

STATE GOVERNMENT

CHAPTER 376

S. B. No. 311
(Holand, Lips)

REORGANIZATION OF STATE AUDITOR'S, STATE EXAMINER'S, AND STATE TAX COMMISSIONER'S DUTIES

AN ACT

To create and enact sections 54-10-13, 54-10-14, 54-10-15, 54-10-16, 54-10-17, 54-10-18, 54-10-19, 54-10-20, 54-10-21, 54-10-22, and 54-10-23, and to amend and reenact sections 6-01-25, 11-30-03, 15-60-07, 57-50-01, 57-50-02, 57-50-04, 57-50-06, 57-50-07, 57-50-11.1, 57-52-02, subsection 4 of section 57-52-03, and sections 57-52-04, 57-52-05, 57-52-06, 57-52-07, 57-52-08, 57-52-09, 57-52-10, 57-52-11, 57-52-12, 57-52-13, 57-52-14, 57-52-15, 57-52-16, 57-52-17, 57-53-03, 57-53-05, 57-53-10, subsection 6 of section 57-54-03, and sections 57-54-04, 57-54-05, 57-54-06, 57-54-07, 57-54-09, 57-54-11, 57-54-12, 57-54-13, 57-54-15, 57-54-16, 57-54-17, 57-54-20, 57-54-22, subsection 7 of section 57-54.1-03, and sections 57-54.1-07, 57-54.1-08, 57-54.1-09, 57-54.1-10, 57-54.1-11, 57-54.1-13, 57-56-02, and 57-56-03 of the North Dakota Century Code, relating to general governmental reorganization of the departments and offices of state examiner, state auditor, and state tax commissioner, relating to their powers and duties, relating to auditing of political subdivisions of this state and the collection and refund of special fuels tax and tax levy, motor vehicle fuel tax, importers for use tax, and aviation fuel tax, and to repeal sections 6-01-21.1, 6-01-21.2, 6-01-21.3, 6-01-21.4, 6-01-22, 6-01-23, 6-01-24, 6-01-26, 6-01-27, and 6-01-28 of the North Dakota Century Code, relating to the state examiner's auditing duties with respect to the state's political subdivisions and providing an effective date.

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

§ 1. Amendment.) Section 6-01-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-25. Supervision of Books and Accounts of Public Institutions and Private Institutions with Which State Has Dealings.) The state examiner shall assume and exercise constant supervision over the books and financial accounts of the several public offices and institutions which he is authorized to examine. He shall prescribe and enforce a correct and uniform method of keeping financial accounts in such offices and institutions, shall recommend a form for warrants or for order-checks which shall conform so far as consistent with statutory and charter requirements to approved banking practice, in

order to facilitate handling of such instruments by banks and other depositories, and shall instruct the proper officer of each of said institutions in the due performance of his duties concerning the same. He shall have authority to examine the books and accounts of all private institutions with which the state has any dealings so far only as the same relate to such dealings. If any public officer having control of any such office or institutions shall fail or refuse to comply with the directions of the state examiner, the examiner shall report the facts to the governor and to the manager of the state bonding fund, and such refusal shall constitute grounds for removal from office and cancellation of the bond of such officer.

§ 2. Amendment.) Section 11-30-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-30-03. State Auditor to Make Audit of Financial Conditions—Contents of Audit.) Within thirty days of the receipt of the registered or certified notice of the filing of a petition for the disorganization of a county, the state auditor shall make and complete an audit of the finances of the petitioning county and shall file an original and duplicate copy of the audit with the county auditor of such county. The audit shall contain:

1. A statement of the taxable value of all taxable property in the county as of the last annual assessment as equalized by the state board of equalization;
2. A statement of all the assets and the liabilities of the county and any assets available for the retirement of any of said liabilities as of the date of the filing of the petition;
3. A statement for the last preceding completed fiscal year of the budget adopted, the amount of tax levied, the amount and source of revenue receipts derived, the expenditures made, and obligations incurred for each fund and purpose; and
4. A statement containing such additional information as in his judgment is necessary to an understanding of the true financial condition of the county.

§ 3. Amendment.) Section 15-60-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-07. Moneys of the Fund.) The custodian of the building fund of any school district for which a building or an addition to an existing building has been constructed shall pay annually to the state treasurer all moneys due as rental or rentals

together with two and one-half percent interest as herein provided, which money shall be credited to the state school construction fund. The moneys in said account shall be paid out on the warrant or other order by the chairman and secretary of the board. The state auditor or his legally authorized representatives are hereby authorized and directed to audit the accounts and books of the board, including its receipts, disbursements, contracts, leases, sinking funds, investments, and other matters relating to its finances, operation and affairs annually.

§ 4.) Section 54-10-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-13. County Agencies — Audits — Fees.) The state auditor by his duly appointed deputy auditors or other authorized person or persons shall audit at least once every two years, or at more frequent intervals if the state auditor, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of boards of county commissioners, county auditors, county treasurers, clerks of district court, county judges, registers of deeds, county superintendents of schools, sheriffs, public administrators, governing boards of irrigation districts and flood irrigation districts, clerks or secretaries of said boards and treasurers of said districts. Fees for such audit shall be charged by the state auditor for the audits in this section provided at the rate of forty dollars per day for the time used by himself or other person designated by him in supervising, filing and corresponding in connection with such report and for the time used by each deputy auditor, or other person or persons in making and otherwise preparing the reports of examinations herein provided for. Fee for an extra day shall be paid for each person who may be required to travel to participate in the examinations in this section provided. The fees herein provided shall be paid by the counties and districts examined to the state treasurer, and by him credited to the general fund of the state.

Provided, further, that the board of county commissioners may provide for an annual audit by a certified public accountant for any or all of the offices and boards set forth in this section, and such audit report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state auditor and one copy with the state bonding fund by the certified public accountant making such audit at the same time that the report is delivered to the officer or board audited, and the board of county commissioners shall not

pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of such officers or boards disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected, and fees for such audits, so resumed, shall be paid in accordance with this section.

§ 5.) Section 54-10-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-14. Municipal Agencies, Park Boards, School Districts—Audits—Fees—Alternative Audits.) The state auditor by his duly appointed deputy auditors or other authorized agents, shall audit, at least once every two years, the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

1. City councils and commissions;
2. City auditors and treasurers;
3. Village boards of trustees;
4. Village and park district clerks and treasurers;
5. School boards and boards of education;
6. School district clerks, treasurers, and secretaries; and
7. Trustees and officials of the firemen's relief association.

Audits may be conducted at more frequent intervals if the state auditor, in his discretion, deems it advisable.

The governing board of any such city, park board, village, or school district may provide for an audit annually by a certified public accountant, and such audit report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state auditor and one copy with the state bonding fund by the certified public accountant making such audit at the same time that the report of audit is delivered to said city, park board, village, or school district, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the

part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures or illegal actions are corrected, and fees for such audits, so resumed, shall be paid in accordance with this section.

Fees for the audits provided for in this section shall be charged by the state auditor at the rate of forty dollars per day for the time used by himself or other persons designated by him in supervising, filing and corresponding in connection with such reports of audits, and for time used by each deputy auditor or other person or persons in making such audits and otherwise preparing and typing the reports of audits herein provided for. Fee for an extra day shall be charged for each person who may be required to travel to participate in the audits in this section provided, and all fees for the audits herein provided shall be paid by the subdivision audited to the state treasurer and by him credited to the general fund of the state.

§ 6.) Section 54-10-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-15. Audits of Municipal Agencies and School Districts by Order of Governor or Upon Petition.) When so ordered by the governor of this state, or on petition of thirty-five percent of the electors of any school district, city or village for which audits are not provided in section 54-10-14, or at the request of the chairman or governing board of any such political subdivision, the state auditor shall, through his deputy auditors or other authorized persons, audit the records of the governing body and the books, records, and financial accounts of the treasurer and clerk or auditor thereof, as the case may be. Fees for such audits shall be paid in accordance with the provisions of section 54-10-14 to the state treasurer, and by him credited to the general fund of the state.

§ 7.) Section 54-10-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-16. Audit in Case of Irregularity or Embezzlement.) It shall not be the duty of the state auditor or his staff to make audits of any political subdivision, funds, commissions, associations, and bureaus, for the reason of severance from the service of such political subdivisions, funds, commissions, associations, and bureaus of any officer, clerk, deputy, cashier, or other employee unless the head of such state office or department, or the board administering any other of the agencies named herein shall request such audit in writing, and state that there is reason to believe that there is irregularity in handling funds or embezzlement involved.

§ 8.) Section 54-10-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-17. Audit of Counties.) The state auditor shall prepare and furnish for the use and guidance of county officers a manual of accounting and auditing procedures, and uniform accounting forms, so as to afford a convenient and uniform procedure for examining and auditing the books, records, and accounts of county officers and to establish, as far as practicable, a uniform method of keeping such books, records, and accounts. The state auditor shall require county officers to adopt such system of bookkeeping and accounting, and to conform to the accounting procedures prescribed by him. He shall instruct the county officers, or cause them to be instructed, in the use of the accounting manual prepared by him and the use of the forms and procedures therein set forth. From time to time, as circumstances and experience shall show to be advisable, he may amend and modify such accounting methods, forms, and procedures and county officers shall conform thereto.

§ 9.) Section 54-10-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-18. Supervision of Records and Fiscal Affairs of Counties.) The state auditor, when requested so to do by the board of county commissioners of any county in this state, shall examine and audit, compare and correct, any books, records, papers, securities, or other documents required in any pending settlement of the fiscal affairs of such county, and he shall make any necessary corrections of the records of such county. He shall have free access to all necessary books, papers, records, or other documents of any county in this state, and shall have authority to take the records of any county to any other county in this state to compare and correct the same when, in his judgment, it is necessary to do so. All county officers in this state are required to assist the state auditor in the discharge of his duties in all things which he may require of them as such county officers.

§ 10.) Section 54-10-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-19. Supervision of Books and Accounts of Public Institutions and Private Institutions with Which State Has Dealings.) The state auditor shall assume and exercise constant supervision over the books and financial accounts of the several public offices and institutions which he is authorized to examine. He shall prescribe and enforce a correct and uniform method of keeping financial accounts in such offices and institutions, shall recommend a form for warrants or for order-

checks of all local units of government except school districts which shall conform so far as consistent with statutory requirements and shall instruct the proper officer of each of said institutions in the due performance of his duties concerning the same. He shall have authority to examine the books and accounts of all private institutions with which the state has any dealings so far only as the same relate to such dealings. If any public officer having control of any such office or institutions shall fail or refuse to comply with the directions of the state auditor, the auditor shall report the facts to the governor and to the manager of the state bonding fund, and such refusal shall constitute grounds for removal from office and cancellation of the bond of such officer.

§ 11.) Section 54-10-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-20. Special State Auditor.) The governor, at such time as he may consider it for the best interests of the state, may appoint a special state auditor to examine any of the state institutions, state industries, state departments, or public offices. Such special state auditor shall have all the powers and authority that are granted to the state auditor in making such audits and also shall examine into and report upon such other matters connected with the state institutions and public offices as the governor may direct. He shall receive as compensation for such services the sum of forty dollars per day for the time actually employed upon such examinations and shall be paid traveling expenses at the same rate as is paid other state employees which compensation and expenses are to be paid upon vouchers approved by the governor, in the same manner as state officers' salaries are now paid.

§ 12.) Section 54-10-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-21. Duty of State Auditor on Failures by Officers.) The state auditor shall report to the attorney general the refusal or neglect of any state or county officer to obey his instructions, and the attorney general promptly shall take appropriate action to enforce compliance therewith.

§ 13.) Section 54-10-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-22. Public and Private Officers to Aid State Auditor—Auditor's Authority on Investigation.) The officers and employees of all departments, institutions, boards, commissions, and political subdivisions, subject to examination by the state auditor, must afford all reasonable facilities for the investigation provided for in this title, and must make returns

and exhibits to the auditor under oath in such form and in such manner as he may prescribe. The auditor shall have full power and authority to audit any books, papers, accounts, bills, vouchers, and other documents, or property of any and all departments, boards, commissions, political subdivisions, and financial institutions subject to his audit. He shall have authority to audit under oath any or all trustees, managers, officers, employees, or agents of any such departments, boards, commissions, or political subdivisions. When necessary, the auditor shall employ stenographers or clerical help, the expense incurred therefor to be collected by him from the county.

§ 14.) Section 54-10-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-10-23. Obstructing or Misleading Auditor — Penalty.)

Every person who, when required to do so, shall refuse or neglect to make any return or exhibit, or to make or give any information required by the auditor or who willfully shall obstruct or mislead the auditor in the execution of his duties, or who in any manner shall hinder a thorough examination by the auditor, shall be guilty of a felony and shall be liable to a fine of one thousand dollars and imprisonment in the penitentiary for a term of not more than one year.

§ 15. Amendment.) Section 57-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-01. Refund of Tax Provided For.) Any person who shall buy or use any motor vehicle fuel as defined in subsection 2 of section 57-54-03, for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of the state of North Dakota on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time hereinafter provided, the amount of such tax paid by him upon the presentation to and the approval of the tax commissioner of a claim for refund. Those aviation gasoline fuel taxes collected, upon which no refund is claimed and those revenues remaining as unclaimed refunds under the provisions of the statutory refunds on aviation gasoline and aviation motor fuels are hereby appropriated, in accordance with the time limitations as provided by law, and used exclusively for construction, reconstruction, repair, maintenance and operation of small landing strips near highways and communities in this state and for the purchase of necessary land required therefor and shall be administered and expended by the state of North Dakota aeronautics commission for the above purpose.

§ 16. Amendment.) Section 57-50-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-02. Form of Claim for Refund.) Such claim shall be in a form furnished by the tax commissioner and shall have a written declaration by the claimant that it is made under the penalties of perjury. It shall have attached thereto the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, shall state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount of such motor vehicle fuel, that the purchase price thereof has been paid and that in said price was included the motor vehicle fuel tax payable to the state of North Dakota under chapter 57-54, relating to the tax on motor vehicle fuels, that such motor vehicle fuel was used by the claimant otherwise than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which said motor vehicle fuel was used, the equipment in which such motor vehicle fuel was used, and such other information as the tax commissioner shall require. In the event the original invoice or invoices are lost, the claimant may furnish, in lieu thereof, duplicate invoices together with a separate affidavit on forms prescribed by the tax commissioner.

