

STATE GOVERNMENT

CHAPTER 318

H. B. No. 587

(Aamoth, Boe, Fitch, Stockman, Baldwin)

CESSION OF PROPERTY BY MINNESOTA

AN ACT

To accept the cession by the state of Minnesota to the state of North Dakota of certain parcels of real property and declaring an emergency.

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

§ 1.) Whereas, due to flood control work upon the Red River of the North, an avulsion has occurred leaving two parcels of land described as:

Those portions of government lot two in the northeast quarter, section twenty-nine, township one hundred forty north, range forty-eight west and the northeast quarter, section seven, township one hundred thirty-nine north, range forty-eight west of the fifth principal meridian, county of Clay, state of Minnesota, bounded by the thread of the Red River of the North as it existed prior to January 1, 1959, and the new thread of the Red River of the North as established by the United States Army Corps of Engineers under Project CIVENG-21-018-59-22, containing respectively 9.78 and 12.76 acres more or less,

detached from the state of Minnesota and attached to the state of North Dakota. The state of North Dakota, upon passage by the legislature of the state of Minnesota of the necessary enabling legislation, does hereby accept jurisdiction over the above-described property, which property shall thereafter be a part of the state of North Dakota and title thereof shall be vested in the city of Fargo, North Dakota.

§ 2.) Nothing contained in the provisions of this Act shall be construed in such manner as to prejudice the title, right, or claim of any person to any of the lands herein involved. The register of deeds of Cass County, North Dakota shall accept and record, without charge therefor, patents, deeds, or other evidences of ownership or interest in any lands recorded in Clay County, Minnesota, which were previously a part of the state of Minnesota but are now within the boundaries of

the state of North Dakota. Recordings made under the provisions of this section shall have retroactive effect to the date of their original recording in the state of Minnesota.

§ 3.) The Act of the legislature of the state of Minnesota referred to in section 1 of this Act, together with this Act, shall constitute the agreement between the states of Minnesota and North Dakota. The Congress of the United States, upon passage of such Acts by the respective legislatures of the states of Minnesota and North Dakota, is petitioned, pursuant to article I, section 10, clause 3 of the United States Constitution, to give its consent to this agreement and to amend the Enabling Acts of such states accordingly. The secretary of state of North Dakota shall transmit duly certified copies of this Act to the presiding officers of the Senate and House of Representatives of the United States and to the several senators and representatives of the states of Minnesota and North Dakota in the Congress of the United States, who are petitioned to take such action as they deem proper to procure the consent of the Congress of the United States to this agreement between the states of Minnesota and North Dakota. This agreement shall become effective when it has been ratified and approved by the legislatures of the states of Minnesota and North Dakota and approved by the Congress of the United States.

§ 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 February 4, 1961.

CHAPTER 319

H. B. No. 548

(Bye, Knudsen of LaMoure, Solberg)

(From LRC Study)

CONTINUITY OF GOVERNMENT, EXECUTIVE AND JUDICIAL

AN ACT

To provide, in the event of attack upon the United States, for the continuity of the executive and judicial functions of the government of the state and the governments of the political subdivisions of the state by providing for additional officers who can act as governor; by providing for emergency interim succession to other executive offices of the state and its political subdivisions; by providing for special emergency judges; by authorizing political subdivisions to enact resolutions and ordinances relating to the subject; by providing for alternate emergency locations at which state and local governmental business may be transacted, and declaring an emergency.

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

§ 1. Declaration of Policy.) Because of the existing possibility of attack upon the United States and the state of North Dakota of unprecedented size and destructiveness, and in order, in the event of such an attack, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for emergency interim succession to governmental offices of this state, and its political subdivisions, in the event the incumbents thereof are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable.

§ 2. Definitions.) Unless otherwise clearly required by the context, as used in this Act:

1. "Unavailable" means that during or following an enemy attack either a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

2. "Emergency interim successor" means a person designated pursuant to this Act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the usual constitutional or statutory provisions and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.
3. "Office" includes all state and local offices, the powers and duties of which are defined by the Constitution, statutes, and ordinances, except the office of governor, and except those in the legislative assembly and the judicial branch of the government.
4. "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in this state in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes.
5. "Political subdivision" includes counties, cities, and villages.

§ 3. Additional Successors to Office of Governor.) In the event that the governor, for any of the reasons specified in the Constitution, is not able to exercise the powers and discharge the duties of his office, or is unavailable, the persons specified in section 44-02-03 shall exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; provided, however, that no person temporarily serving as lieutenant governor, secretary of state, speaker of the house, president pro tem of the senate, or attorney general by virtue of an appointment as an emergency interim successor may serve as governor. In the event that all of the persons specified in section 44-02-03 are unavailable, the powers and duties of the office of governor shall devolve upon former governors of the state except those serving in the national congress, with the most recent ex-governor being first in line of succession.

§ 4. Emergency Interim Successors for State Officers.) All state officers, subject to such regulations as the governor may issue, shall, upon approval of the Act, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate emergency interim successors by title or position and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this Act to insure their current

status. The officer will designate a sufficient number of such emergency interim successors so that there will be not less than three, nor more than seven, such deputies or emergency interim successors or any combination thereof, at any time. In the event that any state officer is unavailable following an attack, and in the event his deputy, if any, is also unavailable, the powers of his office shall be exercised and the duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise such powers and discharge such duties only until the governor under the Constitution or authority other than this Act may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed or elected and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise of, the powers and discharge the duties of his office.

§ 5. Enabling Authority for Emergency Interim Successors for Local Offices.) The legislative bodies of cities, villages, and counties are authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or statutes or until the officer, or his deputy or a preceding emergency interim successor, again becomes available to exercise the powers and discharge the duties of his office.

§ 6. Special Emergency Judges.) In the event that any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and if no other judge authorized to act in the event of absence, disability or vacancy is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by a special emergency judge provided as follows:

1. The governor, upon approval of this Act, shall designate for each member of the supreme court and for each other court of record, special emergency judges in the number of not less than three nor more than seven and shall specify their order of succession.
2. The senior judge of each judicial district in the state, in consultation with the other judges of the district, upon approval of this Act, shall designate not less than three special emergency judges for each county within the district for courts not of record within that county and shall specify their order of succession.

Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of the designated court in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this Act to insure their current status.

The emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

§ 7. Formalities of Taking Office.) At the time of their designation, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

§ 8. Period in Which Termination Authority May Be Exercised.) The legislative assembly, by concurrent resolution, may at any time terminate the authority of the emergency interim successors and special emergency judges to exercise the powers and discharge their duties of office.

