such loans shall in no case be in excess of \$200,000.00 or in excess of amounts appropriated by the Legislature for such purposes, and that said loans be paid with interest as soon as there is money available in the State Treasurer's office to meet said appropriations for Social Security or general relief.

Filed March 11, 1941.

Senate Joint Resolution No. 1—(Stucke, Fowler, Grieser, Young, Owings,
and Nelson of Grand Forks)

**ENDORING CHARLES R. ROBERTSON FOR APPOINTMENT ON
COMMITTEE ON AGRICULTURE**

WHEREAS, the main source of income and production of the State of North Dakota is from agriculture and agricultural products and our state should in all fairness and propriety be represented on the Committee on Agriculture of the House of Representatives in Congress.

NOW THEREFORE be it Resolved by the legislative assembly of the State of North Dakota now in session that we request that North Dakota be given a place upon said Committee on Agriculture and that we endorse Congressman Charles R. Robertson for appointment to a place on said committee.

Filed January 14, 1941.

Senate Concurrent Resolution "P"—(Committee on Public Welfare)

SOCIAL SECURITY ACT

Requesting Congress to amend the Social Security Act to provide Federal Grants to states for public assistance on an equalization basis, taking into consideration the ability of the state to finance public assistance; to permit the states to develop medical care programs for recipients of public assistance, the cost of such medical care to be matched with Federal funds on a fifty per cent basis; to provide one hundred percent Federal grants to estates for assistance for certain Indians; to increase maximum grants in aid for dependent children; to provide for Federal participation in costs incurred by states in referring persons to Federally financed welfare programs; and to provide for the enactment of a new title to the Social Security Act providing for grants in aid to the state for general assistance to needy residents and migrants.

WHEREAS, geographical location and the location of industries and other factors result in wide differences in the tax paying ability of citizens of the various states as evidenced by differences in the per capita income of the states, and

WHEREAS, the problem of providing medical care for public assistance recipients under the Social Security Programs and of providing general assistance to needy residents and migrants has become a burden which exceeds the tax paying ability of many states and local communities, and

WHEREAS, the cost to the states and the local subdivisions of

providing public assistance to Indians living on public reservations in those states having a large Indian population is a burden which those states and local sub-divisions cannot and should not be expected to carry, and

WHEREAS, the cost to the states and local sub-divisions of taking applications, making investigations, and referring persons to welfare programs such as the Work Projects Administration, Farm Security Administration, and Civilian Conservation Corps, financed with Federal funds, is becoming an increasingly heavy burden on the states because of the requirements of those Federal agencies in connection with such referrals, and

WHEREAS, the maximum amount which the Federal government will match for Aid to Dependent Children under Title IV of the Social Security Act is \$9.00 for any month with respect to one dependent child, and \$6.00 with respect to each other dependent child in a family, which maximum amount is entirely inadequate to provide for the needs of a mother and one or two children, therefore,

BE IT RESOLVED, that the Legislative Assembly of the State of North Dakota hereby memorialize Congress to amend the Social Security Act to:

1. Authorize equalization grants to the states under each public assistance title on the basis of the relationship of the average per capita income in the state to the national average per capita income, with respect to costs of assistance;
2. Add a new title to the Social Security Act providing for grants in aid to the states for general assistance to needy residents and migrants on a matching basis equalized in accordance with the relationship of the average per capita income in the state to the national average per capita income;
3. Amend each public assistance title in the Social Security Act to permit the states to develop medical care programs for recipients of public assistance on a matching basis;
4. Amend each public assistance title to authorize one hundred per cent Federal grants to the states for costs of assistance and administration with respect to Indians living on public reservations;
5. Provide for Federal participation in costs incurred by state agencies in referring persons to Welfare programs financed with Federal funds as Work Projects Administration, Farm Security Administration, Civilian Conservation Corps, etc.;
6. Amend Title IV of the Social Security Act increasing the grants which the Federal government will match to \$20.00 for the first child in each family, and \$6.00 for each additional child in the family.