§ 17. Amendment.) Section 57-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-50-04. Tax Commissioner to Audit and Approve Claim—Investigation of Doubtful Claims—Payment of Claims.)** The state tax commissioner, upon the presentation of such sworn claim, shall audit said claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and the amount due each claimant, and shall approve and submit such claims for payment within thirty days of the receipt thereof in the state tax commissioner's office unless the tax commissioner shall be in doubt as to the validity of any claim, in which case the tax commissioner may withhold the approval thereof for a reasonable time for purposes of investigation. The state tax commissioner may authorize any employee or agent of his office to investigate doubtful claims and make a report of his findings to the tax commissioner who shall thereupon promptly approve or reject such claim as the facts may warrant. All claims approved by the tax commissioner shall be paid by warrant-checks prepared by the department of accounts and purchases.

***Note:** Section 57-50-04 was also amended by section 1 of chapter 465, 1967 S.L.

§ 18. **Amendment.)** Section 57-50-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-06. Invoice Issued to Purchaser.) Every seller of motor vehicle fuel shall issue to each purchaser, who purchases motor vehicle fuel for agricultural or industrial purposes, a duplicate original invoice for each sale, using double faced carbon, which shall be in the form prescribed by the state tax commissioner and shall show the date, name, residence and license number, if any, of the seller and the number of gallons of motor vehicle fuel sold. Each invoice so issued shall be signed by the purchaser and one of such duplicate invoices shall be retained by the seller as part of his business records for not less than two years.

§ 19. **Amendment.)** Section 57-50-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-07. Administration—Assistance Authorized—Formulating Rules and Regulations.) The state tax commissioner shall be charged with the administration of this chapter. He shall be authorized and empowered to employ such assistance as may be necessary for the efficient administration and enforcement of the chapter and shall also have the power to make such reasonable rules and regulations relating to the administration and enforcement of the chapter as may be deemed necessary and expedient.

§ 20. **Amendment.)** Section 57-50-11.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-11.1. Permit Required During Certain Period—Revocation Thereof.) Refund claims on motor fuel tax resulting from sale of motor fuel occurring during the period from the first day of April through the thirtieth day of September may be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under this chapter becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by acknowledging the assignment agreement in writing on the face of the sales receipt. Before any person shall be allowed to assign his motor fuel tax refund to the seller during this period, he must have an unrevoked permit issued by the state tax commissioner authorizing such assignment. The permit herein shall be issued to every applicant upon completion and forwarding to the state tax commissioner an application form prescribed and furnished by the state tax commissioner. Such application shall contain the sworn statement of the applicant that he is engaged in the

business of agriculture and intends to use any fuel so assigned for agricultural purposes only. Such permit shall not be transferable and shall be valid for the person in whose name it is issued only. Permits issued under the provisions of this section shall be valid and effective until revoked by the state tax commissioner. Where such assignment is made the seller may forward it to the state tax commissioner for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this section must file an annual report with the state tax commissioner within the time limitation set forth in section 57-50-03. If any purchaser shall fail to file such report within the period of time designated herein the state tax commissioner shall revoke such permit authorizing such assignment in the same manner as provided for in section 57-54-11. Such report forms shall be furnished by the state tax commissioner in substantially the same form as is prescribed in section 57-50-02.

§ 21. Amendment.) Section 57-52-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-02. Statement of Purpose.) The purpose of this chapter is to supplement chapters 57-54 and 57-54.1 by imposing a tax upon the sale or delivery of all fuels not taxed under said chapters.

§ 22. Amendment.) Subsection 4 of section 57-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuels as defined in section 57-54-03;

§ 23. Amendment.) Section 57-52-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-04. Tax Imposed — Exemptions.) There is hereby levied and imposed an excise tax of six cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, industrial or railroad purposes shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. The tax imposed herein shall be re-

fundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

§ 24. **Amendment.)** Section 57-52-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-05. Special Fuel Dealer's License Required.) It shall be unlawful for any person to act as a special fuel dealer in this state unless such person is a holder of an uncanceled special fuel dealer's license issued to him by the state tax commissioner. Application for a special fuel dealer's license shall be made to the state tax commissioner and a separate license shall be required for each separate place of business or location where special fuels are regularly sold, delivered, or placed into the tanks of bulk supply vehicles for delivery into supply tanks of special fuel users. Such application shall be filed upon a form prepared and furnished by the state tax commissioner and shall contain such information as the state tax commissioner in his discretion shall require.

§ 25. **Amendment.)** Section 57-52-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-06. Special Fuel Dealer's Bond.) No special fuel dealer's license shall be issued to any person or continued in force unless such person has furnished a surety bond in such form and amount as the state tax commissioner shall require, but not less than the amount of five hundred dollars, to secure his compliance with this chapter and the payment of all taxes, interest, and penalties due or to become due hereunder.

§ 26. **Amendment.)** Section 57-52-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-07. Issuance in Term of Licenses—Fees.) Upon receipt of the application and bond in proper form and upon the payment by the applicant of a special fuel dealer's license fee of ten dollars, the state tax commissioner shall issue to the applicant a license to act as a special fuel dealer. The state tax commissioner may refuse to issue a special fuel dealer's license to any person who formerly held such a license but which was revoked prior to the time of filing the application, or who is a subterfuge for the real party of interest whose license prior to the time of filing of the application has been revoked, or upon other sufficient cause being shown. Before such refusal the state tax commissioner shall grant the applicant a hearing

and give him at least ten days' written notice of the time and place thereof. Each special fuel dealer's license shall be valid until suspended or revoked for cause or otherwise canceled. No special fuel dealer's license shall be transferable.

§ 27. Amendment.) Section 57-52-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-08. Revocation, Cancellation, and Surrender of License and Bond.) The state tax commissioner may revoke the license of any special fuel dealer for reasonable cause. Before revoking any such license the state tax commissioner shall notify the licensee to show cause within fifteen days of the date of the notice why such license should not be revoked; provided, however, that at any time prior to and pending such hearing the state tax commissioner may, in the exercise of reasonable discretion, suspend such license. The state tax commissioner shall cancel any license at act as a special fuel dealer immediately upon the surrender thereof by the holder.

§ 28. Amendment.) Section 57-52-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-09. Special Fuel Dealer's Records.) For each location where special fuel is sold or delivered to any special fuel user the special fuel dealer making such sale or delivery shall prepare and maintain such records as the state tax commissioner may reasonably require with respect to all sales and deliveries, and with respect to inventories, receipts, purchases, sales, or other dispositions of special fuel. The records required under this section shall be retained for a minimum period of three years and shall be available at all reasonable times for examination by the state tax commissioner.

§ 29. Amendment.) Section 57-52-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-10. Monthly Returns and Payments.) For the purpose of determining the amount of his liability for the tax herein imposed each special fuel dealer shall file with the state tax commissioner on forms prescribed by the tax commissioner, a monthly tax return. Such returns shall contain a sworn statement to the effect that the statements and claims contained therein are true and are made under the penalties of perjury. The return shall show, with reference to each location at which special fuel is sold, delivered or placed by such dealer, such information as the state tax commissioner may reasonably require for the proper administration and enforcement of this

chapter. The special fuel dealer shall file such return on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the state tax commissioner and postmarked before midnight of the final filing date. The state tax commissioner may, for good cause, grant a taxpayer a reasonable extension of time for filing such returns. The tax imposed by this chapter shall be computed by each special fuel dealer by multiplying the rate of tax per gallon provided in this chapter by the number of gallons of special fuel sold or delivered by him to special fuel users. The monthly tax return shall be accompanied by remittance covering the tax due hereunder on special fuels sold or delivered to special fuel users during the preceding month.

§ 30. Amendment.) Section 57-52-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-52-11. Distribution of Tax.)** All money collected by the state tax commissioner under the provisions of this chapter shall be transferred to the state treasurer who shall credit seventy-nine percent of all such money so received to the state highway department construction fund and such moneys are hereby appropriated for use by the state highway department in the construction and reconstruction of highways, roads, streets, and bridges of this state under the jurisdiction of the state highway department.

From and after July 1, 1961, the balance of the money so received by the state treasurer shall be distributed as follows:

1. An amount equal to the sum credited and transferred to the county highway aid fund from the imposition and collection of such tax for the fiscal year which ended June 30, 1960, shall be credited by the state treasurer to the county highway aid fund and be distributed to the counties on or before the first day of August each year in the manner, and for the purpose provided for in section 57-54-15 of the North Dakota Century Code; provided, however, that in no event, shall any county receive, under the provisions of this subsection, an amount in excess of the sum dispersed to it during the fiscal year ending June 30, 1960; and
2. All money in excess of the amount referred to in subsection 1 of this section shall be distributed as follows:

***Note:** Section 4 of chapter 304, 1967 S.L., also amends section 57-52-11.

- a. Fifty percent of such excess shall be credited by the state treasurer to the county highway aid fund and distributed to the counties on or before the first day of August of each year in the manner set forth in subsection 1 of this section; and
- b. The balance of such excess is hereby appropriated and shall be distributed by the state treasurer on or before the first day of August of each year on a per capita basis to the incorporated cities and villages of this state, to be used by such incorporated cities and villages solely for construction, reconstruction, repair and maintenance of public streets and highways, the allocation to be based upon the population of each incorporated city and village according to the last federal decennial census, or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city or village incorporated subsequent to the last such federal census, and warrants shall be drawn payable to the treasurers of such cities and villages.

§ 31. Amendment.) Section 57-52-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-12. Refusal or Failure to File Return or Pay Tax When Due—Deficiencies—Penalties.) In case any special fuel dealer refuses or fails to file a return required by this chapter within the time prescribed by section 57-52-10, there is hereby imposed a penalty of three dollars or a sum equal to two percent of the tax due, whichever is greater, together with interest at the rate of one percent per month on the tax due, for each calendar month or fraction thereof during which such refusal or failure continues. The state tax commissioner, in his discretion for good cause shown, may waive the penalty provided by this section. Where a special fuel dealer files a return but fails to pay in whole or in part the tax due hereunder, there shall be added to the amount due and unpaid, interest at the rate of one percent per month or fraction thereof from the date such tax was due to the date of payment in full thereof. If it be determined by the state tax commissioner that the tax reported by any special fuel dealer is deficient, he shall proceed to assess the deficiency on the basis of information available to him and there shall be added to this deficiency interest at the rate of one percent per month or fraction thereof from the date the return was due.

§ 32. Amendment.) Section 57-52-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-13. Determination If No Return Made.) If any special fuel dealer, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the state tax commissioner shall, on the basis of information available to him, determine the tax liability of the special fuel dealer for the period during which no return was filed, and to the tax thus determined the state tax commissioner shall add the penalty and interest as provided in section 57-52-12. An assessment made by the state tax commissioner pursuant to this section or to section 57-52-12 shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by fair preponderance of evidence that it is erroneous or excessive, as the case may be.

§ 33. Amendment.) Section 57-52-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-14. Fraudulent Return.) If any special fuel dealer shall file a false or fraudulent return with intent to evade the tax imposed by this chapter, there shall be added to the amount of the deficiency, determined by the state tax commissioner, a penalty equal to ten percent of the deficiency together with interest at two percent per month, or fraction thereof on such deficiency, from the date such tax was due to the date of payment, in addition to all other penalties prescribed by law. Except in the case of a fraudulent return or of willful neglect or refusal to make a return, every deficiency shall be assessed under section 57-52-12 within three years after the first day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

§ 34. Amendment.) Section 57-52-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-15. Erroneously or Illegally Collected Taxes.) In the event that any taxes, penalties, or interest imposed by this chapter have been erroneously or illegally collected from a special fuel dealer, the state tax commissioner may permit such special fuel dealer to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment, or shall present a voucher to the department of accounts and purchases for payment of the amount erroneously or illegally collected and a warrant-check shall be prepared by that department drawn on the state treasurer payable to such special fuel

dealer. Such refund shall be paid to the special fuel dealer from undistributed funds received from the tax imposed by this chapter.

§ 35. Amendment.) Section 57-52-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-16. Presumption.) For the purpose of enforcing the provisions of this chapter it shall be prima facie presumed that all special fuel received by a special fuel dealer and placed into storage or dispensing equipment normally designed to transfer and meter such fuel into the fuel tanks of motor vehicles, was in fact resold and delivered to special fuel users. The state tax commissioner shall have authority to require that all such storage or dispensing equipment normally used to meter and transfer special fuels into the fuel tanks of motor vehicles be metered by such suitable sealed metering device as may be prescribed by him.

§ 36. Amendment.) Section 57-52-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-17. Rules and Regulations — Administration.) The state tax commissioner shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof for both special fuel dealers and special fuel users. The state tax commissioner may examine the records of special fuel dealers and special fuel users and make other such investigations as he may deem necessary in the administration and enforcement of this chapter.

§ 37. Amendment.) Section 57-53-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-03. Collection and Payment of Tax.) The tax imposed by section 57-53-02 shall attach at the time of sale of any special fuel by any special fuel dealer to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided.

§ 38. Amendment.) Section 57-53-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-05. Records and Returns — Penalties and Interest — Powers of State Tax Commissioner.) 1. A special fuel dealer shall keep such records and shall make such monthly returns

and payments of the tax to the state tax commissioner, in the matter, at the time, and pursuant to similar procedures as are provided in sections 57-52-09 and 57-52-10 insofar as those sections are not inconsistent with the provisions of this chapter.

2. For failure or refusal to keep such records, file monthly returns and make payments of the tax to the state tax commissioner as herein provided, a special fuel dealer shall be subject to the same penalties and interest as are provided in sections 57-52-12, 57-52-13 and 57-52-14.

