

INITIATED MEASURES

Approved

CHAPTER 339

STATE HIGHWAY REVENUE ANTICIPATION CERTIFICATES

An Act To secure for the state of North Dakota the benefits of federal funds and grants in aid of the construction and reconstruction of public highways and bridges, including feeder highways and bridges, authorizing the state highway department to prepare a highway construction program to be financed by the issuance and sale, in the name of the state highway department, of state highway revenue anticipation certificates in an aggregate amount not exceeding \$12,360,000.00 par value, bearing interest at not more than three per cent per annum, payable semi-annually, providing for the sale of such certificates at not less than par and accrued interest, subject to call, authorizing the purchase thereof and investment therein by the Bank of North Dakota, state banks, public officers, boards, bureaus and institutions, and the acceptance thereof as security for public deposits, directing the payment of the proceeds of such sale into the state highway special construction fund hereby created and the use thereof in effecting the said highway construction program, providing for the retirement of such certificates in twenty annual installments, imposing a one cent per gallon motor vehicle fuel tax upon all dealers in motor vehicle fuels, excepting only motor vehicle fuels sold and used solely for agricultural and industrial purposes, creating the state highway revenue anticipation certificate retirement fund into which the said motor vehicle fuel tax shall be paid, authorizing the transfer into such fund from the state highway fund of such amounts, not exceeding \$250,000.00 in any one year, as may be required to meet any deficit resulting from the retirement of said certificates, and pledging and appropriating such fund for the payment of said certificates, prescribing penalties for the violation of any provision of this act, providing a safety clause to the effect that if any part of this act shall be found invalid it shall be presumed that the act would have been enacted without such invalid section, and providing for the repeal of Chapter 263, of the Session Laws of 1943.

Be It Enacted by the People of the State of North Dakota:

§ 1. The people of the State of North Dakota hereby declare that to enable the state to participate in and receive the full benefits of federal funds now available, and to be made available, by acts of congress in force, and to be enacted, in the form of grants to the state in aid of the construction and reconstruction of public highways and bridges within this state, including feeder highways and bridges, and especially to enable the state of North Dakota to participate in the benefits of the post-war public highways construction program of the federal government, and in order to prevent unem-

ployment and public relief of unemployed and to provide employment for returning members of the military and naval forces and other citizens of the state who shall be in need of employment, the state highway department, as now or hereafter constituted, shall be, and is hereby, authorized and directed to prepare and provide a plan and program for the construction and reconstruction of public highways and bridges within this state to be financed in part by the issuance and sale of "state highway revenue anticipation certificates," as hereinafter provided. Such program and method of financing to be in addition to, and supplemental of, the construction, reconstruction, maintenance and repair of public highways and bridges authorized and being carried on by said state highway department under existing laws; and the power and authority given the state highway department herein shall be in addition to and not in derogation of the powers and authority now vested in the state highway commissioner or the state highway department under any existing law or constitutional amendment now in force or hereafter enacted.

§ 2. For the purposes aforesaid the state highway department, as now or hereafter constituted, is authorized and fully empowered to do all acts authorized by this law or necessary to carry into effect the provisions hereof; provided, that nothing in this act contained shall be so construed as to authorize or permit the state highway department, or any officer or agency of the state, to create any state debt, or to incur any obligation of any kind or nature except such as shall be payable solely from the motor vehicle fuel tax hereinafter imposed and from revenues accruing to the state highway fund from excise taxes allocated to, and appropriated for, the construction, reconstruction and maintenance of public highways, including the retirement of obligations for the payment of which such revenues are pledged, as directed and required by section 186, as amended, and article 56 of amendments to the constitution of North Dakota, and chapter 169, laws of North Dakota for 1939, and other laws relating to the imposition, collection and use of such excise taxes now in force or amendments thereto. It shall be plainly stated upon the face of each certificate that it is issued under the provisions of this act and that it does not constitute an indebtedness of the state within the meaning of any constitutional provision or limitation.

§ 3. After the state highway department shall have prepared the plan and program for the construction and reconstruction of public highways and bridges, as directed in section 1 of this act, and has determined the amount that will be required to pay the state's share of the estimated cost of such construction and reconstruction program, the state highway commissioner is authorized and directed; with the approval of the governor, to prepare and issue said state highway revenue anticipation certificates in a total aggregate amount not exceeding twelve million three hundred sixty

thousand dollars (\$12,360,000.00) par value, in form as hereinafter provided.