§ 9. Removal of Designees.) Until such time as the persons designated as emergency interim successors or special emergency judges actually assume the powers and duties of an office in accordance with this Act, such persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by the designating authority at any time, with or without cause.

§ 10. Disputes.) Any dispute concerning a question of fact arising under this Act with respect to an office in the executive branch of the state government, except a dispute of fact relative to the office of governor, shall be adjudicated by the governor or other official authorized under the Constitution or this Act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final.

§ 11. Emergency Location of State Government.) Whenever, due to an emergency attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexped-

ient or impossible to conduct the affairs of state government at the normal location of the seat of government in the city of Bismarck, the governor shall, as often as the exigencies of the situation require, by proclamation, designate alternate locations at which official governmental business may be transacted, within or without this state, and shall take such action and issue such orders as may be necessary for an orderly transition of the affairs of state government to such alternate location or locations.

§ 12. Emergency Location of Governments of Political Subdivisions.) Whenever, due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each political subdivision of this state may meet at any place within or without the territorial limits of such political subdivision on the call of the presiding officer or any two members of such governing body, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location, or locations, of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of the political subdivision and may be within or without this state.

§ 13. Acts of Relocated Political Subdivisions Are Valid.) During the period when the public business is being conducted at the emergency temporary location, or locations, the governing body and other officers of a political subdivision of this state shall have and possess and shall exercise, at such location or locations, all of the executive, legislative, and judicial powers and functions conferred upon such body and officers by or under the laws of this state. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with other or normal procedures and formalities prescribed by law or ordinance and pertaining thereto, and all acts of such body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision.

§ 14. 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 January 31, 1961.

CHAPTER 320

H. B. No. 549

(Bye, Knudsen of LaMoure, Solberg)
(From LRC Study)

CONTINUITY OF GOVERNMENT, LEGISLATIVE ASSEMBLY

AN ACT

To provide for continuity of membership in the legislative assembly in the event of an attack by an enemy of the United States.

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

§ 1. Declaration of Policy.) It is hereby declared that recent technological developments make possible an attack of unprecedented destructiveness, which may result in the death or disability to act of a large proportion of the membership of the legislative assembly; that to conform in time of attack to existing legal requirements pertaining to the legislative assembly would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted legislative assembly; and that it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the legislative assembly. It is therefore the intent of the legislative assembly that the provisions of this Act shall supersede other provisions of law relating to vacancies in office when such vacancies are caused by enemy attack.

§ 2. Definitions.) As used in this Act:

1. "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods; and
2. "Unavailable" means absent from the place of session of the legislative assembly for reasons other than official business of the legislative assembly, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

§ 3. Designation of Emergency Interim Successors to Legislators.) Each member of the legislative assembly shall designate not fewer than three or more than seven emergency interim successors to his powers and duties and specify their

order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

§ 4. Status, Qualifications and Term of Emergency Interim Successors.) An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a member of the legislative assembly. No person shall be designated or serve as an emergency interim successor unless he is eligible under the Constitution and statutes to hold the office of the legislator to whose powers and duties he is designated to succeed, but no statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator, or prohibiting any person other than a qualified elector of a district from representing the district, shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

§ 5. Contingent Method of Designating Successors.) Prior to an attack, if a legislator fails to designate the required minimum number of emergency interim successors within thirty days following the effective date of this Act or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of thirty days, then the floor leader of the same political party in the same house as such legislator shall promptly designate as many emergency interim successors as are required to achieve such minimum number, but such floor leader shall not assign to any of his designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his own powers and duties. Each emergency interim successor designated by a floor leader shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated.

§ 6. Recording and Publication.) Each designation of an emergency interim successor shall become effective when the legislator or floor leader making the designation files with the secretary of state the successor's name, address and rank in order of succession. The removal of an emergency interim

successor or change in order of succession shall become effective when the legislator or floor leader so acting files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the state office of civil defense, the chief clerk or secretary of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The chief clerk or secretary of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

§ 7. Oath of Emergency Interim Successors.) An oath shall be required of an emergency interim successor at the time of the convening of the legislative session in which he is to serve.

§ 8. Place of Legislative Session.) Whenever in the event of an attack, or upon finding that an attack may be imminent, the governor deems the place of session then prescribed to be unsafe, he may change the place of session.

§ 9. Convening of Legislature in Event of Attack.) In the event of an attack, the governor shall call the legislative assembly into session at a safe location as soon as practicable, and in any case within ninety days following the inception of the attack. If the governor fails to issue such call, the legislative assembly shall, on the ninetieth day from the date of inception of the attack, automatically convene at the alternate location at which the governor has established his office. Each emergency interim successor shall proceed to the place of session as expeditiously as practicable, unless he is certain that the legislator to whose powers and duties he is designated to succeed or any emergency interim successor higher in order of succession will be in attendance at the place of session. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended, as well as any limitations upon the time during which bills of any nature may be introduced.

§ 10. Assumption of Powers and Duties by Emergency Interim Successor.) If in the event of an attack a legislator is unavailable, his emergency interim successor highest in order of succession who is available shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the legislative assembly

shall, in accordance with its own rules, determine who is entitled under the provisions of this Act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a member of the legislative assembly.

§ 11. Privileges, Immunities and Compensation of Emergency Interim Successors.) When an emergency interim successor exercises the powers and assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

§ 12. Quorum and Vote Requirements.) In the event of an attack, quorum requirements for the legislative assembly shall be suspended, and where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

§ 13. Termination of Operation of Provisions of This Act.) The authority of the emergency interim successors to succeed to the powers and duties of legislators, and the operation of the provisions of this Act relating to a quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon, shall expire two years following the inception of an attack, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the legislative assembly in accordance with applicable constitutional and statutory provisions. The governor, acting by proclamation, or the legislative assembly, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one year.

§ 14. Effective Date of Act.) This Act shall not become operative unless and until the people approve the constitutional amendment submitted for approval to the electorate

of this state at the primary election in 1962 as designated in House Concurrent Resolution A* of the Thirty-seventh Legislative Assembly.

Approved February 2, 1961.

*Note: House Concurrent Resolution "A" appears as chapter 409 of the 1961 S.L.

CHAPTER 321

H. B. No. 669

(Leet, Kelly, Overbo)

CONVEYANCE OF PROPERTY TO DEVILS LAKE

AN ACT

Authorizing the board of administration to sell and convey to the board of education of the city of Devils Lake a tract of land located in section 27 in township 154 north of range 64, west of the fifth principal meridian.