3. The state tax commissioner, in his discretion, and for good cause shown, may waive the penalty for failure or refusal to file a return within the time required by this chapter or grant a reasonable extension of time for filing such a return. The state tax commissioner shall have power to revoke or cancel the license of any special fuel dealer under the conditions and after notice as provided in section 57-52-08; assess deficiencies in the tax; determine the tax when returns are not filed as required by this chapter; permit credit for or authorize refund of erroneously or illegally collected taxes, penalties or interest imposed by this chapter from undistributed funds received under this chapter, all in the manner and to the same extent as provided in sections 57-52-12, 57-52-13, 57-52-14, and 57-52-15, insofar as the provisions of those sections are consistent with this chapter.

4. The state tax commissioner shall enforce the provisions of this chapter and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement of this chapter for both the special fuel dealer and the special fuel user, and he may examine the records of special fuel dealers and special fuel users and make such investigations as he may deem necessary in the administration and enforcement of this chapter.

§ 39. **Amendment.**) Section 57-53-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-10. Liquefied Petroleum Gas Dealers—License—Fee—Permits—Bond.) It shall be unlawful for any person to act as a wholesale dealer in special fuel known as liquefied petroleum gas in this state unless such person is a holder of an un-canceled special liquefied petroleum gas dealer's license issued to him by the state tax commissioner, in addition to complying with all other provisions of this chapter. Application for such license shall be made to the state tax commissioner and a separate license shall be required for each separate place of business or location where such liquefied petroleum gas is regularly sold, delivered or placed into tanks of bulk supply

vehicles for delivery into supply tanks of retail liquefied petroleum gas dealers or users. The cost of this license shall be ten dollars, which amount shall accompany each application, upon a form prepared and furnished by the state tax commissioner, containing such information as the state tax commissioner in his discretion shall deem necessary, together with a surety bond in such form and amount as the state tax commissioner shall require, but not less than the amount of five hundred dollars.

Whenever any person deals only in the retail selling of liquefied petroleum gas, the provisions of sections 57-53-04 and 57-53-05 shall not apply, but in lieu thereof each liquefied petroleum gas retail dealer shall be required to make application to the state tax commissioner for a liquefied petroleum gas retail dealer's permit. The cost of such permit issued by the state tax commissioner shall be one dollar and shall expire June thirtieth of every odd-numbered year. Each liquefied petroleum gas retail dealer shall be required to make collections of the special fuels excise tax levied under the provisions of section 57-53-02, and shall transmit all taxes collected by him to the state tax commissioner quarterly. The state tax commissioner shall furnish report forms requiring such information as he deems necessary for the efficient administration of this section, such report to accompany the transmittal of all taxes collected by liquefied petroleum gas retail dealers.

§ 40. Amendment.) Subsection 6 of section 57-54-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Commissioner" shall mean the state tax commissioner of this state; and

§ 41. Amendment.) Section 57-54-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-04. Dealer Required to Secure License.) No person shall engage in business in this state as a dealer in motor vehicle fuel unless he holds an unrevoked license issued by the state tax commissioner authorizing him to engage in such business.

§ 42. Amendment.) Section 57-54-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-05. Form and Contents of Application for Dealer's License—Fee—Bond.) To procure a license as a dealer in motor vehicle fuel, an applicant shall file with the state tax

commissioner an application upon a form prescribed and furnished by the state tax commissioner. Such application shall contain:

1. The name under which the applicant intends to transact business;
2. If a partnership, the name and address of each of the several persons constituting the firm;
3. If a domestic corporation, the corporate name, the date of incorporation, and the names of the directors and corporate officers;
4. If a foreign corporation, the corporate name, the state where and the time when incorporated, the name of the resident agent, the location of each place of business, and the date on which such business was established; and
5. Any other information the state tax commissioner may require.

Such application shall be signed and verified by the owner of the business, if an individual, partnership, or unincorporated association, and by any authorized officer, if a corporation. At the time of applying for a license, the applicant shall pay to the state tax commissioner as a license fee the sum of two dollars. Such fee shall be paid into the state treasury and credited to the general fund. The state tax commissioner, if he deems it necessary, may require a dealer, as a condition precedent to the issuance of a license, to furnish a bond guaranteeing the payment of the motor fuel tax collected by the dealer in an amount not less than one thousand dollars. Such bond shall be subject to approval by the state tax commissioner.

§ 43. Amendment.) Section 57-54-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-06. License—Contents—Authority Conferred.) Upon the filing of an application for a license to engage in business as a dealer in motor vehicle fuel, and the payment of the fee therefor, the state tax commissioner shall issue to the applicant a license which shall authorize him to engage in business in this state as a dealer, as defined in section 57-54-03, until the thirtieth day of June of the odd-numbered year following the date of issuance of the license, unless the license shall be revoked within that period by the state tax commissioner as provided by law.

§ 44. **Amendment.)** Section 57-54-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-07. Report by Dealer to State Tax Commissioner.) Each dealer in motor vehicle fuel who shall engage, in his own name, or in the name of any other person, in this state, in the sale or use of motor vehicle fuel, not later than the twenty-fifth day of each calendar month, shall render to the state tax commissioner, on the form prescribed, prepared, and furnished by the state tax commissioner a statement witnessed by two witnesses, of the number of gallons of motor vehicle fuel sold, used, received and delivered by him during the preceding calendar month. If the dealer is a domestic corporation, the statement shall be signed by the president or secretary, and if a foreign corporation, by the resident general agent, attorney-in-fact, or by a chief accountant or officer. If the dealer is a firm, or an association of individuals, the statement shall be made by the managing agent or owner. Such report shall contain a statement of the quantities of motor vehicle fuel sold, used, received and delivered within this state from the dealer's place of business, and if any such motor vehicle fuel has been sold and delivered by the dealer to customers in the original package, whether in tank car, barrel, or other package, and in the form and condition in which the same was imported, the statement shall show the amount of motor vehicle fuel so sold and delivered, and the names and addresses of the persons to whom the same was sold and delivered.

§ 45. **Amendment.)** Section 57-54-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-09. Sale in Original Package—Invoice—Delivery of Copies.) Whenever a dealer in motor vehicle fuel makes a sale in the original package in which the fuel was imported, he shall deliver to the purchaser thereof an invoice of such fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold and delivered and whether or not the dealer has collected the tax on such fuel. Such dealer shall transmit to the state tax commissioner, at the time that the statement required by section 57-54-07 is rendered, duplicate copies of all invoices issued and delivered by him to purchasers during the period covered by the statement.

§ 46. **Amendment.)** Section 57-54-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-11. Failure to File Report—Revocation of License—Excuse for Delay.) If the holder of a license to sell motor fuel at any time shall either refuse or neglect to file the monthly report required to be filed, or pay the full amount of the tax as required by this chapter, the state tax commissioner forthwith shall revoke such license and shall notify the holder thereof promptly by a notice sent by registered or certified mail to the post office address of such holder as the same appears in the state tax commissioner's records. However, if such report is filed and the tax paid within ten days after the date it becomes due and if it is established under oath that the delay was due to accident or justifiable oversight, then the state tax commissioner may continue such license in full force and effect.

§ 47. **Amendment.)** Section 57-54-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-12. Conditions Precedent to Reinstatement of License.) If the license of a dealer has been revoked, he, before another license will be issued to him, must pay to the state tax commissioner the amount of the delinquent tax, with penalties and costs remaining unpaid by such dealer, and must file with the state tax commissioner a surety bond upon which such dealer shall be the obligor. Such bond must be in such amount as the state tax commissioner shall determine but not to exceed three times the amount of the state tax on all gasoline sold by such dealer during the preceding month, and not less than two thousand dollars. The bond shall run to the state of North Dakota and shall be conditioned for the prompt filing of true reports and the payment of the full amount of the tax at the times, in the manner, and at the place required under the provisions of this chapter. If any such dealer shall fail to file the monthly report required promptly and to pay the full amount of the tax due after having filed a surety bond as in this section provided, the state tax commissioner may require such dealer to furnish such other and further bond as shall be deemed necessary, conditioned to secure at all times the payment of any tax due to the state under the provisions of this chapter. Upon the failure to file such additional bond the state tax commissioner forthwith shall revoke the license of such dealer.

§ 48. **Amendment.)** Section 57-54-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-13. Payment of Tax.) The tax collected upon motor vehicle fuel in any calendar month shall be remitted by the dealer when the statement required in section 57-54-07 is

rendered only on that fuel sold or used during such calendar month. The state tax commissioner shall receipt to the dealer therefor, and forthwith shall pay over all of the money thus received to the state treasurer.

§ 49. Amendment.) Section 57-54-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-54-15. Allocation of One-sixth of Motor Fuel Tax for County Highways—Disbursement.)** One-sixth of the motor fuel tax received by the state treasurer shall be credited to a "county highway aid fund". During the months of January, April, July and October of each year, the state treasurer upon warrant of the state tax commissioner shall apportion and disburse all of the moneys of such county highway aid fund not previously disbursed, including interest received thereon, to the various counties of the state in the proportion which the number of motor vehicles registered in each county shall bear to the total number of motor vehicles registered in all of the counties of the state during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles. The moneys so received by each county shall be set aside in a separate fund under the jurisdiction and control of the board of county commissioners and shall be appropriated and applied solely by such counties in the construction, reconstruction, maintenance, and repair of the county highways, bridges, and culverts thereon, and city streets leading up to and connected with federal aid and state aid highways.

§ 50. Amendment.) Section 57-54-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-16. Deduction of Cost of Collecting.) On making payments to the state tax commissioner as is provided in this chapter, the dealer first shall deduct from the amount of tax due two percent thereof to cover the cost of collecting the tax and transmitting the same to the state tax commissioner.

§ 51. Amendment.) Section 57-54-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-17. Records of Dealer Subject to Inspection.) The records of all purchases, receipts, sales, distribution and use of motor vehicle fuel of every dealer, shall be retained for a period of three years, and shall be open to inspection by the state tax commissioner or by any agent or employee authorized by him during business hours.

*Note: Section 8 of chapter 304, 1967 S.L., repealed section 57-54-15.

§ 52. Amendment.) Section 57-54-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-20. State Tax Commissioner May Formulate Rules.) The state tax commissioner may formulate such reasonable rules and regulations as he may deem necessary for the administration and enforcement of motor vehicle fuel tax law, and also motor fuel use tax law as found in chapter 57-52.

§ 53. Amendment.) Section 57-54-22 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-22. Sales of Motor Vehicle Fuels to Retail Dealers in Motor Vehicle Fuels.) Whenever a wholesale dealer in motor vehicle fuels makes a sale to a retail dealer he shall credit the retail dealer with one percent of the total state motor vehicle fuel tax applied to the gallonage sold on the face of the delivery invoice at the time of delivery of the motor vehicle fuel in consideration of evaporation and shrinkage losses and the retailer's cost of collection of the tax. On making payments to the state tax commissioner as provided in this chapter the dealer shall deduct the total credit allowance granted on sales to retail dealers in motor vehicle fuels under the provisions of this section, in addition to other deductions allowed, from the amount of tax due.

§ 54. Amendment.) Subsection 7 of section 57-54.1-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Commissioner" means the state tax commissioner of this state;

§ 55. Amendment.) Section 57-54.1-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-07. Importer for Use License Required.) Before any person imports fuel into this state in the fuel supply tank of any motor vehicle, such person shall file application for and obtain an importer for use license. Provided, however, persons exempted from the tax levied hereunder shall not be required to obtain such license. All applications for an importer for use license shall be on forms furnished by the commissioner and shall contain such information as the commissioner shall require.

§ 56. Amendment.) Section 57-54.1-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-08. Importer for Use Bond.) Before any such application may be approved by the commissioner, the applicant must file a bond payable to the state of North Dakota, conditioned upon compliance with the provisions of this chapter and the rules and regulations of the state tax commissioner in a sum of not more than twenty thousand dollars, but not to exceed twice the amount of the estimated quarterly liability for tax under this chapter. The amount of any such bond required may be increased or reduced by the commissioner at any time. The commissioner may, at his discretion, waive the filing of a bond by any person who regularly purchases for the operation of his motor vehicles sufficient fuel on which the fuel excise tax has been paid to the state of North Dakota to equal or exceed the fuel used in the operation of his motor vehicles in North Dakota or by any other person as to whom the commissioner, upon investigation, finds such bond may be waived without impairing or jeopardizing the revenue collections of this state. An importer for use who is also a licensed fuel dealer under the fuels tax chapter may have his obligation under this section and under sections 57-52-06 and 57-54-05 covered by one bond in an amount of not less than three thousand dollars nor more than twenty thousand dollars.

§ 57. Amendment.) Section 57-54.1-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-09. Issuance and Display.) Upon approval of such bond and investigation by the commissioner, if the statements contained in the application shall be found to be true, and if the commissioner shall be satisfied that the application is made in good faith, he shall issue to said applicant an importer for use license bearing a distinctive number and specifying the terms and conditions thereof. The license or permit or a photocopy thereof must be carried in the passenger compartment of each motor vehicle operated by each importer for use at all times when each such motor vehicle is in this state.

§ 58. Amendment.) Section 57-54.1-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-10. Assignment Forbidden.) All such licenses issued by the commissioner pursuant to this chapter shall not be subject to assignment or transfer, nor shall such license be construed to be either a franchise or irrevocable.

§ 59. Amendment.) Section 57-54.1-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-11. Revocation, Cancellation and Surrender of License and Bond.) All such licenses issued by the commissioner shall be in force so long as the holder thereof has in force a bond as required by law or rules and regulations deposited with the commissioner, or until such license is suspended, surrendered, or revoked for cause by the commissioner. The commissioner may at any time, upon showing of failure to comply with the provisions of this chapter or rules and regulations promulgated hereunder, suspend or completely revoke any license or registration issued hereunder upon five days' notice to the grantee thereof and on opportunity to be heard.

§ 60. Amendment.) Section 57-54.1-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-13. Authority of the Commissioner.) The commissioner is specifically authorized at his discretion to issue authorization relieving fuel dealers of the duty of collecting the tax imposed under chapters 57-52 and 57-54 from persons who are licensed as importers for use under the importer for use tax law, and who consistently purchase in North Dakota from fuel dealers more fuel than is consumed in the propulsion of their motor vehicles in this state. The commissioner further may formulate such reasonable rules and regulations as he may deem necessary for the administration and enforcement of this importer for use tax law.