§ 4. Said certificates shall be negotiable instruments and shall be issued in serial form, numbered consecutively, shall mature serially in such annual amounts as may be determined in anticipation of the revenues pledged for their payment, commencing one year from date of issue, and the last installment to mature not more than twenty (20) years from date of issue, shall bear interest at a rate not exceeding three per cent. (3%) per annum, payable semi-annually, shall be issued in denominations of one thousand dollars (\$1,000.00), or multiples thereof, the total amount of said certificates to be issued in any fiscal year not to exceed the sum of six million dollars (\$6,000,000.00) face amount, and the total aggregate amount of the certificates to be issued not to exceed the sum of twelve million three hundred sixty thousand dollars (\$12,360,000.00) face amount. The principal and interest of said certificates shall be exempt from all taxes, shall be payable to bearer, unless registered with the state treasurer in the name of the owner, and in that case to the registered owner, and shall be payable at the office of the state treasurer at Bismarck, North Dakota at maturity, unless called for payment before maturity. Said certificates may have attached thereto coupons evidencing the semi-annual interest payable thereon. In the event funds are available for the redemption of the whole or any part of an annual installment or installments of said certificates, in addition to the annual installment maturing and payable in the current year, the state highway commissioner may call for payment on any interest date and in advance of maturity at par or at call price or prices as the certificates may provide, the whole or any portion of any annual installment or installments then outstanding by publishing notice of such call once and not less than sixty days prior to the call date in a newspaper of general circulation published in each of the cities of Bismarck and Fargo, North Dakota, Minneapolis, Minnesota, Chicago, Illinois and New York City, New York, and the certificates so called for payment shall become due and payable on the call date specified in said notice and shall cease to bear interest thereafter. Said certificates shall be executed in the name of the state highway department, and shall be signed by the governor, the state highway commissioner and the state treasurer and shall have endorsed thereon a certificate signed by the state auditor and secretary of state to the effect that the same are issued pursuant to the authority of this act and are payable solely from revenues pledged for their payment, as stated in this act, and that no indebtedness is incurred by the state by the issuance thereof. The state treasurer shall keep a register of all certificates issued, showing, among other things, the date of issue, the serial number, the denomination, the maturity date, the name of the registered owner, if any, and the date the certificate is redeemed and paid.

He shall endorse his certificate upon each state highway revenue anticipation certificate issued that it is registered in his office. In case any of the officers whose signatures appear on said certificates or the interest coupons attached thereto shall cease to be such officers before delivery of such certificates, such signatures shall nevertheless be valid and sufficient for all purposes with the same force and effect as if they had remained in office until such delivery.

§ 5. Said certificates shall be negotiated and sold by the governor, the state treasurer and the state highway commissioner to the highest and best bidder for cash at not less than par and accrued interest, and at such times and in such amounts, subject to the limitations herein provided, as may be authorized by the state highway department by resolution to be entered of record in the minutes of said department and approved by the governor. The governor, state treasurer and state highway commissioner shall cause public notice of the terms and conditions and time and place of such sale to be given by publication once in a newspaper of general circulation published at each of the cities of Bismarck and Fargo, North Dakota, Minneapolis, Minnesota, Chicago, Illinois and New York City, New York, the sale to be made not less than fifteen (15) days after such publication, provided that the governor, state treasurer and state highway commissioner shall have the right to reject any or all bids and to readvertise the sale of the certificates not sold. Such certificates, or any part of any series thereof, may at any time be sold to and purchased by the Bank of North Dakota, or any public official, board, bureau, institution or agency of the state or of any county or municipality in this state at par and accrued interest and without advertising for bids as herein provided, and certificates held by them, or any of them, may be called for payment, as provided in section 4 hereof, upon thirty (30) days notice by mail and without publishing the notice of such call, as provided in said section, and such certificates so called for payment shall cease to bear interest thirty (30) days after the mailing of such notice.

§ 6. All public officials, boards, bureaus and institutions, state, county and municipal in this state, having the custody of public funds for investment, are hereby authorized to invest such funds in said state highway revenue anticipation certificates. Said certificates are also hereby declared to be legal investments for assets of the Bank of North Dakota and all other banks organized under the laws of this state.

§ 7. Said certificates may be accepted at par value by all public officials of the state of North Dakota as security for the repayment of all deposits of public moneys of the state and of any county, municipality or public institution thereof and as security for the faithful performance of any obligation or duty to guarantee the

performance of which such officials are now authorized by law to accept deposits of the bonds of this state and of the United States of America.