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

§ 1.) The board of administration of the state of North Dakota is hereby authorized to sell and convey to the board of education of the city of Devils Lake, the following described real estate situated in section twenty-seven in township one hundred fifty-four, north of range sixty-four, west of the fifth principal meridian, and constituting part of the farm operated in connection with the school for the deaf, described as follows, to wit:

Commencing at a point on the west line of the right-of-way of Highway No. 20 approximately 1400 feet north of the section line between sections twenty-seven and thirty-four, thence due west to the west line of said quarter section; thence north along said west line to the north line of said quarter section; thence east along the said north line to the right-of-way of said Highway No. 20; thence south along the west line of Highway 20 to point of beginning,

for the consideration of one hundred dollars per acre provided, however, that the said board of education will make available to the board of armory supervisors or a political subdivision designated by said board, ten acres in the southeast corner of said tract for armory purposes. The deed of conveyance shall be signed by the governor and attested by the secretary of state. Provided, that if at any time after the conveyance of the above-described real estate it ceases to be used for public purposes such real estate shall revert to the state of North Dakota.

Approved February 28, 1961.

CHAPTER 322

S. B. No. 288

(Erickstad, Garaas, Longmire, Harris,
(Fiedler and Wartner)

EASEMENT TO DEVILS LAKE

AN ACT

Authorizing an easement over certain property now opened by the state of North Dakota to the city of Devils Lake, for the construction, installation, operation, and maintenance of a water main or mains and the reversion thereof in case of nonuse, and declaring an emergency.

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

§ 1.) Authorization is hereby granted for the conveyance to the city of Devils Lake of a right-of-way over certain property of the state of North Dakota, for the construction, installation, operation, and maintenance of a water main or mains to conduct a public water supply to said city over and through said property, subject to the right of reversion in the grantor in case the easement granted is not used for said purpose or is abandoned.

§ 2.) Said property includes the following:

1. All that tract of land granted to the state of North Dakota by the terms of the Act of Congress of the United States approved July 6, 1894, 28 Stat. 100, to be used as a park for the use of the militia of said state, and for other public purposes not inconsistent with such use, being described in said Act as follows:
"That portion of the tract known as Rock Island, bounded on the north by an east and west line, two miles back or north of the southeasternmost point of said island or peninsula, said tract being the southernmost point of the peninsula on the north side of Devils Lake in North Dakota, known as Rock Island."
2. All of the area designated as Camp Gilbert C. Grafton, Ramsey County, North Dakota, in section 37-03-13 of the North Dakota Century Code.
3. All lands owned by the state of North Dakota traversed by the right-of-way of the Great Northern Railway Company between the village of Warwick and the city of Devils Lake, in Benson and Ramsey Counties, North Dakota.

§ 3.) It is hereby found and determined that such easement is required for a public purpose and is not inconsistent with the use of any such property by the militia of the state. The easement for said property shall be executed in the name of the state of North Dakota and signed by the governor and attested by the secretary of state.

§ 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 February 25, 1961.

CHAPTER 323

S. B. No. 144

(Foss)

LAND CONVEYANCE TO STATE WATER CONSERVATION COMMISSION, BUILDING

AN ACT

Authorizing the state board of administration to transfer and convey to the state water conservation commission a tract of land to enable the commission to construct thereon a building for use in storing, servicing, repairing and maintaining machinery, motor vehicles, equipment and materials, and making an appropriation to cover the cost of constructing such building, and declaring an emergency.

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

§ 1. **Board of Administration to Convey Tract of Land to State Water Conservation Commission.)** The state board of administration is hereby authorized to transfer and convey to the state water conservation commission a tract of land containing two and forty-one hundredths acres, more or less, located in the northwest quarter of the northwest quarter of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, Burleigh County, North Dakota, more particularly described as follows: beginning at the northwest corner of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, thence traveling due south along the west boundary of said section two a distance of nine hundred sixty-six and sixty-eight hundredths feet, thence traveling due east a distance of forty-seven feet to a point which shall be called the point of beginning, thence starting at the beginning and traveling due east a distance of three hundred fifty feet, thence traveling due south a distance of three hundred feet, thence traveling

due west a distance of three hundred fifty feet, thence traveling due north a distance of three hundred feet to the point of beginning.

§ 2. Appropriation.) There is hereby appropriated to the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of thirty thousand dollars, or so much thereof as is necessary, for the construction, during the period beginning with the effective date of this Act and ending June 30, 1963, of a building or shop on the premises described in section 1 hereof, for its use in storing, servicing, repairing and maintaining machinery, motor vehicles, equipment and material used by the commission in connection with activities authorized 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 16, 1961.

CHAPTER 324

S. B. No. 223
(Foss)

LEASE OF CERTAIN BLIND SCHOOL LAND

AN ACT

To authorize the board of administration to execute leases on properties owned by the state at Bathgate, North Dakota and formerly utilized by the school for the blind.

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

§ 1.) The board of administration is hereby authorized, upon conferring with the Pembina board of county commissioners, to privately negotiate and to execute a lease for a period not exceeding twenty-five years on the buildings and grounds formerly utilized as the school for the blind at Bathgate, provided that the lessee shall agree to maintain such premises and provide such improvements as shall be agreed upon by the board and pay such rate of cash rental, if any, as may to the board appear just and reasonable and, in the event such lessee is a nonprofit corporation, such cash rental payment may be at the rate of one dollar per year.

§ 2.) The board of administration is hereby authorized to lease agricultural lands formerly utilized in connection with the operation of the school for the blind at Bathgate, for terms not exceeding five years, to the highest bidder after advertising notice thereof in the official newspaper of Pembina County for two successive weeks.

Approved March 16, 1961.

CHAPTER 325

H. B. No. 593
(Rolfsrud)

LEASE OF STATE TRAINING SCHOOL LAND

AN ACT

Authorizing the board of administration to lease certain real property owned by the state of North Dakota for the use and benefit of the state training school.

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

§ 1.) The state board of administration is hereby authorized to lease certain land owned by the state of North Dakota for the use and benefit of the state training school, which land is more specifically described as follows:

A tract of land in the northeast quarter of section thirty-two, township one hundred thirty-nine, range eighty-one west, in Morton County, North Dakota, to be known as Auditor's Lot A, more fully described as: Beginning at the northeast corner of said section, thence south along the east line of said section a distance of four hundred eighty-five feet, thence westerly on a line parallel to the north line of said section a distance of nine hundred feet, thence northerly on a line parallel to the east line of said section a distance of four hundred eighty-five (485) feet to a point on the north line of said section; thence east along the north line of said section a distance of nine hundred feet to the point of beginning, said tract containing ten and two-hundredths acres more or less.