§ 61. Amendment.) Section 57-56-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-02. Administration.) The state tax commissioner shall be charged with the administration of this chapter. He shall be authorized and empowered to employ such assistance as may be necessary for the efficient administration and enforcement of the chapter and shall also have the power to make such reasonable rules and regulations relating to the administration and enforcement of the chapter as may be deemed necessary and expedient. He shall be authorized and empowered to determine the purchase price of such aviation gasoline, jet motor fuel and other motor fuel used by aircraft and at the time of approving a refund of the taxes imposed by chapters 57-54 and 57-52 on such fuel, he shall deduct the tax imposed in this chapter from the amount of such refund.

§ 62. Amendment.) Section 57-56-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-03. Distribution of Proceeds.) The tax collected by the state tax commissioner under this chapter shall be deposited by the state tax commissioner in the state treasurer's office who shall deposit said funds in the special fund known as state aeronautics commission construction fund, and such funds are hereby appropriated to the North Dakota aeronautics commission and shall be disbursed by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the North Dakota aeronautics commission and approved by the state auditing board for the purpose of the matching of any funds made available by political subdivisions of this state, the state, or of the United States, for airport construction or improvement projects including airport administration buildings, hangars, and for construction of landing strips for aircraft, purchase of sites for airports or landing fields and easements; for improvements, maintenance, clearing of sites, marking, lighting, engineering and navigational aids, all related to aeronautics in such amounts as the North Dakota aeronautics commission may determine and upon such projects as the North Dakota aeronautics commission may approve.

§ 63. Repeal.) Sections *6-01-21.1, **6-01-21.2, 6-01-21.3, 6-01-21.4, 6-01-22, 6-01-23, 6-01-24, 6-01-26, 6-01-27, and 6-01-28 of the North Dakota Century Code are hereby repealed.

§ 64. Effective Date.) The provisions of this Act shall not become effective until July 1, 1969.

Approved March 14, 1967.

*Note: Section 1 of chapter 83, 1967 S.L., amends section 6-01-21.1.

**Note: Section 1 of chapter 84, 1967 S.L., amends section 6-01-21.2.

CHAPTER 377

H. B. No. 889

(Erickson(4), Skaar, Weber, Lillehaugen, Dahlen)

THEODORE ROOSEVELT ROUGH RIDER AWARDS

AN ACT

To amend and reenact section 54-02-07 of the North Dakota Century Code, providing for the Theodore Roosevelt rough rider awards.

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

§ 1. Amendment.) Section 54-02-07 of the 1965 Supplement to the North Dakota Century Code is amended and reenacted to read as follows:

54-02-07. Theodore Roosevelt Rough Rider Award.) There shall be awarded by the state of North Dakota in the name of the legislative assembly and the citizens of this state, an award to be known as the Theodore Roosevelt rough rider award. Such award shall be the highest recognition by the state of present or former North Dakotans who have been influenced by this state in achieving national recognition in their fields of endeavor, thereby reflecting credit and honor upon this state and its citizens. The award shall not be for momentary success, but only for genuine achievements of lasting significance. It is the intent of this Act to guard the dignity of the rough rider award for recipients of the past as well as the future. The award, of a type and design approved by the governor, shall be awarded by the governor upon the concurrence of the secretary of state and the superintendent of the state historical society. A record of all such awards and pertinent information in regard to each recipient shall be retained by the secretary of state.

Approved March 4, 1967.

CHAPTER 378

H. B. No. 933

(Sanstead (By request))

STATE FOSSIL

AN ACT

To provide a state fossil.

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

§ 1. State Fossil — Teredo Petrified Wood.) The teredo petrified wood shall be the official fossil of the state of North Dakota.

Approved March 15, 1967.

CHAPTER 379

S. B. No. 405
(Committee on Delayed Bills)

LEGISLATIVE MEMBERS' EXPENSE ALLOWANCE

AN ACT

To amend and reenact section 54-03-20 of the North Dakota Century Code, relating to allowances for expenses of members of the legislative assembly, and declaring an emergency.

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

§ 1. Amendment.) Section 54-03-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. Allowance for Living and Other Expenses of Members of the Legislative Assembly.) Each member of the legislative assembly of the state of North Dakota shall be entitled to, and shall receive the sum of twenty-five dollars a day, as reimbursement for his living expenses, including meals, lodging, uncompensated travel, and other necessary expenses, for each calendar or natural day during any legislative session. Such expenses shall be paid at the end of each month during such legislative session.

In addition, each such member shall receive during the term for which he was elected, for uncompensated expenses incurred in the execution of his public duties during the biennium, the sum of thirty-five dollars a month, which sum shall be payable every six months commencing on July 1, 1967, and every six months thereafter. Provided, however, should a member die or resign from office during his term, he shall be paid only the allowances provided for in this section for the period for which he was actually a member.

Attendance at any session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowances for the purposes set forth in this section and shall be excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to January 1, 1967.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1967.

CHAPTER 380

S. B. No. 232
(Decker, Melland, Litten, Trenbeath, Chesrown, Sands,
(Kelly(15), Luick, Stroup)

CONFLICT OF INTEREST REPEAL

AN ACT

To repeal section 54-03-21 of the North Dakota Code precluding persons doing business with the state of North Dakota or its political subdivisions from serving in the legislative assembly.

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

§ 1. Repeal.) Section 54-03-21 of the North Dakota Century Code is hereby repealed.

Filed March 13, 1967.

Note: Chapter 380 was vetoed by the governor on February 23, 1967. This veto was subsequently overridden by the senate and house of representatives on February 25, 1967.

CHAPTER 381

H. B. No. 543
(Backes, Giffey, Link, Streibel)
(From LRC Study)

FORM OF ENROLLED BILLS

AN ACT

To amend and reenact subsection 3 of section 54-04-02 of the North Dakota Century Code, relating to the form of enrolled bills, and declaring an emergency.

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

§ 1. Amendment.) Subsection 3 of section 54-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The enrolling shall be done on a typewriter in such form or style, and on paper of such a character and size, as the legislative research committee shall prescribe;

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved January 13, 1967.

CHAPTER 382

SENATE BILL No. 32

(Christensen, Lips)

(Recommended by Legislative Audit and Fiscal Review Committee)

TRAVEL EXPENSE OF STATE OFFICERS AND EMPLOYEES

AN ACT

To create and enact section 54-06-09.1 which provides the penalty for certification of a false claim, and to amend and reenact section 54-06-09 of the North Dakota Century Code, relating to travel expense of state officers and employees.

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

§ 1. **Amendment.**) Section 54-06-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-09. Mileage and Travel Expense of State Officers and Employees.) State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, shall be allowed and paid for mileage and travel expense the following amounts:

1. The sum of eight and one-half cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle or by private airplane except that if only one person shall engage in such travel in a motor vehicle or private airplane exceeding at any geographical point one hundred fifty miles beyond the borders of this state, reimbursement shall be limited to six and one-half cents per mile for the out-of-state portion of the travel. When any such motor vehicle or airplane is owned by the state or by any department or political subdivision thereof, no allowance shall be made or paid for such mileage;
2. When travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other employee shall file with the director of the department of accounts and purchases an itemized statement showing the

mileage traveled, the days when and how traveled, the purpose thereof and such other information and documentation as may be prescribed by rule of the state auditing board or specifically requested by such board, verified by his certification. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by the auditing board.

§ 2. **Penalty.)** Section 54-06-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-06-09.1. Certification of Unlawful Expense and Traveling Account — Penalty — Action for Violations.) Any person willfully certifying an unlawful expense and traveling account is guilty of a felony and shall be punished by imprisonment in the penitentiary for not more than five years.

Approved February 1, 1967.

CHAPTER 383

S. B. No. 236
(Holand)

GOVERNOR'S AUTHORITY REGARDING HIGHWAY SAFETY ACT

AN ACT

Authorizing the governor to contract and to do other things necessary in behalf of this state to secure the full benefits available to this state under the Federal Highway Safety Act of 1966.

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

§ 1. **Highway Safety Assent.)** The governor, in addition to other duties and responsibilities conferred upon him by the Constitution and laws of this state, is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the Federal Highway Safety Act of 1966, and in so doing, to require compliance by state agencies and political subdivisions; to cooperate with federal and state agencies, agencies private and public, interested organization, and with individuals; to effectuate the purposes of that enactment and any and all subsequent amendments thereto. The governor shall be the official of this state having ultimate responsibility for dealing with the federal government with respect to programs and activities pursuant to the National Highway Safety Act

of 1966 and any amendments thereto. To that end he shall coordinate the activities of any and all departments and agencies of this state and its subdivisions, relating thereto.

Approved March 14, 1967.

CHAPTER 384

S. B. No. 90
(Wenstrom)

AUTHORITY OF EMERGENCY COMMISSION

AN ACT

To amend and reenact sections 54-16-03 and 54-16-04 of the North Dakota Century Code, relating to authority of emergency commission.

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

§ 1. **Amendment.)** Section 54-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-03. Unlawful to Expend More Than Appropriated—May Secure Order from Commission for Use of Other Funds—Deficit Void.) No state officer, or board, commissioners, directors, or other officers having the control or management of any public institution of the state, or any state activity or enterprise, or having the responsibility of disbursing or expending any money appropriated by the state, shall expend, or agree or contract to expend in connection therewith any amount in excess of the sum appropriated therefor, or use an amount appropriated for any specific purpose or fund or for any other purpose without first having secured from the emergency commission an order duly made and entered authorizing such use of the fund. The emergency commission shall receive information from the department of accounts and purchases with respect to all emergency requests. Any debt or deficit created shall be absolutely void.

§ 2. **Amendment.)** Section 54-16-04 of the 1965 Supplement of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-04. May Order Transfer of Moneys Between Funds—Order May Draw from State Treasury.) Whenever it is made to appear to the emergency commission by an itemized, verified petition of any board, commission, or officer authorized

to expend public funds, and after receiving information from the director of the department of accounts and purchases, that an emergency exists, the emergency commission shall assume that an emergency exists and may order money transferred from one fund to another fund belonging to or appropriated from the same institution or board or the same state enterprise, or in an extremity may authorize money to be drawn from the state treasury to meet the emergency until such time as the legislative assembly can make an appropriation available therefor. The term "emergency" shall be limited to calamities or unforeseen happenings subsequent to the time such appropriation was made and which were clearly not within the contemplation of the legislative assembly and the governor.

Approved March 14, 1967.

CHAPTER 385

H. B. No. 553

(Davis, Reimers)

(Recommended by Legislative Audit and Fiscal Review Committee)

ACCEPTANCE OF FEDERAL FUNDS

AN ACT

To create and enact section 54-16-04.1 of the North Dakota Century Code, relating to powers of the emergency commission, and providing for an effective date.

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

§ 1.) Section 54-16-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-16-04.1. May Authorize Acceptance and Disbursement of Certain Moneys.) The emergency commission with the advice and counsel of the executive office of the budget may authorize the state treasurer to receive, between legislative sessions, any moneys for new programs not appropriated by the legislative assembly that are made available by the federal government, or any agency thereof, which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize any state agency, department, board, or institution to expend such moneys from the date such moneys become available until July first following the next regular legislative session; provided such expenditures must be consistent with state law and with the terms of the grant, and provided further

that the program shall not commit the legislative assembly for matching funds for future bienniums unless the program has first been approved by the legislative assembly. No department, institution or agency shall expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this Act.

Approved February 22, 1967.

CHAPTER 386

S. B. No. 76
(Wenstrom)

REPORTS TO EMERGENCY COMMISSION

AN ACT

To amend and reenact section 54-16-06 of the North Dakota Century Code, relating to reports by boards and officers when expenditures are authorized by the emergency commission.

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

§ 1. **Amendment.**) Section 54-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-06. Report to Emergency Commission and Legislative Audit and Fiscal Review Committee by Board or Officer When Expenditure Authorized.) The chairman of any board, or any officer authorized by the emergency commission to make extraordinary expenditures, or to make use of funds transferred or made available through an order of the emergency commission, shall make an itemized report to the secretary of the emergency commission and the chairman of the legislative audit and fiscal review committee under oath, at the close of each quarter during which any money shall have been expended or any liability incurred pursuant to the order of the emergency commission. The report shall show the amount of money expended and for what purpose, and what contracts have been made involving the expenditure of money in the future. The time covered by such report shall be the quarter next preceding the date of said report.

Approved February 27, 1967.

CHAPTER 387

S. B. No. 324
(Ringsak)

ACCEPTANCE OF DONATIONS FOR CHAPEL
AT GRAFTON STATE SCHOOL

AN ACT

To authorize the board of administration to accept donations, gifts, grants, and bequests for the construction of a chapel at Grafton state school, and providing for a special fund in the state treasury for such purpose, and making an appropriation.

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

§ 1. Board of Administration to Accept Donations, Gifts, Grants, Bequests for Construction of Chapel at Grafton State School—Funds Kept in State Treasury—Investment—Appropriation.) The board of administration is hereby authorized to accept donations, gifts, grants, and bequests from any source offered or tendered to such board for the purpose of constructing and equipping an all-faiths chapel at Grafton state school. The board shall deposit such donations, gifts, grants, and bequests with the state treasurer who shall keep such donations, gifts, grants, and bequests in a special fund in the state treasury for the construction and equipping of such chapel. The state treasurer shall furnish such information relating to such fund upon the request of the board. The state treasurer may invest such funds in certificates of deposit as authorized by law for the benefit of the fund. Any gifts received in the form of certificates of deposit shall remain in such form and with the issuing bank until needed by the board of administration for building purposes. Whenever the total amount of money in such fund shall reach one hundred ten thousand dollars, the board of administration shall have such chapel constructed and equipped at the Grafton state school from the moneys in such fund, and there is hereby appropriated to the board of administration such sum upon the conditions prescribed in this Act.

Approved March 14, 1967.