BE IT FURTHER RESOLVED, that this resolution be sent to the President and the Congress of the United States and the Congressional delegation from North Dakota.

Filed March 11, 1941.

House Concurrent Resolution "N"—(Committee on Federal Relations)

REQUESTING CONGRESS TO INVESTIGATE CONDITIONS ON THE STANDING ROCK INDIAN RESERVATION, AND RELIEVE NEEDS EXISTING THERE.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, Upon petition of the Sioux Indians of the Standing Rock Reservation, who testified at a joint hearing of the Senate Indian Affairs and House Federal Relations committees that the general situation on the reservation is bad, and that the ration system as used on their reservation has failed, and recommended that monies appropriated by the United States Congress for rations be disbursed through State relief channels, as for white people, who take their grocery orders to the merchants, selecting from staple foods authorized, the Legislature by resolution, H. C. Res. "G", authorized an investigation of the conditions existing in that area of the reservation lying within the State of North Dakota, and,

WHEREAS, a special joint committee visited Fort Yates, Cannonball, and Porcupine Sub-Agency, examined witnesses, and personally saw the deplorable, wretched conditions under which these Indians are existing, and as shown by report and testimony on pages 235-248, of the Senate Journal for February 8, 1941, which report is incorporated herewith by reference thereto and hereto attached, and also by photographs of a few of the cases referred to in the committee report attached hereto and made a part of this resolution, and

WHEREAS, the report of this committee indicates that many of these unfortunate people live on food allowances of the value of \$3.45 per month, and families of four on a double ration, amounting to \$6.90 per month, with perhaps occasional surplus commodities, inequitably distributed; green coffee, and no fruit, dairy products, nor milk for children; with only a very limited amount of dead cottonwood and willow timber and driftwood for fuel, burned in stoves not worthy of the name, wholly inadequate medical facilities; inability to contact the superintendent; school children with no other garments than one dress, a coat, stockings and shoes; old women gathering their own wood; and many entire families huddled

in poor, leaky tents, with no furniture and inadequate bedding, nearly freezing in sub-zero weather; and that many other intolerable conditions were found to be the rule and not the exception; and many of the most miserable tents and huts were within a stone's throw of the beautiful brick office and residential buildings of the agency at Fort Yates and the sub-agencies at Cannonball and Porcupine, and

WHEREAS, such living conditions are demoralizing to both the younger and older Indians, and it appears that this situation is not known to Congress,

NOW, THEREFORE, BE IT RESOLVED, that we respectfully request Congress to authorize an immediate and thorough investigation of the conditions that exist on the Standing Rock Indian Reservation; and that adequate food, clothing, shelter, fuel, medicine and other urgent needs be supplied at the earliest possible moment to these destitute, hungry and homeless Indians and American citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the President of the United States; to the President of the Senate; the Speaker of the House of Representatives; to Senator Elmer Thomas and Representative Will Rogers, Chairmen of the Senate and House Indian Affairs Committee; to Senators Nye and Langer and Representatives Burdick and Robertson, and to the Press.

Filed February 28, 1941.

House Concurrent Resolution Z1—(Bergesen, Beede, Haugen)

**PROVIDING FOR ASSISTANCE OF THE JUDICIAL COUNCIL
IN OPERATION OF THE STATE WORK FARM.**

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

WHEREAS, This Legislative Assembly has enacted House Bill Number 202 providing for the establishment and government of a correctional institution to be known as the North Dakota State Farm, and whereas the management of said Farm is placed under the control of the State Board of Administration, and

WHEREAS, The Judicial Council has heretofore approved the establishment of such institution, and

WHEREAS, The Judges of the District Courts and County courts having increased jurisdiction will determine what persons shall be sentenced to such Work Farm, and

WHEREAS, The State Board of Administration deems it desirable that some provision be made whereby such Board may have the benefit of the council with, and advice of, such Judges in questions and problems that may arise incident to the establishment and operation of such Farm.