§ 8. All monies realized upon the negotiation and sale of said certificates shall be placed by the state treasurer in and credited to a fund hereby created to be known as "state highway special construction fund", and the same are hereby appropriated and shall be used and expended only for the construction and reconstruction of such highways and bridges as may come within the purview and restrictions of the acts of congress and amendments thereto now in force or hereafter enacted, granting federal aid for the construction and reconstruction of federal, state and feeder highways and bridges within this state and for the matching of such federal funds and grants in such proportion and manner as is now or may hereafter be provided in said acts of congress and as shall have been determined by the state highway department, with the approval of the governor, at the time of authorizing the issuance of said certificates, as hereinbefore provided, but the validity of said certificate in the hands of any holder shall not be affected in any manner by the character, amount of use of such Federal aid moneys or with the continuance thereof, nor by the failure to conform with the provisions of this paragraph.

§ 9. For the purpose of providing funds for the payment of the semi-annual interest and the redemption of said certificates as the same become payable, there is hereby imposed on dealers in motor vehicle fuels, a special motor vehicle fuel license tax of one cent (1¢) 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 (1¢) per gallon tax shall be in addition to and over and above the three cent (3¢) 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 (1¢) 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, and amendments thereto, or any law hereafter enacted.

§ 10. Said additional one cent (1¢) 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 (1¢) 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 all future amendments thereto shall apply and hereby are made applicable to the special license tax imposed under the terms and provisions of this act.

§ 11. Every dealer paying the additional one cent (1¢) per gallon special motor vehicle fuel license tax herein imposed or liable for the payment thereof shall be entitled to charge and collect the sum of one cent (1¢) per gallon on such motor vehicle fuels sold by him as a part of the selling price thereof.

§ 12. Any dealer, person or association, firm or corporation liable to account for and pay said one cent (1¢) per gallon tax who shall violate any of the provisions of this act or who shall make any false statement or report required by this act or who shall fail or neglect to pay the one cent (1¢) 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 dollars (\$500.00) or be imprisoned in the county jail for not more than ninety days (90), or both such fine and imprisonment.

§ 13. In the event that this act shall be approved and shall take effect and the one cent (1¢) additional motor vehicle fuel tax shall become collectible hereunder, chapter 263, Laws of 1943, immediately upon such taking effect, shall be, and, in such event is, hereby repealed.

§ 14. There is hereby created a special fund to be used solely for the payment and retirement of the certificates authorized and to be issued under the provisions of this act and the payment of the interest to accrue upon said certificates, said special fund to be known as "state highway revenue anticipation certificate retirement fund", into which fund the state treasurer shall pay or transfer all monies derived from said one cent (1¢) motor vehicle fuel tax and all monies directed by this act to be transferred thereto from the state highway fund.

§ 15. In the event the amount to the credit of said state highway revenue anticipation certificate retirement fund at any time shall be insufficient to pay the semi-annual interest and pay and retire the principal of said certificates, as they fall due and mature, there is hereby appropriated so much of the funds allocated and appropriated by the constitution and laws of this state for the construction, reconstruction and maintenance of public highways then credited to the state highway fund as may be necessary to meet such

deficit in the state highway revenue anticipation certificate retirement fund, not exceeding, however, the sum of two hundred fifty thousand dollars (\$250,000.00) in any one year, which amount so appropriated shall thereupon be transferred by the state treasurer to said state highway revenue anticipation certificate retirement fund and used for the payment of such interest and the retirement of the principal of said certificates so maturing.

§ 16. The total proceeds of said special license tax of one cent (1¢) per gallon and any monies transferred to said state highway revenue anticipation certificate retirement fund from the state highway fund, as herein provided, are hereby appropriated and allocated without any deduction for administrative costs whatever and shall be expended only for the payment of the interest to accrue upon said certificates and the payment of the principal and the retirement of said certificates as the same mature or become payable.

§ 17. The total proceeds of said one cent (1¢) per gallon motor vehicle fuel tax and any monies transferred or to be transferred under Section 15 hereof from the state highway fund to said state highway revenue anticipation certificate retirement fund are hereby irrevocably pledged for the payment of the principal and interest of said certificates, and so long as any of said certificates remain outstanding and unpaid, the laws imposing said taxes shall not be repealed nor shall the same be altered or amended by reducing the amount or the requirement for the collection, disposition and use of said taxes, as herein and in the laws imposing said taxes provided. When there are sufficient funds in said state highway revenue anticipation certificate retirement fund to retire all outstanding and unpaid certificates said tax shall cease and terminate.

§ 18. If any section, paragraph, sentence, part or provision of this act shall be found by any court to be invalid, it shall be conclusively presumed that this act would have been passed and enacted by the people without such invalid section, paragraph, sentence, part or provision.

Approved November 7, 1944.

128,421 to 48,255.