CHAPTER 388

S. B. No. 327

(Nething, Torgerson, Christensen)

COMMUNICATIONS SYSTEM

AN ACT

Directing the board of administration to develop and supervise communication systems for state agencies, state institutions and political subdivisions; creating a communications advisory committee; defining duties; establishing procedures for financing; authorizing cancellation of existing services; setting forth fees to be paid by counties; authorizing transfer of appropriations; acceptance of federal funds and issuance of rules; and making an appropriation.

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

§ 1. Statement of Legislative Intent.) It is the intent of the legislative assembly to increase governmental efficiency with improved communication systems at minimal costs. Increased coordination, direction, and control of the various systems of state communications can result in more efficient and more effective use of public funds. It is the intent of the legislative assembly to give the board of administration, together with the advisory committee named herein, the authority necessary to achieve the most efficient communications system possible within the appropriations made by the legislative assembly. State agencies and state institutions shall cooperate with the board of administration to fulfill the desired objectives stated herein.

§ 2. Board of Administration to Improve Communications Systems.) The board of administration shall be responsible for coordination, direction, control, development and implementation of modern systems of communications including, but not limited to, a combined automatic telecommunications system, law enforcement and emergency teletypewriter service, highway emergency system, remote control radio circuits, highway operations teletypewriter line, capital centrex system, and an emergency government disaster communications system. The duties prescribed herein shall be deemed supplementary to those delegated to the board of administration by other provisions of law.

§ 3. Creation of Communications Advisory Committee.) There is hereby created an advisory committee on communications to advise and assist the board of administration in the execution of the provisions of this Act. The committee shall consist of the attorney general, superintendent of the highway

patrol, adjutant general, chief engineer of the public service commission, director of the state radio system, commissioner of higher education, director of the department of accounts and purchases, highway commissioner, motor vehicle registrar, proper representatives from the various law enforcement organizations, and such other persons as the committee may designate. Meetings of the committee shall be called by the chairman of the board of administration who shall act as chairman of the committee.

§ 4. Duties of Board.) The board of administration, with the advice of the advisory committee shall:

1. Establish two-way traffic between the state capitol and major cities on the combined automatic telecommunication system and wide area telephone service to eliminate the cost of field personnel and field offices calling at toll rates to any telephone within the state.
2. Secure direct telephone communications to Washington, D.C., to eliminate toll rates and provide for proper controls to prevent misuse.
3. Develop a broad law enforcement communications system utilizing teletypewriter service to every sheriff's office, highway patrol headquarters and district offices, the state crime bureau, the state radio system and other agencies related to crime control and criminal apprehension.
4. Establish a highway emergency assistance system so stranded motorists and other persons facing emergencies can obtain assistance without delay.
5. Establish a highway operations teletypewriter system linking all division offices of the highway department.
6. Provide more efficient telephone facilities in the state capitol with advanced switching systems which permit direct calls on a 24-hour basis in and out of the various agencies of state government.
7. Improve the present emergency and disaster communications facilities by interconnecting the systems herein proposed to common communication systems.
8. Review communications developments as they affect educational television, telelecture, and other similar telephonic uses for education and make appropriate recommendations to the legislative assembly, the governor and state institutions and agencies.

9. Review, with the assistance of the department of accounts and purchases, the use of communication systems in high speed computer operations.
10. Conduct conferences and meetings with various state agencies, departments, institutions, and political subdivisions to review proposals and provide information on improving communication systems in government.
11. Implement such additional improvements in the state communication systems as are feasible and within the limitations of the funds available in the communications account, hereinafter provided for.

§ 5. Board May Revoke Existing Services to Implement New Systems.) Other provisions of law notwithstanding, the board of administration may replace any existing communication systems or devices being used by state agencies or institutions provided such replacement will improve the effectiveness and efficiency of the state communications program.

§ 6. Board to Receive Payment for Service.) The board of administration shall periodically request payment from the various agencies and institutions for communications services being provided unless an appropriation for such services has already been provided by the legislative assembly. Agencies and institutions shall make payment to the communications account of the board of administration for said services within the limitations of budgets fixed by the legislative assembly.

§ 7. Counties to Pay for Law Enforcement System.) The board of administration shall be paid by each county for fifty percent of the cost of the law enforcement teletypewriter system, with charges to begin accruing on the first day the system becomes operational. Payments shall be made on the basis of the following schedule of charges:

1. Counties having a population of 5,000 or less shall pay twenty-four dollars per month.
2. Counties having a population more than 5,000 but less than 10,000 shall pay forty-eight dollars per month.
3. Counties having a population more than 10,000 but less than 15,000 shall pay seventy-two dollars per month.
4. Counties having a population in excess of 15,000 shall pay ninety-six dollars per month.

Said payments shall be deposited in the communications account of the board of administration.

§ 8. Payment—Other Law Enforcement Agencies.) Other law enforcement agencies may participate in the law enforce-

ment teletypewriter service upon payment for their portion of this service at actual cost.

§ 9. Special Communications Account.) The board of administration shall establish in the office of the state treasurer a special account, which shall be called the communications account, for the purpose of receiving payments for the various communication services furnished agencies, institutions and political subdivisions. The costs of developing, implementing and replacing communication systems shall be defrayed with moneys from said account, pursuant to provisions of law governing the expenditure of state funds. The board of administration shall not request payment from agencies or institutions for telephone services provided for by previous appropriation to the board of administration.

§ 10. Transfer of Funds Authorized.) Appropriations made by the Fortieth Legislative Assembly to the various state agencies and institutions for the purpose of paying for communications services shall be transferred to the communications account of the board of administration when and if the board replaces said services and orders such transfer for the purpose of executing the duties herein delegated.

§ 11. Acceptance of Federal Funds.) Funds received by a state agency or institution from the government of the United States for the purpose of matching state funds or for the purpose of improving normal or emergency communication systems may be accepted or ordered by the board of administration to be deposited in the communications account, unless such funds have been specifically appropriated by the legislative assembly for some other purpose or unless transfer would be contrary to the federal regulations governing such grant. The board may make application for any public or private grants available for the improvement of communication systems.

§ 12. Promulgation of Rules and Regulations.) The board of administration shall issue rules and regulations to establish standard procedures and practices in the development and use of the communications systems herein named.

§ 13. Appropriation.) In addition to other moneys provided for the communications account of the board of administration under this Act, there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$60,000 or so much thereof as may be necessary, to the communications account of the board of administration for the purpose of carrying out the provisions of this Act during the biennium beginning July 1, 1967, and ending June 30, 1969.

Approved March 14, 1967.

CHAPTER 389

S. B. No. 110
(Larsen)

LIBRARY SERVICES

AN ACT

To amend and reenact section 54-24-08 of the North Dakota Century Code, relating to library services.

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

§ 1. Amendment.) Section 54-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-08. Library Commission Contracts for Library Services.) The state library commission is hereby authorized and empowered to cooperate with, and to contract with municipalities, governmental subdivisions and agencies of the state of North Dakota and other states of the United States, in the extension of library services.

Approved February 24, 1967.

CHAPTER 390

S. B. No. 201
(Meschke, Wenstrom)

COUNTY REMITTANCE OF STATE TAXES

AN ACT

To amend and reenact section 54-27-04 of the North Dakota Century Code, relating to the duties of the county treasurer in transmitting to the state taxes collected for the state, and relating to the duties of and the procedures to be followed by the state treasurer and the director of accounts and purchases upon receiving the state taxes collected by the county, and to repeal sections 54-27-05 and 54-27-06 of the North Dakota Century Code, relating to the procedures on state taxes collected and transmitted.

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

§ 1. Amendment.) Section 54-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-04. County Treasurers to Transmit State Taxes Collected and to Furnish Department of Accounts and Purchases Monthly Statements of Taxes Collected.) The county treasurer, as an agent of the state, shall, on or before the fifteenth of each month, transmit in full to the state treasurer all state taxes collected in the previous month together with a report thereon in duplicate. The original of said report shall be forwarded with the remittance to the state treasurer and the duplicate thereof to the department of accounts and purchases.

The state treasurer shall forthwith furnish a receipt to the county treasurer for the funds received, send a duplicate of the receipt to the county auditor, and cover said amounts to the state taxes distribution fund.

The director of the department of accounts and purchases, on or before the last day of same month shall, by drawing appropriate warrants on the state taxes distribution fund, transfer such funds to the general fund and other funds in accordance with the purposes for which the taxes were levied and collected.

§ 2. Repeal.) Sections 54-27-05 and 54-27-06 of the North Dakota Century Code are hereby repealed.

Approved February 27, 1967.

CHAPTER 391

S. B. No. 182
(Longmire)

INTERIM COMPENSATION OF LEGISLATORS

AN ACT

To amend and reenact section 54-35-10 of the North Dakota Century Code, relating to compensation of members of the legislative research committee and legislative audit and fiscal review committee.

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

§ 1. Amendment.) Section 54-35-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-10. Compensation of Members.) The members of the committee and the members of any subcommittee of the committee shall be compensated for the time spent in attendance at sessions of the committee and of its subcommittees at the

rate of twenty dollars per day and shall also be paid for their actual expenses incurred in attending said meetings and in the performance of their official duties.

Approved March 14, 1967.

CHAPTER 392

S. B. No. 293

(Sorlie, Larson(17), Becker, Robinson, Luick)
(From LRC Budget Committee)

CENTRALIZED DATA PROCESSING, STATE
PURCHASING FUND

AN ACT

To amend and reenact section 54-44-11 of the North Dakota Century Code, relating to a purchasing department operating fund, the provision of data processing services, and providing an appropriation.

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

§ 1. **Amendment.**) Section 54-44-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44-11. Purchasing Department Operating Fund Creation.) 1. The department of accounts and purchases shall establish a state purchasing department operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies and to provide data processing services to the state departments and agencies. The sum of thirty-five thousand dollars is hereby transferred from the state general fund to the state purchasing department operating fund to provide the initial working capital and is hereby appropriated for supplies and equipment as a standing appropriation. Any surplus in this fund in excess of forty-five thousand dollars on each June thirtieth shall be transferred to the state general fund.

2. Each office, agency, or institution provided with data processing service shall pay to the department of accounts and purchases a proportionate share of the cost of such service, as determined by the department of accounts and purchases, based on actual costs and actual usage. The amounts paid to the department of accounts and purchases by the various offices, agencies, and institutions shall be deposited in the purchasing department operating fund and will be expended in accordance with legislative appropriations.

§ 2. **Appropriation.**) There is hereby appropriated out of any funds in the purchasing department operating fund the sum of three hundred seven thousand dollars or so much thereof as may be necessary for salaries, fees, supplies, and other expenses for the operation of a centralized data processing system for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 81,000.00
Fees and services.....	200,000.00
Supplies and materials.....	5,000.00
Equipment	1,000.00
Emergency	20,000.00
Total	\$307,000.00

Approved March 14, 1967.

CHAPTER 393

S. B. No. 320
(Holand)

PRINTING OF BUDGET REPORT

AN ACT

To amend and reenact section 54-44.1-08 of the 1965 Supplement to the North Dakota Century Code, relating to the printing of the budget report.

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

§ 1. **Amendment.**) Section 54-44.1-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-08. Printed Budget Report—Contents—When Submitted to Legislature.) A printed budget report shall be transmitted by the governor to all holdover legislators and legislators-elect not later than three days after the commencement of the session of the legislative assembly. Such report shall not be required to be printed under the third class printing contract provided for in section 46-02-05 of the North Dakota Century Code. The budget director shall negotiate a contract for the printing of the budget report, so as to ensure delivery of same as provided in this section. Such reports shall contain the budget and revenue proposals recommended by the governor and the information required in subsections 1,

2, 3, 5, and 6 of section 54-44.1-06 and all other data and information as the governor shall decide. The budget director shall make available any and all information regarding budget data to the governor, the legislature and its designees, legislators, and to the governor-elect as may be requested. The governor may present any additional budget information in any manner to the legislative assembly as he may desire.

Approved March 14, 1967.

CHAPTER 394

S. B. No. 31

(Christensen, Lips)

(Recommended by Legislative Audit and Fiscal Review Committee)

CONTROL OVER RATE OF EXPENDITURES

AN ACT

To amend and reenact section 54-44.1-12 of the 1965 Supplement to the North Dakota Century Code, relating to the control over rate of expenditures.

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

§ 1. Amendment.) Section 54-44.1-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-12. Control Over Rate of Expenditures.) The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of the executive branch of the state government. Execution shall mean the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of semiannual, quarterly, or monthly allotments. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director must find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.

2. The payment or the obligations incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reliable evidence available.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

Approved March 3, 1967.

CHAPTER 395

S. B. No. 275
(Ringsak)

STATE EMPLOYEES' RETIREMENT SYSTEM

AN ACT

To create and enact section 54-52-25 of the North Dakota Century Code, relating to the North Dakota state employees' retirement system and to amend and reenact section 54-52-03, subsection 6 of section 54-52-04, and sections 54-52-13, 54-52-16, and 54-52-22 of the North Dakota Century Code, relating to the North Dakota state employees' retirement system.

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

§ 1. **Amendment.**) Section 54-52-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-03. Governing Authority.) A state agency is hereby created to constitute the governing authority of the system to consist of a board of five persons known as the retirement board. No more than one member of the board shall be in the employ of a single department, institution or agency of the state.

1. One member of the board shall be appointed by the governor to serve a term of five years. The appointee shall be a North Dakota citizen who is not a state employee and who by experience is familiar with money management. The citizen member shall be chairman of the board.

2. One member of the board shall be appointed by the attorney general from his legal staff and shall serve a term of five years.
3. Three board members shall be elected from among the state employees. The initial elected members shall be elected for terms which shall expire two years, three years, and four years after the date of establishment. Future members shall be elected to a five-year term, pursuant to an election called for by the board.
4. Members of the board shall receive an honorarium of twenty-five dollars for each month during which the board has been in session. This shall be in addition to any other pay or allowance due the member, plus an allowance for expenses they may incur through service on the board.
5. A board member shall serve a five-year term and until his successor qualifies. Each board member shall be entitled to one vote, and three of the five board members shall constitute a quorum. Three votes shall be necessary for resolution or action by the board at any meeting.
6. The state auditor and the state examiner shall be ex officio, nonvoting, and advisory members of the board.