NOW THEREFORE, BE IT RESOLVED, That the said Judicial Council of North Dakota be and it is hereby directed to give to the Board of Administration all possible assistance in the establishment and operation of said State Work Farm, and to that end the said Judicial Council is directed to appoint a committee to consult with and aid and assist the said State Board of Administration in matters in connection with the establishment and government of such Farm, it being understood that no compensation or remuneration of any sort shall be allowed to any member of the Judicial Council or such committee for any such service.

Filed March 10, 1941.

Senate Concurrent Resolution "C"—(Bilden, Blank, Owings)

TOWNSEND RECOVERY PLAN

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, many of our aged people are dependent upon the Government for food, clothing and shelter, and many more are dreading the day when they will be forced from the payrolls of industry and swell the throng of dependents, and

WHEREAS, many of our young people in the prime of life are unable to secure employment, and

WHEREAS, many of our middle aged people, who are employed, are afraid of losing their jobs, and

WHEREAS, as a result of the above mentioned facts, the vast majority of our population are living in a state of fear, and as fear is the greatest dictator in the world today and to a large extent is responsible for the increase of insanity, vice, and crime,

NOW, THEREFORE, BE IT RESOLVED, That the Senators and Representatives of the State of North Dakota in the Congress of the United States be, and hereby are, requested to take such necessary steps as will insure the immediate passage of the aforesaid "Townsend Recovery Plan" bill, and that copies of this memorial be forwarded forthwith to the President of the United States, to the

President of the Senate, and to the Speaker of the House of Representatives of the Congress of the United States.

Filed January 25, 1941.

Senate Concurrent Resolution "D"—(Tweten, Solberg, Olson of Mountrail)

**IN REGARD TO UNIVERSITY AND SCHOOL LAND OIL LEASES
AND IF PRODUCTION OF OIL IS REALIZED**

WHEREAS, under the provisions of the Enabling Act of February 22, 1889 the Federal Government granted to the State of North Dakota certain lands, the proceeds of the sale and rental of which should form a permanent school fund "the interest of which only shall be expended in support of the schools of the state;" and

WHEREAS, there is at present a considerable number of prospectors now in the state endeavoring to determine whether oil and gas may be found in the soil of the state and to develop such resources if they be found to exist; and whereas, the state now owns a considerable amount of land which may produce oil and gas if it be found within the state, and

WHEREAS, under courts construing like provisions in other enabling acts have held that the proceeds of oil and gas found on such public grant lands property are a part of the permanent school funds, and that therefore, no part of such proceeds could be covered into the interest or income fund to be used directly for the support of the schools of the state, and

WHEREAS, the financial conditions of many of our school districts is such that it is extremely difficult for them to maintain their schools, and such conditions could be ameliorated considerably if a portion of the proceeds of oil and gas derived from school lands could be covered into the interest and income fund and used to assist in maintaining such schools, and

WHEREAS, the permanent school fund of the state is now so large that it is difficult to keep it invested profitably,

NOW, THEREFORE, Be It Resolved by the Senate of North Dakota, House of Representatives concurring, therein, that the Senators and Representatives representing North Dakota in Washington, D. C., are hereby requested to endeavor to have the Congress of the United States amend the said enabling act by providing that one-half of the proceeds of oil and gas produced from wells upon lands granted to the State of North Dakota by said Enabling Act

be allocated to the permanent school funds and the other one-half be allocated to the interest and income fund and used for the support of the schools of the state.

This has been duly considered and recommended by the Board of University and School Lands, consisting of the Governor, Secretary of State, Attorney General, State Auditor and Superintendent of Public Instruction.

BE IT FURTHER RESOLVED, that the Secretary of the Senate be instructed to send a copy of this Resolution to The Honorable Gerald P. Nye, the Honorable William Langer, the Honorable Usher L. Burdick, and the Honorable Charles R. Robertson.

Filed February 12, 1941.