Provided that such land shall be leased for the purpose of mining and excavating clay therefrom and provided further that such lease shall provide that all such clay removed from such land shall be sold for not less than one cent per cubic yard payable on or before the first day of January of each year. The term of such lease shall be for not more than twenty-three years from the date of execution and shall provide that all topsoil removed from the above-described land shall be stockpiled and prior to the termination of the lease the land shall be leveled and such topsoil shall be restored to such land. The lease shall be executed by the governor and attested by the secretary of state.

Approved February 25, 1961.

CHAPTER 326

S. B. No. 255

(Johnson,)

(Becker, Thompson, Lips, Solberg,)

(Trenbeath, Baeverstad, Mutch)

NATURAL RESOURCES COUNCIL

AN ACT

Creating a conservation council which shall be a factfinding body comprised of the chiefs of state agencies dealing with the management of the state's natural resources for the purpose of coordinat- ing the activities of such agencies in managing such resources.

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

§ 1. **Short Title.)** This Act may be known as the Natural Resources Council Law.

§ 2. **Declaration of Policy.)** The purpose of this Act shall be the establishment of a natural resources council whose purpose is to promote the welfare of the state by providing a method of collecting, analyzing and interpreting information and of making recommendations to the several state agencies responsible for some phase of resource management, on matters relating to the soils, waters, forests, fish and wildlife and other natural resources of the state, and to provide a means whereby such agencies may better coordinate their efforts and activities in managing and regulating such resources and the protection, development and use thereof.

§ 3. **Membership.)** There is hereby created a natural resources council of state agencies consisting of the governor as chairman, the chairmen of both senate and house natural resources committees, the commissioner of agriculture and labor, the attorney general, executive secretary of state soil conservation committee, the game and fish commissioner, the state land commissioner, the state geologist, the secretary of the state water conservation commission, the state forester, the dean of agriculture of the North Dakota state university of agriculture and applied science, the superintendent of the state historical society, or the duly assigned staff representative of any herein named.

§ 4. **Procedure.)** The governor shall call the first meeting of the council within sixty days after the effective date of this Act at the state capitol, at which meeting the council shall elect from within its own body a "working chairman" and a secretary. Following organization, meetings may be called

by the working chairman or, at the request of any six members, may be held as often as necessary but not less than two times each year, which meetings shall be given publicity through the usual news channels. A majority of members shall constitute a quorum.

§ 5. Funds.) No funds shall be appropriated for the functioning of the council. Members of the council and subcommittees thereof shall receive no salary as such members but shall be reimbursed for their travel and other expenses incurred in attendance upon meetings of the council or while in the performance of their duties, as such members, by the agency which they represent.

§ 6. Secretary.) The secretary of the council shall be responsible for notifying members of meetings of the council and for preparation of the agenda thereof. He shall prepare and edit the minutes and reports of the council. Any member of the council shall provide stenographic and clerical services for the preparation of minutes or reports of the council upon request of the secretary.

§ 7. Surveys.) The council shall have power to appoint subcommittees consisting of members or employees designated by members of the council and to authorize investigations and surveys necessary for the council to carry out the purposes for which the council is established.

§ 8. Reports.) The council shall make a report, to the state legislature of its findings and recommendations at each regular session of that body and such additional reports as may be required of it by the legislature or the legislative research committee. The council shall also report upon its findings and recommendations to council members as it is deemed advisable.

§ 9. Availability of Information.) Council members shall cooperate by furnishing such information and data relating to their agency projects and programs affecting the natural resources of the state as the council may require in order to perform its duties, and members of the council shall have the privilege to call in consultants who may have additional information to contribute.

Approved March 11, 1961.

CHAPTER 327

H. B. No. 654

(Lindberg)

RETIREMENT PROGRAM FOR CERTAIN STATE EMPLOYEES

AN ACT

Authorizing a retirement program for employees of the unemployment compensation division, state employment service, and the national guard.

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

§ 1.) The unemployment compensation division and the state employment service performing the services provided in title 52, and the North Dakota national guard are authorized either jointly or severally to establish employee retirement programs by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state. Such state agencies shall prepare specifications of the terms of such retirement programs which shall be submitted to not less than three such companies with a request for bids upon such retirement program contracts. After the submission of at least three bids, the director of the unemployment compensation division, director of the state employment service, and the adjutant general shall jointly or separately compare such bids, and with the approval of the governor, shall execute joint or separate contracts for such retirement programs with the company submitting the lowest and best bid.

The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency, which contribution shall not exceed three percent of the first four hundred dollars of monthly wages due, except that for any employee receiving wages in excess of four hundred dollars per month such contribution shall not exceed six percent. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum shall not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency shall be paid to the company holding such retirement program contract in accordance with the terms of such contract.

The employing agency's share of the costs of such retirement program shall be paid from any funds made available to it for this purpose by the United States Government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract, and in accordance with the availability of funds. The contract shall specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

Approved March 17, 1961.

CHAPTER 328

H. B. No. 717

(Scott, Christensen of Ward, Reimers)

SALE OF STATE LAND IN STUTSMAN COUNTY

AN ACT

Authorizing the board of administration to sell certain described lands belonging to the state of North Dakota.

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

§ 1.) It is hereby determined that certain land owned by the state of North Dakota and under the control of the board of administration is no longer needed by the state and can be advantageously disposed of by selling the same, for a consideration of five hundred dollars, to the Stutsman County soil conservation district.

§ 2.) The board of administration is hereby authorized to sell to the Stutsman County soil conservation district that tract of land containing approximately seven acres described as follows:

That land lying in section six, township one hundred thirty-nine north, range sixty-three west, beginning at a point 1706.21 feet north eighty-nine degrees fifty-six minutes west and 33.0 feet south of the northeast corner of said section six, thence running north eighty-nine degrees fifty-six minutes west 612.3 feet, thence south sixty-three degrees forty-three minutes east 450.0 feet, thence south twenty-six degrees forty-nine minutes west 764.7 feet, thence south seventy-three degrees fifty minutes west 2278.0 feet, thence north sixteen degrees ten minutes west 125.0 feet, thence south seventy-three degrees fifty minutes west 634.7 feet to a point on the west line of said section six, thence south along the section line 598.7 feet, thence north seventy-three degrees fifty minutes east 801.4 feet, thence north sixteen degrees ten minutes west 150.0 feet, thence north seventy-three degrees fifty minutes east 2063.22 feet, thence south eighty-three degrees thirty-five minutes east 475.0 feet, thence south fifty-eight degrees thirty-seven minutes east 600.0 feet to a point, thence due east to a point on the westerly right-of-way line of the Midland Continental Railway, thence northwesterly along said right-of-way line to the point of beginning.