§ 2. **Amendment.)** Subsection 6 of section 54-52-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract shall authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system shall be invested by the board. Said moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, agreements, contracts, or instruments of value shall be delivered to the bank of North Dakota, or its agents. Except for dispensing money to the funding agent or agents, the board shall expend money only for administrative purposes by preparing an appropriate voucher and submitting such vouchers to the department of accounts and purchases and as limited by the appropriation first made by the legislative assembly.

§ 3. **Amendment.)** Section 54-52-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-13. Deposit of Moneys.) All moneys including, but not limited to, membership fees, employers' contributions, employees' contributions, grants, donations, legacies, and devises for the benefit of the fund, shall be deposited in the state employees' retirement fund with the state treasurer.

All of said moneys, not otherwise appropriated, are hereby appropriated for the purpose of making investments for the employees' retirement fund and to make payments to beneficiaries under the program.

§ 4. Amendment.) Section 54-52-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-16. Insurance Contracts — Trust Agreements.) For the purpose of establishing the funding agent or agents the board may enter into an insurance contract, agreement or purchase an insurance policy or policies covering all or any part of the retirement plan adopted, provided the assuring company is a North Dakota corporation or authorized to do business in the state of North Dakota, or may enter into a contract with any qualified trust company or companies, or combinations of insurance contracts and trust contracts.

§ 5. Amendment.) Section 54-52-22 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-22. Interpretation Clause.) This chapter shall not be construed so as to commit the state of North Dakota, or the agency to any liability either moral or legal to any benefits to any beneficiary under the plan or plans resulting from enactment of this chapter, nor as an exemption from any regulatory laws of the state of North Dakota.

§ 6.) Section 54-52-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-25. Limitation of Powers.) The funding agent or agents selected by the board shall not delegate any powers or duties to any person, partnership, or corporation. In the event the funding agent or agents employ an investment counsel, such counsel shall be limited to giving advice only and shall take no part directly or indirectly in the purchase or sale of any securities of the fund, and shall exercise no power of attorney regarding any securities of the fund.

Approved March 15, 1967.

CHAPTER 396

S. B. No. 319

(Holand, Trenbeath, Hofstrand, Robinson, Roen, Goldberg,
(Decker, Nasset, Meschke)

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

AN ACT

To establish the upper great plains transportation institute and provide for its powers and duties and making an appropriation.

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

§ 1. Upper Great Plains Transportation Institute—Establishment.) There is hereby established an upper great plains transportation institute. Such institute shall be administered by and in conjunction with the North Dakota state university. The president and administration of the North Dakota state university shall be responsible for the selection of personnel for and the administration of the institute.

§ 2. Advisory Transportation Council—Composition.) There is hereby established a transportation council which shall serve in an advisory capacity to the upper great plains transportation institute. The director of the institute shall serve as the executive secretary of the council and it shall elect its own chairman. The council membership shall consist of one representative from and appointed by the following organizations:

1. The greater North Dakota association.
2. The public service commission.
3. The North Dakota farm bureau.
4. The North Dakota farmers union.
5. The livestock industry council.
6. The North Dakota wheat commission.
7. The North Dakota economic development commission.
8. The North Dakota farmers grain dealers association.
9. The North Dakota railway lines.
10. The North Dakota motor carriers association.
11. The North Dakota aeronautics commission.
12. A traffic counsel selected by the members of the council appointed by the above-named organizations.

Members of the council shall serve without pay, but they may receive reimbursement for actual and necessary expenses incurred in the performance of their duties, if authorized by the director.

The council shall consult with the institute in matters of policy affecting the administration of this Act and in the development of transportation in the state of North Dakota. The council shall meet at the call of the executive director or upon the written request of three or more members of the council.

§ 3. Purpose — Powers and Duties.) The purpose of the institute shall be to conduct and supervise research in the field of transportation in order to facilitate acquisition of a wider knowledge and understanding of marketing factors associated with the geographical location of the state of North Dakota and the upper great plains in the field of transportation. Research areas shall include the study of commodity movements into and out of the state in order to better know and understand the various factors affecting the marketing of area products. The institute shall make public its findings and conclusions in regard thereto together with any suggested solutions. In the administration of its duties under this Act, the institute shall consult and coordinate with various governmental and nongovernmental agencies, shipper and producer groups, and carriers, in this state and in other states, interested in the field of transportation.

§ 4. Gifts and Grants.) In order to carry out its duties under this Act, the institute may contract for and accept private contributions and gifts and grants in aid from the federal government and other sources.

§ 5. Appropriation.) There is hereby appropriated out of any unappropriated moneys in the general fund in the state treasury, the sum of \$63,976.80 or so much thereof as may be necessary for salaries and expenses of the upper great plains transportation institute, for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 54,976.80
Fees and services.....	3,000.00
Supplies and materials.....	6,000.00
Total	<u>\$ 63,976.80</u>

Approved March 6, 1967.

CHAPTER 397

H. B. No. 628

(Aas, Aamoth, Peterson(1), Sanstead, Unruh, Duncan, Allen,)

(Dahl, Peterson(5), Eagles)

COUNCIL ON ARTS AND HUMANITIES

AN ACT

To establish a council on the arts and humanities, and defining its powers and duties.

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

§ 1. Legislative Purpose and Policy.) It is the finding of the legislative assembly that many of our citizens lack the opportunity to view, enjoy, or participate in living theatrical performances, musical concerts, operas, dance and ballet recitals, art exhibits, examples of fine architecture, and the performing and fine arts generally. It is further found that, with increasing leisure time, the practice and enjoyment of the arts are of increasing importance and that the general welfare of the people of the state will be promoted by giving further recognition to the arts as a vital aspect of our culture and heritage and as a valued means of expanding the scope of our educational programs.

It is declared to be the policy of the state to join with private patrons and with institutions and professional organizations concerned with the arts to ensure that the role of the arts in the life of our communities will continue to grow and will play an evermore significant part in the welfare and educational experience of our citizens.

§ 2. Council—Members—Appointment.) There is hereby created and established a state council, to be known as the "North Dakota council on the arts and humanities", which shall consist of fifteen members, broadly representative of all fields of the performing and fine arts, who are to be appointed by the governor by and with the consent of the senate as provided in this Act, from among the citizens of North Dakota who are widely known for their competence and experience in connection with the performing and fine arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups, concerned with or engaged in the production or presentation of the performing and fine arts generally.

§ 3. Term of Office—Confirmation of Appointments by Senate—Filling Vacancies—Chairman—Vice Chairman—Expenses.) The term of office of each member shall be five years; provided, however, that of the members first appointed, five shall be appointed for terms of one year, five for terms of three years, and five for terms of five years. The governor shall make the initial appointments to the council within thirty days of the effective date of this Act and those members who were appointed initially and who are still serving by the next legislative session shall be confirmed or rejected by the senate and if confirmed they shall serve for the remainder of their original terms. When the legislative assembly shall be in session at any time within six months prior to the date of the expiration of the term of any member of the council, the governor shall appoint his successor within the first five days of such session and upon the confirmation of such appointment by the senate, such successor shall take office on the date of the expiration of the term of the incumbent. When a vacancy occurs upon the council otherwise than by the expiration of the term of office of a member thereof, when the legislative assembly is not in session, or when the term of a member of the council expires more than six months after the adjournment of the session of the legislative assembly held prior to the date of the expiration of such term, the governor shall appoint a person to fill such vacancy who shall serve until the opening of the next session of the legislative assembly succeeding such interim appointment, at which time such appointment shall be certified to the senate for confirmation. If the appointment is not confirmed by the thirtieth legislative day of such session, the office so filled by interim appointment shall be deemed vacant and the governor shall appoint another for such office and the same proceedings shall be followed as provided in this section until a nomination has been confirmed by the senate. If the vacancy to be filled occurs otherwise than by the expiration of the term of office of a member of the council, the appointment shall be made for the balance of the term only. No person who has been nominated by the governor in accordance with this section and whose appointment the senate has failed to confirm shall be eligible for an interim appointment. Other than the chairman, no member of the council who serves a full five-year term shall be eligible for reappointment during a one-year period following the expiration of his term. The governor shall designate a chairman and a vice chairman from the members of the council who shall serve at the pleasure of the governor. The chairman shall be the chief executive officer of the council. The members of the council shall not receive any compensation for their services, but shall be reimbursed for their travel expenses in the same manner and at the same rates as provided

by law for other state officials for necessary travel in the performance of their duties as members of the council.

§ 4. Other Employees—Appointment—Compensation.) The chairman with the approval of the council may employ such officers, experts, and other employees as may be needed to carry out the provisions of this Act. Such persons shall serve at the pleasure of the chairman and he shall fix their compensation.

§ 5. Duties of Council.) The duties of the council shall be:

1. To stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation therein;
2. To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;
3. To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources; and
4. To encourage and assist freedom of artistic expression essential for the well-being of the arts.

§ 6. Hearings — Contracts — Gifts.) The council is hereby authorized and empowered to hold public hearings, to enter into contracts, within the limit of funds available therefor, with individuals, organizations, and institutions for services furthering the educational objectives of the council's programs; to enter into contracts, within the limit of funds available therefor, with local and regional associations for joint endeavors furthering the educational objectives of the council's programs; to accept gifts, contributions, and bequests of unrestricted funds from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the educational objectives of the council's programs; to make and sign any agreements and to do and perform any acts that may be necessary to carry out the purposes of this Act. The council may request and may receive from any department, division, board, bureau, commission, or agency of the state such information and data as will enable it to properly carry out its powers and duties.

§ 7. **Funds from National Foundation on the Arts.)** The council is the official agency of this state to receive and disburse any funds made available by the national foundation on the arts.

§ 8. **Legislative Intent Relating to State Funds.)** It is the further intent of the legislative assembly that the North Dakota council on the arts and humanities shall be operated in such a manner that it shall be self-sustaining from its activities and from income from sources other than general appropriations from the general fund of the state treasury.

§ 9. **Report.)** The council shall make a biennial report to the governor, secretary of state, and the legislature not later than October first prior to each legislative session.

Approved March 14, 1967.

CHAPTER 398

S. B. No. 89
(Holand, Litten)

DATA PROCESSING STUDY

AN ACT

Relating to a study by the legislative research committee for the development of a plan for an integrated data processing and data retrieval system for the state of North Dakota, temporarily limiting the acquisition of new data processing equipment, and providing for an appropriation.

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

§ 1. Existing Data Processing Costs and Systems.)

WHEREAS, present costs of rental of data processing equipment by agencies and institutions of the state exceed twenty thousand dollars per month or in excess of four hundred eighty thousand dollars per biennium; and

WHEREAS, at the present rate of increase in the purchase or rental of such data processing equipment, it is reasonable to anticipate that by the year 1970 the biennial rental or purchase costs will be approximately one million dollars; and

WHEREAS, there does not exist in this state an overall plan or program for the integration of data processing equipment and programs for all agencies and institutions, the full integra-

tion of existing equipment to ensure maximum utilization, or the assurance that only compatible equipment is procured or compatible systems developed; and

WHEREAS, unless such overall integrated data processing plan is developed, followed by an intensive study and program of implementation, the development of duplicating or non-compatible programs and procurement of duplicating or non-compatible equipment will result in hundreds of thousands of dollars of unnecessary and wasteful expense to the state during future bienniums, with the total of such unnecessary costs eventually totaling millions of dollars; and

WHEREAS, while the advantages of improved services to the citizens, more efficient governmental administration, and lower governmental costs can unquestionably result from the proper use of data processing and information retrieval equipment, these benefits will be substantially negated unless an integrated and fully compatible system of data processing and information retrieval is developed; and

WHEREAS, new and efficient methods of data and information retrieval should be considered in order to ensure that proper use of suitable equipment and methods for data and information retrieval is recognized and integrated with the data processing system to the extent feasible.

§ 2. **Legislative Research Committee Study.**) The legislative research committee is hereby authorized and directed to carry on a study of data processing and information retrieval during the 1967-1969 biennium for the purpose of reviewing the state's data processing efforts to date; an inventory of existing equipment and applications of such equipment as well as plans of the various agencies and institutions for expansion in the use of such equipment and the rental or purchase of new equipment; projections of equipment capabilities and probable future applications and functions; the degree of utilization of existing equipment and equipment to be acquired; the compatibility of existing and planned equipment and systems; and such other matters as may be necessary for the development of an economical, efficient, compatible and feasible integrated data processing and information retrieval system for the state and its agencies and institutions, and the management, administrative, and legislative action necessary to implement and achieve such overall system.

The committee may select and employ such consultants as may be necessary to carry out such study, and each department, agency, and institution of the state shall provide such aid, information, and assistance as the committee may request.

The committee shall report its findings and recommendations to the Forty-first Legislative Assembly, together with such legislation as may be necessary to carry out such recommendations.

§ 3. Appropriation.) There is hereby appropriated to the legislative research committee out of any money in the general fund in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars, or so much thereof as may be necessary, to be expended in accordance with chapter 54-35 of the North Dakota Century Code for the purpose of carrying out the study provided for in sections 1 and 2 of this Act.

§ 4. Limitations Upon Acquisition of New Data Processing Equipment.) Each department, agency, or institution, except the North Dakota employment security bureau, a wholly federally financed state agency which is participating in a national automatic data processing program, which may desire to rent, purchase, or otherwise acquire data processing equipment during the biennium beginning July 1, 1967, and ending June 30, 1969, shall, before proceeding with such action, submit its request in writing, accompanied by full justification for the need of such equipment, to the director of the department of accounts and purchases, who must approve such request in writing before such department, institution, or agency shall be authorized to proceed with the rental, purchase, or acquisition of such equipment. The director of the department of accounts and purchases shall not approve any such requests for authority to rent, purchase, or acquire additional or new data processing equipment unless, after full study of the justification submitted and such further study or independent evaluation and testing as he shall deem necessary, he shall find that such equipment would be fully and economically useable in an integrated data processing system; that such equipment and the material, data, and system designed for its use is fully compatible with all other major data processing equipment used by the state or contemplated for use of the state; that overriding reasons exist for the immediate rental, purchase, or acquisition of such equipment; that such equipment rental, purchase, or acquisition cannot be postponed until after the completion of the study provided for in this Act without very substantial damage and injury to the best interests of the state; and, that such work or program for which the equipment is requested could not be carried on by other existing equipment of the state during the period of the study provided for in this Act. He shall inform the legislative research committee of such findings.