House Concurrent Resolution "E"—(Myers, McIntyre, Glas, Brusseau, Rohde, Juhola, Halvorson, Schwartz, Larson)

URGING THE ENACTMENT OF THE WHEAT INCOME CERTIFICATE BILL AND THE DEBT ADJUSTMENT BILL BY CONGRESS

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the growing of wheat is one of the most important industries of the State of North Dakota and the welfare of the wheat grower paramount to the people of this state;

WHEREAS, the Wheat Income Certificate Bill, H. R. 43 now introduced in the 77th Session of Congress, will benefit wheat growers of this state; and

WHEREAS, the adjustment of the present debt burden is of vital importance to this state as well as most other states of this union;

WHEREAS, the Debt Adjustment Bill, H. R. 100, now before the 77th Session of Congress, will certainly aid in the solution of this problem;

THEREFORE, BE IT RESOLVED, That we recommend the passage of said Wheat Income Certificate Bill, H. R. 43 and of the Debt Adjustment Bill H. R. 100, as soon as possible and substantially in the form introduced.

BE IT FURTHER RESOLVED, That the Secretary of State is directed to transmit copies of this resolution to the President of the United States and to each of the members of Congress from this state.

Filed February 18, 1941.

Senate Memorial Resolution "A"—(Nelson of Grand Forks, Fowler
and Stucke)

GEORGE YOUNG

Be It Resolved by the Senate of the State of North Dakota:

WHEREAS, George Young, an old time resident and respected citizen of LaMoure, North Dakota, and an uncle of Senator M. R. Young of LaMoure County, has been called by death;

THEREFORE, BE IT RESOLVED, that this Senate express its deep sympathy to Senator Young and to the other members of the family, and that a copy of this resolution be delivered by the Secretary of the Senate to Senator Young.

Filed January 14, 1941.

VETOES

H. B. No. 335—(Committee on Appropriations)

**TRANSFER OF \$20,000 FROM AUTO TRANSPORTATION FUND
TO THE GENERAL FUND**

An Act to transfer to the general fund \$20,000 from the balance on hand July 1, 1941, in the "Auto Transportation Fund."

March 22, 1941.

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

I am filing House Bill 335 herewith, without my approval. This bill transfers \$20,000.00 out of the Auto Transportation Fund to the General Fund of the State.

After a careful examination of the statutes which provide for revenue and require that excise and license fees imposed thereby be deposited to the credit of the Auto Transportation Fund, I am of the opinion:

1. That some of the license fees which are covered into the Auto Transportation Fund have been appropriated, by constitutional amendment adopted June 1940, for the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways, and that by reason thereof such revenue can not be now diverted to any other purpose by legislative transfer.

2. That the transfer of the amount involved in this act only operates to transfer the public money from one fund to another. This money is now in a special fund and can not be disbursed without a legislative appropriation having first been made.

3. That if it be hereafter determined that some of the revenue that is now covered into the Auto Transportation Fund must be covered into the State Highway Fund by reason of the constitutional dedication of some of the license fees for highway purposes, then the funds available for the regulation of the Auto Transportation Service and the payment of the administrative expenses necessarily incurred thereby, may prove insufficient for said purpose, and therefore it is inadvisable to transfer any money out of the Auto Transportation Fund which may be required by the Public Service Commission to discharge its official duties.

I believe that sound public policy and the best interest of the state will be served by a veto of this measure. Manifestly, if this money is not expended and if it is subject to lawful transfer it can be transferred by the next legislative session.

For these reasons, I have and do hereby veto this act.

Sincerely yours,
JOHN MOSES
Governor

JM:HH

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

§ 1. The sum of \$20,000 of the balance on hand July 1, 1941, in the "Auto Transportation Fund" created by Section 25 of Chapter 164 of the Session Laws for the year 1933, is hereby transferred to the general fund of the State of North Dakota.

H. B. No. 90—(Erickson of Divide, Welder, Erickson of Williams, Semerad, Bymers, Bubel)

ASSESSMENT OF PUBLIC UTILITIES

An Act Providing for the Consideration by the State Board of Equalization of certain Property Valuation in Determining the Value of Public Utilities for Taxing Purposes.