The board of administration may cause the above-described tract of land to be sold in the manner prescribed in sections 54-01-05.1 and 54-01-05.2. The proceeds of such sale shall be credited to the general fund of the state. In the event the Stutsman County soil conservation district shall cease to exist, the above described land shall revert to the state of North Dakota.

Approved March 7, 1961.

CHAPTER 329

H. B. No. 563
(Solberg, Wilkie)

SALE OF CERTAIN TB SANATORIUM PROPERTY

AN ACT

Authorizing the board of administration to sell certain farm buildings belonging to the state tuberculosis sanatorium.

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

§ 1.) It is hereby determined that certain farm buildings heretofore operated in connection with the state tuberculosis sanatorium at Dunseith are no longer required for the use of the state and that it will be advantageous to dispose of such surplus buildings. The board of administration is hereby authorized to sell such farm buildings at public or private sale. The proceeds of such sale or sales shall be credited to the general fund of the state.

Approved February 25, 1961.

CHAPTER 330

S. B. No. 243

(Longmire, Redlin)

STATE DEPARTMENT PAYROLLS

AN ACT

Authorizing the preparation and certification of payrolls by state departments and the execution of certificates upon payroll warrants.

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

§ 1. Departmental Payrolls.) The director of accounts and purchases is authorized to issue regulations governing methods whereby the regular payrolls for each department, agency or institution of this state may be prepared and certified by the agency concerned without individually executed or signed certificates of claim by the employees as provided in section 54-14-04. In all such cases, the warrants issued to cover such payroll items shall have the required certificate printed on the back of the warrant in such manner that the endorsement of the warrant will constitute an execution of the certificate provided in section 54-14-04.

Approved February 28, 1961.

CHAPTER 331

H. B. No. 737

(Baldwin)

STATUARY HALL COMMISSION

AN ACT

Providing for the continuation of the North Dakota National Statuary Hall Commission and for an appropriation for the procurement of a statue of the Honorable John Burke for placement in National Statuary Hall and to pay the expenses of the commission.

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

§ 1. North Dakota National Statuary Hall Commission Continued.) The North Dakota National Statuary Hall Commission as created in accordance with chapter 366 of the 1959 Session Laws shall be continued during the biennium beginning July 1, 1961 through June 30, 1963, and the appointments of all present members thereof shall remain in force during such period. Any vacancies occurring thereon shall be filled by the governor by appointment. The members of the commission shall receive no compensation for their services as members of such commission but shall receive mileage, travel and other actual expenses incurred in the course of their duties in the same manner and amounts as other state officials.

It shall be the duty of the commission to select a sculptor and execute such contract as may be necessary for him to furnish a statue of a type approved by the commission of the Honorable John Burke for placement in National Statuary Hall, and to make all necessary arrangements for its temporary display in the state capitol building, its transportation to and erection in National Statuary Hall, and for suitable ceremonies accompanying its placement.

The state historical society shall give such reasonable aid and assistance to the commission as it may request.

§ 2. Appropriation.) There is hereby appropriated to the North Dakota National Statuary Hall Commission out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary, to carry out the provisions of section 1 of this Act.

Approved February 25, 1961.

CHAPTER 332

H. B. No. 552

(Haugland, Karabensh, Sorlie, Stallman, Trom)
(From LRC Study)

GOVERNOR AND SUPERINTENDENT OF
PUBLIC INSTRUCTION

AN ACT

To amend and reenact sections 4-02-20, 4-02-21, 4-22-03, 12-57-01, 16-13-33, 16-13-36, 16-13-39, 16-13-47, 23-01-02, 23-13-09, 26-20-04, 26-20-05, 26-20-06, 26-20-07, 26-20-08, 34-10-02, 34-10-03, 34-10-06, 46-04-01, 46-04-10, 54-04-01, 54-04-03, 54-04-04, 54-36-01, 55-01-01, and 61-02-04 of the North Dakota Century Code, relating to the membership and duties of various boards and commissions upon which the governor or the superintendent of public instruction serve; and to repeal sections 4-02-13, 4-02-14, 16-13-34, and 16-13-37 of the North Dakota Century Code, relating to the boards of directors of the state fair associations, and the state board of canvassers for general and special elections.

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

§ 1. **Amendment.)** Section 4-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-20. Board of Directors of Minot Fair.) The northwest agricultural livestock and fair association shall have an ir-repealable bylaw providing that its board of directors shall consist of eleven persons.

§ 2. **Amendment.)** Section 4-02-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-21. Board of Directors of Mandan Fair.) The board of directors of the Missouri Slope agriculture and fair association shall consist of fifteen persons. The commissioner of agriculture and labor, and the state auditor shall be ex officio directors of the association. Five of the directors shall be residents of the judicial district in which the fair is to be held, and one director, who is a resident thereof, shall be selected from each other judicial district of the state.

§ 3. **Amendment.)** Section 12-57-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-57-01. Board for Relief for Wrongful Imprisonment.) The members of the board of administration shall constitute

the board for relief for wrongful imprisonment. The secretary of the board of administration shall be the secretary of this board.

§ 4. **Amendment.)** Section 16-13-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-33. State Board of Canvassers—Membership—Oath—Quorum.) The clerk of the supreme court, secretary of state, state treasurer, and the chairman of the state central committee of the two political parties which cast the highest vote for governor at the last general election shall constitute the state board of canvassers. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board shall constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of such board, shall attend without delay and act as a member of such board.

§ 5. **Amendment.)** Section 16-13-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-36. Meeting of State Board of Canvassers.) On call of the secretary of state but not later than twenty days next following a primary, general or special election, the state board of canvassers shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election. The secretary of state shall notify the other members of the board of such meeting.

§ 6. **Amendment.)** Section 16-13-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-39. Statement Prepared by State Board of Canvassers—Contents—Signing—Candidate Notified of Nomination.) The state board of canvassers shall prepare the statement required by section 16-13-19, subsections 1, 2, and 3, for primary elections. Such certificate shall be signed by the members of the board and filed in the office of the secretary of state. Upon the completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of his nomination, stating that his name will be placed upon the official ballot to be voted for at the ensuing general election. The secretary of state shall

file a copy of the findings of the board in his office and shall publish such findings in a newspaper printed at the seat of government.