Approved March 15, 1967.

CHAPTER 399

H. B. No. 693

(Haugland, Solberg(9), Streibel, Link, Aamoth, Wilkie, Brown)

CANADIAN CENTENNIAL COMMISSION

AN ACT

Providing for a temporary commission for the purpose of making arrangements for functions honoring the Dominion of Canada and the province of Manitoba in their centennial year, and providing an appropriation, and declaring an emergency.

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

§ 1. Temporary Commission.) The governor shall appoint two members of the North Dakota senate and three members of the North Dakota house of representatives as a temporary centennial commission for the purpose of arranging suitable functions through which the state of North Dakota may honor the Dominion of Canada and the province of Manitoba in their centennial year. Such commission shall select its own chairman, and shall, consistent with law, determine its rules of operation and procedure.

The commission, in the course of carrying out its duties, shall make arrangements for suitable ceremonies and functions to be held at the international peace garden in honor of the Dominion of Canada and the province of Manitoba, and shall extend an invitation to all members of the legislature of the province of Manitoba and other provincial officials of such province to attend such functions and ceremonies.

All departments, institutions, and agencies shall give such reasonable assistance and support to the commission in carrying out its duties as the commission may request.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to the commission as created in section 1 of this Act, to be expended by such commission in carrying out the provisions of this Act.

§ 3. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1967.

CHAPTER 400

H. B. No. 804

(Link, Streibel, Giffey, Reimers)

TRANSFER OF STATE MILL PROFITS

AN ACT

To transfer certain moneys from the accumulated profits of the state mill and elevator association to the general fund of this state.

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

§ 1. Transfer.) There is hereby transferred to the general fund of this state the sum of one million five hundred thousand dollars from the accumulated profits of the state mill and elevator association.

Approved March 14, 1967.

CHAPTER 401

S. B. No. 397

(Wenstrom, Melland, Kelly(24), Kautzmann, Rait)
(Committee on Delayed Bills)

TRANSFER OF GRAND FORKS FAIR GROUNDS

AN ACT

Providing for the transfer of the Grand Forks fair grounds from the state of North Dakota, and the North Dakota state fair association, a defunct corporation, to the county of Grand Forks, and for the purpose of clearing title to said described property by the state of North Dakota.

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

§ 1. State of North Dakota — Transfer of State Lands — Grand Forks Fair Grounds.) In 1905 the North Dakota state fair association, a now defunct corporation, having conveyed to the state of North Dakota for fair association purposes the hereinafter described real property with the stipulation that if the five thousand dollar biennial appropriation for a state fair at Grand Forks, North Dakota, was discontinued, said property would revert back to the grantor; and the state of North Dakota having discontinued its biennial five thousand dollar appropriation for a state fair at Grand Forks, North

Dakota, in 1932; and there being no successor in interest to the North Dakota state fair association; and Grand Forks county or its agent having operated, improved, and used the hereinafter described real property for state and local fair purposes; the governor of the state of North Dakota, on behalf of the state of North Dakota, for the consideration of one dollar paid in hand plus other good and valuable consideration is hereby directed to quitclaim, release, and demise to county of Grand Forks all right, title and interest of the state of North Dakota in the following described tract of real property, to wit:

The south half of the southwest quarter of section thirty-three, township one hundred fifty-two, range fifty, excepting therefrom a strip of land one hundred feet wide, extending across said land, near the southern boundary thereof, conveyed to the Duluth & Manitoba Railroad Company, for right-of-way (see book "H" of deeds, page 397). Also three small pieces of land at the southwest corner of said land, and south of the railroad right-of-way aforesaid, being respectively seventy-five feet, fifty feet, and one hundred feet wide, all in one body being two hundred twenty-five feet east and west and extending from railroad to highway on the south and containing about one acre more or less, which said lands were conveyed to the congregation of the children of Israel and to Frank Ephraim, trustee. Together with all rights, hereditaments, and appurtenances thereto.

Approved March 14, 1967.

CHAPTER 402

S. B. No. 281
(Wenstrom)

TRANSFER OF HISTORICAL SITES

AN ACT

To transfer certain historical sites now under the control of the state park service to the state historical board, and making an appropriation.

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

§ 1. Transfer of Historic Sites.) Fort Buford, Whitestone Hill battlefield and Fort Rice are hereby transferred from the control of the North Dakota park service to the state historical board.

§ 2. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$23,000.00, or so much thereof as may be necessary, to the state historical board of the state historical society, for the improvement and maintenance of the Fort Buford, Whitestone Hill battlefield and Fort Rice, for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Fort Buford	\$ 14,000.00
Whitestone Hill battlefield.....	8,000.00
Fort Rice	1,000.00
	<hr/>
Total	\$ 23,000.00

Approved March 15, 1967.

CHAPTER 403

H. B. No. 814
(Olienyk)

TRANSFER OF DICKINSON SUBSTATION LAND

AN ACT

To authorize the state board of higher education to transfer the custody and control of certain land presently under the custody and control of the Dickinson substation of the North Dakota state agricultural experiment station to the Dickinson state college for use by said college for the construction and maintenance of a stadium and supporting facilities, providing an appropriation, and declaring an emergency.

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

§ 1.) The state board of higher education is hereby authorized to transfer the custody and control of certain land presently under the custody and control of the Dickinson substation of the North Dakota state agricultural experiment station to the Dickinson state college, which land is described and located as follows:

A tract of land situated in the west one-half of section four, township one hundred thirty-nine north of range ninety-six, west of the fifth principal meridian, Stark county, North Dakota, and more particularly described as follows: beginning at a point thirty-three feet east and three thousand one hundred ninety-nine feet south of the northwest corner of said section four, said point also lying nine feet north of the northwest corner of the college addition

to the city of Dickinson; thence east and parallel to the north line of said college addition a distance of one thousand three hundred sixty-eight and three-tenths feet to a point four feet west of the west line of the present grounds of Dickinson state college; thence north and parallel to the west line of the present grounds of Dickinson state college, a distance of nine hundred feet; thence west and parallel to the north line of said college addition, a distance of nine hundred feet; thence south and parallel to the west line of the present grounds of Dickinson state college, a distance of eight hundred sixty-eight feet; thence west and parallel to the north line of said college addition, a distance of four hundred sixty-eight and three-tenths feet; thence south and parallel to the west line of said section four, a distance of thirty-two feet to the point of beginning. Said tract contains eighteen and nine-tenths acres, more or less.

All documents necessary to carry out the provisions of this Act shall be executed by the governor and attested by the secretary of state.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$10,000.00 or so much thereof as may be necessary, to the state board of higher education for the purpose of purchasing property to replace, upon its transfer, the property authorized to be transferred by this Act from the custody and control of the Dickinson substation of the North Dakota state agricultural experiment station to the custody and control of Dickinson state college.

§ 3. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1967.

CHAPTER 404

S. B. No. 317
(Nething, Melland)

SALE OF STATE HOSPITAL LAND

AN ACT

Authorizing the state of North Dakota to sell, convey, and transfer certain described real properties held for the use and benefit of the state hospital of the state of North Dakota, and declaring an emergency.

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

§ 1.) The state public health officer of the department of public health is hereby authorized to sell at public auction in conformity with sections 54-01-05.1 and 54-01-05.2 of the North Dakota Century Code the following described real property, to wit:

All that part of the southwest quarter of section thirty-one, township one hundred forty, range sixty-three, bounded and described as follows: Beginning at a point in the middle of the James river about seven feet north of the southwest corner of said section 31, thence running north on the section line between said section 31-140-63 and section 36-140-64 to where said line again intersects the middle of the James river, thence southerly along the middle of the James river to the place of beginning, said tract containing two and two-tenths acres and being bounded on the west by the above-described section line and all other sides by the James river and located in the city of Jamestown, Stutsman county, North Dakota.

§ 2.) Upon the public sale for said property being completed as above provided, said real property shall be conveyed by quitclaim deed to said purchaser executed in the name of the state of North Dakota by the governor and attested by the secretary of state. Upon the sale of such land, the proceeds shall be deposited in the general fund in the state treasury.

§ 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 February 25, 1967.

CHAPTER 405

H. B. No. 656

(Aamoth, Duncan, McDonald(21), Jenkins)

CONVEYANCE OF FARGO FAIRGROUND LAND

AN ACT

To authorize the state board of higher education to convey certain land owned by the state of North Dakota, which land was formerly used for fairground purposes, and declaring an emergency.

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

§ 1.) The state board of higher education is hereby authorized to convey certain land owned by the state of North Dakota to the city of Fargo, which land is described and located in the

west forty feet of the east fifteen hundred and fifty feet of the north one-half of the northwest one-quarter of section thirty-one, township one hundred forty north, range forty-eight west, county of Cass, state of North Dakota,

which land was formerly used for fairground purposes. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed.

All documents necessary to carry out the provisions of this Act shall be executed by the governor and attested by the secretary of state.

§ 2. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 23, 1967.

CHAPTER 406

S. B. No. 142
(Butler, Goldberg)

CONVEYANCE OF LAND TO HIGHWAY DEPARTMENT

AN ACT

To authorize the state board of higher education to convey its interest in certain lands to the state highway department for use as highway rights-of-way.

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

§ 1.) The state board of higher education is hereby authorized to convey to the state of North Dakota for the use and benefit of the state highway department, its interest in certain lands described as follows:

The rights-of-way and other interests in land in the south half of section eighteen, township one hundred forty-seven north, range fifty west, fifth principal meridian, necessary for the construction of interstate highway number twenty-nine.

Approved February 24, 1967.

CHAPTER 407

S. B. No. 316
(Nething, Melland)

CONVEYANCE OF TRANSMISSION LINE EASEMENT

AN ACT

Authorizing the state department of health, mental health and retardation division, Jamestown state hospital, of the state of North Dakota, to sell, convey and transfer to the United States of America, certain described real property for the purpose of correcting a description of a certain transmission line easement, provide land for the Jamestown substation, and declaring an emergency.

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

§ 1.) The state department of health, mental health and retardation division, of the state of North Dakota, is hereby authorized for the consideration of two hundred dollars, and other good and valuable considerations, to convey to the

United States of America, a transmission line easement, provide land, in fee, for additional facilities at the Jamestown substation, and declaring an emergency covering the following described real property, to wit:

All located in the county of Stutsman, state of North Dakota: A strip of land over and across the northeast quarter of the northwest quarter, and the northwest quarter of the northeast quarter of section seven, township one hundred thirty-nine, north, range sixty-three, west, of the fifth meridian, more particularly described as follows: A strip of land one hundred twenty-five feet wide, being sixty-two and five-tenths feet wide on both sides of the following described centerline: Beginning at a point on the east line of the Jamestown substation site, seven hundred and one and two-tenths feet south and ten feet west from the north quarter corner of section seven, township one hundred thirty-nine north, range sixty-three west, fifth meridian, thence south eighty-nine degrees, twenty-five minutes, thirty seconds east, one thousand eighteen and five-tenths feet, thence south sixty-eight degrees, sixteen minutes, thirty seconds east, three hundred thirty-five and eight-tenths feet to a point on the east line of the northwest quarter of the northeast quarter of said section seven, eight hundred thirty-five and five-tenths feet south and one thousand three hundred twenty feet east from the north quarter corner of said section seven.

Also a strip of land situated in the northeast quarter of the northwest quarter of section seven, township one hundred thirty-nine north, range sixty-three west, fifth meridian, more particularly described as follows: beginning at a point nine hundred feet south and ten feet west from the north quarter corner of section seven, township one hundred thirty-nine north, range sixty-three west, fifth meridian, thence south thirty-four and eight-tenths feet, thence west seven hundred sixty-five feet, thence north thirty-four and eight-tenths feet, thence east seven hundred sixty-five feet to the point of beginning and containing sixty-one hundredths acres, more or less.

§ 2.) That said conveyance above authorized, shall contain a clause providing that if said property above described shall cease to be used for the purpose intended, that such property shall revert to the state of North Dakota, however, any improvements thereon may be removed at the time of such reversion. Upon execution of an easement upon such land the proceeds shall be deposited in the general fund in the state treasury.

§ 3. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1967.

CHAPTER 408

*S. B. No. 221
(Lips)

SALE OF MEDORA HIGHWAY BUILDING

AN ACT

To sell the North Dakota state highway maintenance building in Medora, and to construct a new maintenance building out of the funds derived therefrom, and declaring an emergency.

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

§ 1.) The North Dakota state highway commissioner is hereby authorized to sell that certain property described as all of that portion of block eleven in the original townsite of Medora, beginning at the southeast corner of block eleven, thence west eighty-six feet, thence north one hundred sixty feet, thence east eighty-six feet, south one hundred sixty feet, more or less, to the point of beginning, and all that portion of the west two point zero feet of main street of the village of Medora, North Dakota, being parallel to and adjacent to the south one hundred sixty point zero feet of block eleven, all of which is part of section twenty-seven, township one hundred forty north, range one hundred two west of the fifth principal meridian which property has been utilized as a maintenance building for the sum of twenty-six thousand seven hundred and sixty dollars, the appraised market value thereof.

§ 2.) There is hereby appropriated the sum of twenty-six thousand seven hundred and sixty dollars derived from the sale in section 1, or as much thereof as may be needed, to

***Note:** Senate Bill No. 221 as introduced contained a section 3 which reads as follows: "SECTION 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." The House and Senate Journals do not indicate that this section was deleted by amendment and the original bill contains this section. The enrolled bill signed by the governor does not contain the emergency clause. It therefore appears that an enrolling error was made, and that it was the intent of the legislative assembly that Senate Bill No. 221 be an emergency measure.

construct a maintenance building within one mile of the town of Medora at a site to be selected by the highway commissioner.