March 22, 1941

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

I transmit herewith House Bill No. 90 which is entitled, "An Act Providing for the Consideration by the State Board of Equalization of Certain Property Valuation in Determining the Value of Public Utilities for Taxing Purposes," without my approval.

Reference to the Journals of the Twenty-seventh Legislative Assembly discloses that this bill originated in the House and was passed by that body. It was then transmitted to the Senate for action. Page 880 of the Senate Journal discloses that upon consideration by the Senate the bill was indefinitely postponed, upon a roll call vote and that no action was ever taken by the Senate to reconsider. It appears, however, that by error the bill was returned to the House as having been passed unchanged.

From this, it appears beyond controversy that although the bill has been certified by the Officers of the Legislature as having been passed, it was never passed by the Senate. The inescapable conclusion is that inasmuch as the bill was not passed by both branches of the Legislature, as required by the Constitution, it was never legally enacted and therefore can not become law.

Respectfully submitted,
JOHN MOSES
Governor

JM:SB

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

§ 1. The original cost, depreciated, the reproduction cost new, depreciated, and the fair value of all operating property of each public utility assessed under the statutes of this state by the State Board of Equalization, as found, calculated and determined by the Public Service Commission of the State of North Dakota, or the Interstate Commerce Commission of the United States, as said figures apply to railroad corporations operating within the State of North Dakota, shall be considered as evidence of the value of such utility by the State Board of Equalization in determining the assessed

valuation of such public utility or railroad for the purpose of taxation, and in the event of inadequate or excessive earnings, or inflated or deflated stock and/or bond market values, shall be given due consideration and weight with other lawful factors in such determination.

H. B. No. 114—(Tuff and Allen by Request)

BOARD OF PARDONS, POWERS, DUTIES AND PROCEDURE

An Act to Amend and Re-enact Section 11105 of the Compiled Laws of the State of North Dakota for the year 1913, as Amended by Chapter 130 of the 1939 Session Laws of the State of North Dakota, Relating to the Board of Pardons, the Powers and Duties thereof, and the Procedure Before Such Board; Repealing All Acts or Parts of Acts in Conflict Herewith; Declaring an Emergency.

March 22, 1941

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

I return herewith House Bill No. 114, being "An Act to Amend and Re-enact Section 11105 of the Compiled Laws of the State of North Dakota for the year 1913, as Amended by Chapter 130 of the 1939 Session Laws of the State of North Dakota, Relating to the Board of Pardons, the Powers and Duties Thereof, and the Procedure Before Such Board; Repealing All Acts or Parts of Acts in Conflict Herewith; Declaring an Emergency," without my approval.

The reason for withholding my approval to this measure is that it will not be possible for the Clerk of the Board of Pardons to comply with the legislative mandate with reference to giving notice of hearing, by registered mail, to the persons enumerated in the bill, for the reason that the available records at the Penitentiary do not disclose such information, and for the further reason that the appropriation for the Pardon Board is inadequate for such purpose.

The object sought by the bill, however, will be substantially accomplished, by rules of practice and procedure adopted by the Board of Pardons at its regular session this, the 22 day of March, 1941.

Respectfully submitted,
JOHN MOSES
Governor

JM :B

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

§ I. AMENDMENT.] That Section 11105 of the Compiled Laws of the State of North Dakota for the year 1913 as amended by Chapter 130 of the 1939 Session Laws of North Dakota, be and the same is hereby amended and re-enacted to read as follows:

§ 11105. All applications for pardon, parole, reprieve, or commutation of sentence shall be filed with the clerk of the Board of Pardons. Applications for pardon shall be heard only at the two regular meetings of the Board, appointed to be held respectively on the 15th day of March and the 10th day of August of each year. All applications for pardon must be filed at least thirty days before the regular meeting of the Board at which hearing is sought. Application for parole may be heard at either regular or special meetings, and shall come on for hearing pursuant to such notice as the Board of Pardons may prescribe. Notice of all applications for pardon, parole, reprieve or commutation, and of the time and place of hearing, shall be given by the Clerk of the Board of Pardons to the judge who presided at the trial, and if he is no longer in office, notice shall also be given to his successor in office, and to the states attorney who prosecuted the action, and if he is no longer in office, notice shall also be given to his successor in office, and to the sheriff or chief of police who investigated the crime involving the applicant, and if he is no longer in office, notice shall also be given to his successor in office. Such notice shall, be of at least ten days and shall, set forth the name of the person, or the persons, on whose behalf application is made; the crime of which he was convicted; the time and place of conviction; and the term of imprisonment; and the name of the judge who presided and the state's attorney who prosecuted. Service of such notice shall be made by registered mail, and in cases of murder, manslaughter in the first degree, rape by force, kidnapping of first degree robbery such notice shall be posted in a conspicuous place at the front door of the courthouse of such county for four consecutive weeks prior to said hearing. Proof of the posting of said notice shall be filed with the clerk of the Board before hearing. Provided that a reprieve in capital cases may be granted, as provided in Section 11100, as amended by Chapter 248 of the Laws of 1935, without such notice. Provided, further that an application for pardon, commutation or parole may, also, be heard at a special meeting, called in case of emergency, under Section 11100, Compiled Laws of 1913, as amended by Chapter 248, Laws of 1935; but no such application shall be heard unless there is filed a written statement signed by the applicant or someone in his behalf, setting forth the facts as to the emergency, and the Board shall first determine whether an emergency does in fact exist; and if it finds there is no emergency, no further action shall be taken. If the Board finds

there is an emergency, then a hearing may be had upon such notice to the judge and the state's attorney as the Board may deem sufficient.

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

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

S. B. No. 152—(Topp, Dahl, Thatcher)

ESTABLISHMENT OF MERCHANDISING BOARDS

An Act to authorize, regulate and control the handling and distribution, sale, possession, purchase and dispensing of merchandising boards, and the sale and exhibition of goods and merchandise through the merchandising board, providing the method of taxing and licensing of merchandising boards; and providing penalties for violations of the provisions of said Act.

March 22, 1941

Mr. Herman Thorson
Secretary of State
Bismarck, North Dakota

Dear Mr. Thorson:

I return herewith Senate Bill No. 152, being "An Act to Authorize, regulate and control the handling and distribution, sale, possession, purchase and dispensing of merchandising boards, and the sale and exhibition of goods and merchandise through the merchandising board, providing the method of taxing and licensing of merchandising boards; and providing penalties for violations of the provisions of said Act," without my approval.

I do not believe that this proposed bill is in harmony with the Constitution of the State of North Dakota; I believe the element of lottery is involved, and I do not believe that it is good, sound public policy. I believe that a measure of this sort will pander to and foster the gambling instinct, particularly insofar as the children of the State are concerned.

For these reasons, I have vetoed this measure.

Respectfully submitted,
JOHN MOSES
Governor

JM:B

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

§ 1. MERCHANDISING BOARDS.] Merchandising boards may be handled and distributed, imported, transported, possessed, purchased and sold, and goods and merchandise may be sold and exhibited and displayed through the medium of merchandising boards in the State of North Dakota, in the manner and under the conditions set forth in this Act; provided, however, that such goods and merchandise so sold by means of such merchandising board must not be other than goods and merchandise constituting the usual and ordinary stock in trade of the retailer using such board.

§ 2. RETAIL SALE OF.] Any retailer, duly licensed by law to operate a place of business within the State of North Dakota, whose purpose it is to display, sell, or offer for sale goods and merchandise, is hereby permitted and authorized to sell and exhibit goods and merchandise for sale through the medium of merchandising boards purchased from duly licensed wholesalers, in the manner and pursuant to the regulations and restrictions contained in this Act; provided, however, that such retailer shall not be authorized or permitted to hold a wholesale license to handle or distribute merchandising boards.