§ 7. **Amendment.)** Section 16-13-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-47. Certificate of Result of Election by State Board of Canvassers—Secretary of State to Receive.) The statements provided for in section 16-13-42 shall be certified to by the members of the state board of canvassers, who shall subscribe their names to such statements. The board then shall determine what persons have been duly elected to such offices and shall make out and subscribe on each statement a certificate of such determination and shall deliver the same to the secretary of state.

§ 8. **Amendment.)** Section 23-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-02. Health Council — Members, Terms of Office, Vacancies, Compensation, Officers, Meetings.) The health council shall consist of nine members appointed by the governor in the following manner: Two persons shall be appointed from a list of four submitted by the state hospital association, two persons shall be appointed from a list of four submitted by the state medical association, one shall be appointed from a list of two submitted by the state dental association, one shall be appointed from a list of two submitted by the state nurses association, one shall be appointed from a list of two submitted by the state pharmaceutical association and there shall be appointed two lay persons with broad civic interests representing varied segments of the population. The members of the first health council shall be appointed within thirty days after this chapter becomes effective to serve for the following terms: three members for one year, three members for two years, and three members for three years, from the date of their appointment or until their successors are duly appointed. On the expiration of the term of any member, the governor, in the manner hereinbefore provided, shall appoint for a term of three years, persons to take the place of members whose terms on said council are about to expire. The officers of said council shall be elected annually. The following persons shall serve in an advisory capacity to the health council: the state health officer, the attorney general, the chairman of the board of administration, the state fire marshal, the executive secretary of the state board of nurse examiners, the executive director of the state board of public welfare and such other persons as the governor may designate. The council shall meet

in January and June of each year and at such other times as the council or its chairman may direct. The council shall have as standing committees, a health committee and a hospital committee and such other committees as said council may find necessary. The health committee shall consist of one of the representatives of the state medical association, one of the representatives of the state hospital association, the representative of the state dental association, the representative of the state nurses association and two of the representatives of civic interests. The hospital committee shall consist of two representatives of the hospital association, one of the representatives of the state medical association, the representative of the state nurses association and one of the representatives of civic interests. The members of these committees shall be selected by the chairman of the health council from its own membership. The chairman shall have the responsibility of assigning to the special committees, problems relating to the respective fields. The members of the council shall receive fifteen dollars per day, not to exceed thirty days in any one year, and their necessary travel and subsistence expenses while attending council meetings, or in the performance of such special duties as the council may direct. Such per diem and expenses shall be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section shall not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

§ 9. **Amendment.)** Section 23-13-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-09. North Dakota State Safety Committee — Members.) The North Dakota state safety committee shall be composed of the governor, who shall be honorary chairman; the state highway commissioner, who shall be the executive director; the superintendent of the state highway patrol, the motor vehicle registrar, the chairman of the public service commission, the superintendent of public instruction and the attorney general. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The members of the safety committee shall receive no additional compensation for service on said committee. Said committee shall have no authority, power or duties now vested in any other department or departments of state government.

§ 10. **Amendment.)** Section 26-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-04. Commissioner to Hear Petition for Consolidation or Reinsurance—General Duties.) The commissioner of insurance shall hear a petition for consolidation or reinsurance and determine whether or not the same shall be allowed. At the time and place fixed in the notice, or at such other time and place as shall be fixed by adjournment, the commissioner shall proceed with the hearing and may make or order such examination into the affairs and condition of the petitioning company as he may deem proper. Such consolidation or reinsurance shall be permitted only upon approval by the commissioner. The commissioner shall safeguard the interests of the policyholders of the company or companies proposing to consolidate or reinsure, and if he is satisfied that the interests of the policyholders of such company or companies are protected properly and that no reasonable objection exists to the consolidation or reinsurance, he may approve and authorize the proposed consolidation or reinsurance or may modify or change the terms and conditions thereof in such manner as he may deem for the best interests of the policyholders, and may make such order with reference to the distribution and disposition of the surplus assets of the company thereafter remaining as shall be just and equitable to the policyholders.

§ 11. Amendment.) Section 26-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-05. Commissioner of Insurance May Compel Attendance of Witnesses—Policyholders and Stockholders May Appear.) The commissioner of insurance may summon and compel the attendance and testimony of witnesses and the production of books and papers. Any policyholder or stockholder of the company or companies petitioning for consolidation or for the right to reinsure may appear before the commissioner and be heard with reference thereto.

§ 12. Amendment.) Section 26-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-06. Expenses of Proceedings Paid by Company Bringing Petition.) All actual expenses and costs incident to proceedings under the provisions of this chapter shall be paid by the company or companies filing the petition, and an itemized statement of the expenses and costs shall be filed with the commissioner of insurance with a certified copy of the decision of the commissioner.

§ 13. Amendment.) Section 26-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-07. Profit by Company Officer or State Officer or Employee by Reason of Consolidation or Reinsurance Prohibited.) No officer of a company petitioning for the right to consolidate or to reinsure, and no officer or employee of the state, shall receive any compensation or gratuity, either directly or indirectly, for aiding, promoting, or in any manner assisting in the consolidation or reinsurance.

§ 14. **Amendment.)** Section 26-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-08. Penalty.) Any officer, director, or stockholder of any company mentioned in this chapter, or any officer or employee of the state, who shall violate, or consent to the violation of, any provision of this chapter shall be punished by a fine of not less than five thousand dollars or by imprisonment in the county jail for not less than one year, or by both such fine and imprisonment.

§ 15. **Amendment.)** Section 34-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-02. Labor Dispute—Investigation—Report to Commissioner—Application for Labor Dispute Board.) When any labor dispute causes or is likely to cause a strike or lockout or interferes or is likely to interfere with the due and ordinary course of business or menaces the public peace or jeopardizes the welfare of the community and the parties thereto are unable to adjust the same, the head of the labor division of the department of agriculture and labor, after investigation, may report such dispute to the commissioner of agriculture and labor with the results of his investigation and make application to the commissioner for the establishment of a labor dispute board.