§ 3. WHOLESALE SALE OF.] Any wholesaler, having an established wholesale house, and operating the same in the State of North Dakota, engaging in the handling and distribution of merchandising boards, must first procure from the State Tax Commissioner a license, the fee for which shall be in the sum of Fifty Dollars a year. Such wholesaler shall make application for license to the State Tax Commissioner in writing, on such form as the Tax Commissioner may require, showing such information as shall be required to bring the wholesaler under the provisions of this Act. All license fees shall be collected by the State Tax Commissioner and paid to the State Treasurer, who shall deposit it to the credit of the General Fund. Each such license shall be issued for the term of one year covering a fiscal period of July 1st of one year until July 1st of the ensuing year; provided that such license shall not be transferable, and provided further that if said wholesale business is maintained in more than one location, a separate license shall be had for each such location. No wholesaler or retailer shall be permitted to sell or offer to sell, by means of any merchandising board, any goods or merchandise unless the aggregate value of such goods in merchandise sold through each such board equals in retail value at least one hundred per cent (100%) of the total income from such board.

§ 4. TAX.] There shall be levied and collected and paid to the State Treasurer, on all merchandising boards sold in the State of North Dakota, the following tax to be paid prior to the sale and delivery thereof to the retailer, and at the time of delivery by the

wholesaler; a sum equal and equivalent to the amount of three per cent (3%) of the total income to be received by the retailer from the merchandising board.

§ 5. STAMPS.] Stamps representing the said tax set forth in Section 4 shall be securely affixed to each merchandising board sold by the wholesaler, and it shall be unlawful for any retailer, or any person except wholesale dealers, to possess any merchandising board within the State of North Dakota upon which there are not affixed thereto such stamps. The said stamps shall be prepared and printed by the State Tax Commissioner, in such form as may be necessary and in denominations of one cent, five cents, ten cents, twenty-five cents and one dollar, and shall be issued to and sold to all licensed wholesale dealers upon requisition thereof from time to time; and it is hereby made the duty of such wholesaler under this Act to attach to or cause to be attached to each merchandising board in the proper amounts such stamps as are provided for in this Act before the same are delivered, shipped to or consigned to any retail dealer. The funds received from the sale of said stamps by the State Tax Commissioner shall be turned over to the Treasurer of the State of North Dakota, and shall be deposited by him to the credit of the General Fund.

§ 6. PRICE OF MERCHANDISE.] No wholesaler or retailer shall be permitted to sell or offer for sale by means of the merchandising board any goods or merchandise at a higher price than the aggregate goods or merchandise would be sold at if sold across the counter, or at a higher price than normally.

§ 7. ITEMS PER BOARDS.] No wholesaler or retailer shall be permitted to sell or offer for sale any goods or merchandise by means of the merchandising board unless there shall be two or more items of merchandise sold per board.

§ 8. INCOME PER BOARD.] No wholesaler or retailer shall be permitted to sell or offer for sale any goods or merchandise on the merchandising boards where the income per board shall exceed the sum of Fifty Dollars (\$50.00).

§ 9. CHARGE PER PURCHASE.] The charge for each purchase made by any consumer on the merchandising board shall not exceed the sum of five cents, for each purchase of which the retailer or seller shall give consideration.

§ 10. ORGANIZATIONS.] Any fraternal, religious and charitable organization may engage in the retail sale of goods and merchandise through the medium of the merchandising board.

§ 11. ADMINISTRATION AND ENFORCEMENT.] There is hereby conferred upon the State Tax Commissioner the power and authority to administer and enforce the provisions of this Act.

§ 12. PENALTY.] Any person violating any of the provisions of this Act shall, upon conviction, be fined not more than One Hundred Dollars (\$100.00), or imprisoned in the County Jail for not more than thirty days, or by both such fine and imprisonment. And shall the person so convicted be the holder of a license, the same shall be revoked by the State Tax Commissioner, and such conviction shall be sufficient evidence and ground for such revocation.

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