§ 16. **Amendment.)** Section 34-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-03. Establishment of Labor Dispute Board—Members—Jurisdiction.) Upon the receipt of such report and application, or on his own initiative, and upon being satisfied that the dispute comes within the provisions of section 34-10-02, the commissioner of agriculture and labor may establish a labor dispute board which shall have jurisdiction of such dispute as herein provided. The commissioner shall act as chairman of such board or shall designate a personal representative to serve in his place and stead but in the event that a representative of the commissioner is so designated, the commissioner nevertheless may act and serve in person at

such times as he may see fit in place of such personal representative. Two additional members of the board shall be appointed by the commissioner. One such appointive member shall be identified with or representative of business, industry, commerce, management, or employers by background, experience, affiliation, or vocation and one shall similarly be identified with or representative of labor. Neither appointive member, however, shall be directly connected with either faction or party to the dispute. The board so established shall have continuing jurisdiction of such dispute until discharged by the commissioner.

§ 17. **Amendment.**) Section 34-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-06. Expenses of Labor Dispute Board—Appointment of Agents—Attorney General to Represent Board.) Expenditures of labor dispute boards established under the provisions of this chapter, upon approval of the emergency commission, may be paid out of the state contingency fund. The members of such boards may be reimbursed for necessary and actual expenses as are other state officers and compensation not in excess of fifteen dollars per diem may be allowed to the appointive members or to any personal representative of the commissioner of agriculture and labor serving on any such board for time actually devoted to duties on such board. With the consent of the commissioner of agriculture and labor, such boards may appoint or employ agents to supervise elections under the provisions of section 34-10-05* or to conduct investigations and may employ necessary clerical assistance. Such boards shall be represented in all legal proceedings by the attorney general who shall serve as legal advisor to any such board or designate an assistant for that purpose.

§ 18. **Amendment.**) Section 46-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-01. Official Distribution of State Laws—Secretary of State to Control.) Each member of the legislative assembly for himself and each constitutional officer of the state and each judge of the supreme and district courts for the use of their respective offices and departments shall be entitled to receive from the state a copy of any publication of the laws of the state and of any compilation or codification thereof published under authority of the state. The secretary of state shall designate other offices and agencies of the state that

***Note:** Section 34-10-05 was repealed by section 15 of chapter 236 of the 1961 S.L.

shall be entitled to receive copies of any such publication of the laws for the use of such state offices and agencies and also shall determine the number of copies of any publication to be received by any recipient in a distribution under the provisions of this section, if more than one copy shall be needed by such recipient for official use.

§ 19. **Amendment.)** Section 46-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-10. Duties of Secretary of State—Exchange of Laws with Other States.) The secretary of state may distribute copies of all laws passed by each legislative assembly and all compilations or codifications of the same, whenever it shall seem desirable:

1. In exchange for like publications of other states;
2. To replace copies lost or damaged in official use;
3. To provide copies as needed to state officers, boards, commissions, institutions, or agencies of the state; and
4. To provide copies as needed to the national conference of commissioners on uniform state laws.

§ 20. **Amendment.)** Section 54-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-01. Bids for Enrolling or Engrossing Bills—Notice.) The department of accounts and purchases, not less than sixty nor more than seventy-five days before the meeting of the legislative assembly in regular session, shall give notice by advertising for three successive weeks, in a newspaper at the seat of government, that sealed bids will be received for the engrossing and enrolling of all bills passed by each house of the legislative assembly.

§ 21. **Amendment.)** Section 54-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-03. Bid Accompanied by Certified Check — Bidder Must Be Resident.) No bid for the engrossing and enrolling of bills passed by either house of the legislative assembly shall be considered if from a person not a bona fide resident of the state, nor unless accompanied by a certified check in a sum to be named by the department of accounts and purchases. Such check shall be security that the successful bidder shall enter into a contract and give a bond with sureties to be approved by the department.

§ 22. **Amendment.)** Section 54-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-04. Opening of Bids—Awarding Contract.) Upon the day set in the advertisement for the opening of bids, which shall not be less than thirty days before the meeting of the legislative assembly, the bids shall be opened by the department of accounts and purchases. The department shall award the contract to the lowest responsible bidder and shall enter into a contract with him for the performance of the work, subject to the conditions set forth in this chapter. Nothing in this chapter shall prevent the awarding of separate contracts for the engrossing and enrolling, if deemed advantageous to the state.

§ 23. Amendment.) Section 54-36-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-01. Commission — Members — Officers — Expenses of Certain Members.) The North Dakota Indian affairs commission shall consist of the governor, commissioner of agriculture and labor, executive director of the public welfare board of North Dakota, state health officer, director of the North Dakota state employment service, and the chairmen of the boards of county commissioners of Sioux, Mercer, McLean, McKenzie, Dunn, Rolette, Benson, Mountrail and Eddy counties, and the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian reservations. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The commission may call upon the superintendent of public instruction for consultation upon educational matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. The chairmen of the boards of county commissioners who are members of the commission and the Indian members of the commission shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission.

§ 24. Amendment.) Section 55-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-01. State Historical Society — Board of Directors.) There shall be maintained the state historical society of North Dakota. The governor, auditor, secretary of state, commissioner of agriculture and labor, and state game and fish commissioner, shall be ex officio members of the board of directors of the state historical society and shall take care that the interests

of the state are protected. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend.

§ 25. Amendment.) Section 61-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-04. State Water Conservation Commission—Members—Terms—Qualifications.) The state water conservation commission shall consist of the governor, commissioner of agriculture and labor, and five other members to be appointed by the governor. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The five appointive members of the commission shall be appointed for a term of six years each with their terms of office so arranged that one term and not more than two terms shall expire on the first day of July of each odd numbered year. Each appointive member shall be a qualified elector of the state and shall be subject to removal by judicial procedure. In case of a vacancy, the vacancy shall be filled by appointment by the governor. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.

§ 26. Repeal.) Sections 4-02-13, 4-02-14, 16-13-34, and 16-13-37 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.

CHAPTER 333

S. B. No. 262

(Longmire)

RECORDS MANAGEMENT

AN ACT

To provide for continuing programs for the efficient and economical management of state records, and to amend and reenact section 46-04-20 of the North Dakota Century Code, relating to destruction of public records.

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

§ 1. Short Title.) This Act shall be known as the "Records Management Act".

§ 2. Declaration of Policy.) The legislative assembly declares that programs for the efficient and economical management of state records will promote economy and efficiency in the day-to-day record-keeping activities of state government and will facilitate and expedite government operations.

§ 3. Definitions.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Record" means document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Act.
2. "State record" means:
 - a. A record of a department, office, commission, board or other agency, however designated, of the state government;
 - b. A record of the state legislature;
 - c. A record of any court of record, whether of statewide or local jurisdiction;
 - d. Any other record designated or treated as a state record under state law.

3. "Agency" means any department, office, commission, board or other unit, however designated, of the executive branch of state government.

§ 4. **State Records Administrator.**) The secretary of state is hereby designated the "State Records Administrator", hereinafter called the "Administrator". The administrator shall establish and administer in the executive branch of state government a records management program, which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of state records.

§ 5. **Duties of Administrator.**) The administrator shall, with due regard for the functions of the agencies concerned:

1. Establish standards, procedures, and techniques for effective management of records.
2. Make continuing surveys of paper work operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records.
3. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping.
4. Obtain reports from agencies as are required for the administration of the program.

§ 6. **Duties of Agency or Department Heads.**) The head of each agency or department shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.
2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.
3. Submit to the administrator, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency. The head of each agency also shall submit lists of state records in his

custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further keeping for disposal in conformity with the requirements of section 10 of this Act.

4. Cooperate with the administrator in the conduct of surveys made by him pursuant to the provisions of this Act.
5. Comply with the rules, regulations, standards and procedures issued by the administrator.

§ 7. Assistance to Legislative and Judicial Branches.) Upon request, the administrator shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and shall, as required by them, provide program services similar to those available to the executive branch of state government pursuant to the provisions of this Act.

§ 8. Records Not To Be Damaged or Destroyed.) All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this state in the course of their public duties are the property of the state and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law.

§ 9. Disposal of Records.) No type or class of record shall be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the administrator, after consultation with the official or department head concerned, that the type or class of record has no further administrative, legal, fiscal, research or historical value.

§ 10. Destruction of Non-Record Materials.) Non-record materials or materials not included within the definition of records as contained in this Act may, if not otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials without the prior approval of the administrator. The administrator may formulate procedures and interpretation to guide in the disposition of non-record materials.

§ 11. Rules and Regulations.) The administrator shall promulgate such rules and regulations as are necessary or proper to effectuate the purposes of this Act.

§ 12. Annual Report.) The administrator shall make an annual written report to the governor for transmission to the legislature. The report shall describe the status and progress of programs established pursuant to this Act and shall include

the recommendations of the administrator for improvements in the management of records in the state government.

§ 13. **Amendment.)** Section 46-04-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-20. Destruction of Public Records.) Whenever authorized by the secretary of state in his capacity as state records administrator, any state department, agency, board, bureau, or commission may destroy all unnecessary records, documents, and correspondence, excepting such documents which might be or become valuable as historical records or documents; provided that no document, record or correspondence shall be destroyed which might be evidence in any civil or criminal action or proceedings until the statute of limitations applicable thereto shall bar such action or proceeding in which such document or record might be evidence. For the purposes of this section, the period of the statute of limitations shall be deemed to commence upon the date of preparation, execution, or filing of any record, whichever date is the latest.

Approved February 28, 1961.

CHAPTER 334

S. B. No. 77
(Garaas, Kee)

RIGHT-OF-WAY OVER STATE LANDS

AN ACT

To amend and reenact section 54-01-17 of the North Dakota Century Code, relating to right-of-way over state lands.

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

§ 1. **Amendment.)** Section 54-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-17. Right-of-Way Over State Lands.) There is granted, over all the lands belonging to the state, except that land owned or acquired for highway right-of-way purposes, a right-of-way for ditches or canals and for tunnels, tramways, and telephone and electrical transmission lines, constructed by authority of the United States. All conveyances of state lands shall contain a reservation of such right-of-way, but shall specifically state that lands owned or acquired by the state for highway purposes shall be excluded from this provision.

Approved March 11, 1961.

CHAPTER 335

S. B. No. 310

(Erickson)

(Committee on Delayed Bills)

LEGISLATIVE DISTRICTS, GRAND FORKS COUNTY

AN ACT

To amend and reenact subsections 6 and 7 of section 54-03-01 of the North Dakota Century Code, relating to legislative districts.

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

§ 1. Amendment.) Subsections 6 and 7 of section 54-03-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. The sixth legislative district shall consist of the fourth, fifth, and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville, and Levant, in the county of Grand Forks, and shall be entitled to one senator and one representative;
7. The seventh legislative district shall consist of the first, second, third, and seventh wards of the city of Grand Forks as now constituted and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union, Washington, and the first and second wards of the city of Reynolds, in the county of Grand Forks, and shall be entitled to one senator and one representative;

Approved March 15, 1961.

CHAPTER 336

H. B. No. 569

(Baldwin, Lindberg, Lowe, Mueller, Vinje, Tough, Johnston)

ALTERNATE MEMBERS OF BUDGET BOARD

AN ACT

To amend and reenact sections 54-15-01 and 54-15-03 of the North Dakota Century Code, relating to the appointment of alternate members of the state budget board.

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

§ 1. **Amendment.)** Section 54-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-01. State Budget Board—Members—Vacancies—How Filled.) There shall be a state budget board which shall consist of the governor, the chairman of the appropriations committees of the senate and the house of representatives of the preceding legislative assembly, the state auditor, and the attorney general. In addition, each appropriations committee shall choose one of its members to serve as a member of the board. In case of inability on the part of either member of such appropriations committees to serve on the board, the vacancy shall be filled by the governor by appointment from the membership of the appropriations committee of that branch of the preceding legislative assembly in which such vacancy occurs.

§ 2. **Amendment.)** Section 54-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-03. Compensation and Mileage of Members of Budget Board.) The members of the state budget board shall receive the travel expenses provided by law for state officials and in addition thereto the members of the appropriations committees of the senate and house of representatives, or such other member as may be appointed by the governor to fill a vacancy, each shall receive ten dollars per day for each day of actual service. A member of the state budget board who is not a member of the succeeding legislative assembly shall receive for his services during the legislative session the same compensation as that paid to the members of the legislative assembly.

Approved February 27, 1961.

CHAPTER 337

H. B. No. 928

(Poling)

CERTAIN DUTIES OF BOARD OF ADMINISTRATION,
REPEAL

AN ACT

Repealing subsections 2, 7, 8, 9, 10, 11, 12, 13, 15, 17, and 19 of section 54-21-13 and section 54-21-14 of the North Dakota Century Code, relating to the powers and duties of the board of administration in child welfare matters.

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

§ 1. Repeal.) Subsections 2, 7, 8, 9, 10, 11, 12, 13, 15, 17, and 19 of section 54-21-13 and section 54-21-14 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1961.