March 14, 1967.

CHAPTER 409

S. B. No. 81
(Kautzmann)

LEASE OF INDUSTRIAL SCHOOL LAND

AN ACT

Authorizing the board of administration to lease certain property now owned by the state and under the control of the state industrial school.

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

§ 1.) Whereas the board of administration, pursuant to chapter 366 of the 1963 Session Laws, was authorized to lease certain property to the Supercrete Industries, the board of administration is hereby further authorized to lease to the Supercrete Industries the following described lands and pursuant to the hereinafter mentioned conditions:

A tract of land lying in the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west, and the northwest quarter of section thirty-three, township one hundred thirty-nine north, range eighty-one west, in Morton county, North Dakota, more fully described as follows:

Beginning at a point on the south boundary line of the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west, said point being six hundred seventy-five feet east of the southwest corner of said southwest quarter of section twenty-eight; thence north along the east boundary line of auditors lot "E" of the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west, a distance of ninety-three and seven-tenths feet to the southerly right-of-way line of the northern pacific railroad company; thence easterly along the southerly right-of-way line of the northern pacific railroad company, a distance of one hundred and two-tenths feet; thence southeasterly on a line at an interior angle of 103° 01.6', a distance of eight hundred seventy-three and one-tenth feet; thence north-

westerly on a line at an interior angle of $33^{\circ} 50.2'$, a distance of two hundred nine and five-tenths feet; thence northwesterly on a line at an interior angle of $170^{\circ} 05.4'$, a distance of three hundred one and five-tenths feet; thence east along the south boundary line of auditors lot "B" of the northwest quarter of section thirty-three, township one hundred thirty north, range eighty-one west, at an interior angle of $55^{\circ} 31.9'$, a distance of fifty-nine feet; thence north along the east boundary line of auditors lot "B" of section thirty-three, township one hundred thirty-nine north, range eighty-one west, a distance of three hundred seventy feet to the point of beginning, said tract containing 2.85 acres more or less.

Such lease shall be for a term not to exceed twenty-one years at an annual rental payable in advance as may be approved by the state board of administration. The lease shall be upon such terms and conditions as the board of administration shall prescribe, but shall specifically contain provisions that such property shall only be used for the storage of materials and equipment of the Supercrete Industries and that the land shall be filled and leveled by such company as determined by the board.

Approved February 28, 1967.

CHAPTER 410

H. B. No. 770
(Halcrow)

ACCEPTANCE OF LAND FROM STATE OF MINNESOTA

AN ACT

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

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

§ 1. Acceptance by North Dakota of Cession of Property by Minnesota.) Whereas, due to the construction of a dam on the Red River of the North for industrial and municipal water supply purposes, an avulsion has occurred leaving a parcel of land described as:

Commencing at the southeast corner of section 17, township 159 north, range 50 west of the 5th principal meridian and thence proceeding northerly, along the east line of section 17,

a distance of 2639.22 feet, to the one-fourth section corner; thence deflecting left $90^{\circ} 00' 00''$ and proceeding westerly, across said section 17, to an intersection with the east line of section 18, a distance of 5,280.00 feet; thence deflecting left $4^{\circ} 49' 25''$ and proceeding westerly for a distance of 742.50 feet to the true point of beginning of the line to be described with said true point of beginning, at the time of the survey, being at the water's edge on the Minnesota side of the Red River of the North; thence deflecting right $120^{\circ} 39' 35''$ and proceeding northeasterly, a distance of 1288 feet more or less to the water's edge on the Minnesota side of the Red River of the North and there terminating, with said described tract containing approximately 8.99 acres lying wholly within government lot 1, section 18, township 159 north, range 50 west of the 5th principal meridian, county of Kittson, state of Minnesota,

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 thereto shall be vested in the city of Drayton, North Dakota.

Nothing contained in the provisions of this section 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 Pembina county, North Dakota, shall accept and record, without charge therefor, patents, deeds, or other evidences of ownership or interest in any lands recorded in Kittson 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.

The Act of the legislature of the state of Minnesota referred to in this section, together with this section, 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 1, 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.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 1, 1967.

LEGISLATIVE APPORTIONMENT LAW OF THE STATE OF NORTH DAKOTA

Note: The United States District Court, District North Dakota, Southwestern Division, in the case of **Paulson v. Meier**, 246 F. Supp. 36 (August 10, 1965), ruled that House Bill Number 566 of the Thirty-ninth Legislative Assembly, contained in chapter 337 of the 1965 Session Laws, to be a nullity because it did not meet the test of being the result of "a good faith effort to establish districts substantially equal in population", and thus did not comply with the constitutional requisites of the equal protection clause of the Federal Constitution. The court adopted its own apportionment law and declared it to be the legislative apportionment law of the state of North Dakota to continue in full force and effect until duly amended or reenacted in accordance with law. The Fortieth Legislative Assembly did not take any action in regard to the apportionment of the senate and house of representatives of the state of North Dakota. Therefore the legislative apportionment law of the state of North Dakota ordered by the Federal Court is reprinted below.

§ 1. State Legislative Apportionment.) The legislative districts of the state shall be formed, and senators and representatives shall be apportioned as follows:

1. The first legislative district shall consist of township one hundred fifty-two north, range one hundred west; townships one hundred fifty-three north of ranges one hundred and one hundred one west; townships one hundred fifty-four north of ranges one hundred and one hundred one west; township one hundred fifty-two north, ranges one hundred three and one hundred four west; townships one hundred fifty-three north, range one hundred two, one hundred three and one hundred four west; and townships one hundred fifty-four north, ranges one hundred two, one hundred three and one hundred four west, lying within the county of Williams, and shall be entitled to one senator and two representatives;
2. The second legislative district shall consist of the county of Divide and all of the county of Williams except the townships thereof which comprise the first legislative district, and shall be entitled to one senator and two representatives.
3. The third legislative district shall consist of the counties of Burke and Renville and townships one hundred fifty-seven north of ranges eighty-four, eighty-five, eighty-six, and eighty-seven west; township one hundred fifty-eight north, range eighty-seven west; townships one hundred fifty-nine north of ranges eighty-seven, eighty-eight, and eighty-nine west; townships one hundred sixty north of ranges eighty-seven, eighty-eight, and

- eighty-nine west; and township one hundred sixty-one north, range eighty-eight west lying within the county of Ward, and shall be entitled to one senator and two representatives;
4. The fourth legislative district shall consist of the county of Mountrail and townships one hundred fifty-one north of ranges eighty-five, eighty-six, and eighty-seven west; townships one hundred fifty-two north of ranges eighty-five, eighty-six, and eighty-seven west; townships one hundred fifty-three north of ranges eighty-five, eighty-six, and eighty-seven west; townships one hundred fifty-four north of ranges eighty-five, eighty-six, and eighty-seven west; townships one hundred fifty-five north of ranges eighty-five, eighty-six, and eighty-seven west; and townships one hundred fifty-six north of ranges eighty-five, eighty-six, and eighty-seven west lying within the county of Ward, and shall be entitled to one senator and two representatives;
 5. The fifth legislative district shall consist of townships one hundred fifty-five north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred fifty-six north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west; and townships one hundred fifty-seven north of ranges eighty-one, eighty-two, and eighty-three west, lying within the county of Ward, and shall be entitled to three senators and six representatives.
 6. The sixth legislative district shall consist of the county of Bottineau and townships one hundred fifty-eight north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; townships one hundred fifty-nine north of ranges seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west lying within the county of McHenry, and shall be entitled to one senator and two representatives;
 7. The seventh legislative district shall consist of townships one hundred fifty-one north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; townships one hundred fifty-two north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; townships one hundred fifty-three north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; townships one hundred fifty-four north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine and eighty west; townships one hundred fifty-five north of ranges seventy-five,

seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; townships one hundred fifty-six north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west; and townships one hundred fifty-seven north of ranges seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, and eighty west lying within the county of McHenry and townships one hundred fifty-one north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred fifty-two north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred fifty-three north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west; and townships one hundred fifty-four north of ranges eighty-one, eighty-two, eighty-three, and eighty-four west lying within the county of Ward, and shall be entitled to one senator and two representatives;

8. The eighth legislative district shall consist of the county of McLean, and shall be entitled to one senator and two representatives;
9. The ninth legislative district shall consist of the county of Rolette and townships one hundred fifty-seven north of ranges sixty-seven and sixty-eight west; townships one hundred fifty-eight north of ranges sixty-seven and sixty-eight west; townships one hundred fifty-nine north of ranges sixty-seven and sixty-eight west; townships one hundred sixty north of ranges sixty-seven and sixty-eight west; townships one hundred sixty-one north of ranges sixty-seven and sixty-eight west; townships one hundred sixty-two north of ranges sixty-seven and sixty-eight west; townships one hundred sixty-three north of ranges sixty-seven and sixty-eight west; and townships one hundred sixty-four north of ranges sixty-seven and sixty-eight west lying within the county of Towner, and shall be entitled to one senator and two representatives;
10. The tenth legislative district shall consist of the county of Cavalier and townships one hundred fifty-seven north of ranges sixty-five and sixty-six west; townships one hundred fifty-eight north of ranges sixty-five and sixty-six west; townships one hundred fifty-nine north of ranges sixty-five and sixty-six west; townships one hundred sixty north of ranges sixty-five and sixty-six west; townships one hundred sixty-one north of ranges sixty-five and sixty-six west; townships one hundred sixty-two north of ranges sixty-five and sixty-six west; town-

ships one hundred sixty-three north of ranges sixty-five and sixty-six west; and townships one hundred sixty-four north of ranges sixty-five and sixty-six west lying within the county of Towner, and shall be entitled to one senator and two representatives;

11. The eleventh legislative district shall consist of the county of Pembina, and shall be entitled to one senator and two representatives;
12. The twelfth legislative district shall consist of the county of Pierce and townships one hundred fifty-one north of ranges sixty-nine, seventy, and seventy-one west; townships one hundred fifty-two north of ranges sixty-nine, seventy, and seventy-one west; townships one hundred fifty-three north of ranges sixty-seven, sixty-eight, sixty-nine, seventy, and seventy-one west; townships one hundred fifty-four north of ranges sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, and seventy-one west; townships one hundred fifty-five north of ranges sixty-seven, sixty-eight, sixty-nine, seventy, and seventy-one west; and townships one hundred fifty-six north of ranges sixty-seven, sixty-eight, sixty-nine, seventy, and seventy-one west lying within the county of Benson, and shall be entitled to one senator and two representatives;
13. The thirteenth legislative district shall consist of the counties of Eddy and Foster and townships one hundred fifty-one north of ranges sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, and sixty-eight west; townships one hundred fifty-two north of ranges sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, and sixty-eight west; and townships one hundred fifty-three north of ranges sixty-three, sixty-four, sixty-five, and sixty-six west lying within the county of Benson, and shall be entitled to one senator and two representatives;
14. The fourteenth legislative district shall consist of the counties of Sheridan and Wells, and shall be entitled to one senator and two representatives;
15. The fifteenth legislative district shall consist of the county of Ramsey, and shall be entitled to one senator and two representatives;
16. The sixteenth legislative district shall consist of townships one hundred fifty-five north of ranges fifty, fifty-one, fifty-two, and fifty-three west; townships one hundred fifty-six north of ranges fifty, fifty-one, fifty-two,

- and fifty-three west; townships one hundred fifty-seven north of ranges fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west; and townships one hundred fifty-eight north of ranges fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west lying within the county of Walsh, and shall be entitled to one senator and two representatives;
17. The seventeenth legislative district shall consist of the county of Nelson and townships one hundred fifty-five north of ranges fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, and fifty-nine west; townships one hundred fifty-six north of ranges fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, and fifty-nine west; townships one hundred fifty-seven north of ranges fifty-six, fifty-seven, fifty-eight, and fifty-nine west; and townships one hundred fifty-eight north of ranges fifty-six, fifty-seven, fifty-eight and fifty-nine west lying within the county of Walsh, and shall be entitled to one senator and two representatives;
 18. The eighteenth legislative district shall consist of township one hundred fifty-one north, range fifty west; and township one hundred fifty-two north, range fifty west lying within the county of Grand Forks, and shall be entitled to three senators and six representatives;
 19. The nineteenth legislative district shall consist of the county of Grand Forks except township one hundred fifty-one north, range fifty west; and township one hundred fifty-two north, range fifty west lying within the county of Grand Forks, and shall be entitled to one senator and two representatives;
 20. The twentieth legislative district shall consist of the county of Traill and townships one hundred forty-two north of ranges forty-nine, fifty, fifty-one, and fifty-two west; and townships one hundred forty-three north of ranges forty-nine, fifty, fifty-one, and fifty-two west lying within the county of Cass, and shall be entitled to one senator and two representatives;
 21. The twenty-first legislative district shall consist of townships one hundred thirty-nine north of ranges forty-eight and forty-nine west; and townships one hundred forty north of ranges forty-eight and forty-nine west lying within the county of Cass, and shall be entitled to four senators and eight representatives;
 22. The twenty-second legislative district shall consist of townships one hundred thirty-seven north of ranges forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-

- three, fifty-four, and fifty-five west; townships one hundred thirty-eight, north of ranges forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west; townships one hundred thirty-nine north of ranges fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west; townships one hundred forty north of ranges fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west; townships one hundred forty-one north of ranges forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five west; townships one hundred forty-two north of ranges fifty-three, fifty-four, and fifty-five west; and townships one hundred forty-three north of ranges fifty-three, fifty-four, and fifty-five west lying within the county of Cass, and shall be entitled to one senator and two representatives;
23. The twenty-third legislative district shall consist of the counties of Griggs and Steele and townships one hundred forty north of ranges sixty and sixty-one west; townships one hundred forty-one north of ranges sixty and sixty-one west; townships one hundred forty-two north of ranges fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one west; and townships one hundred forty-three north of ranges fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one west lying within the county of Barnes, and shall be entitled to one senator and two representatives;
24. The twenty-fourth legislative district shall consist of townships one hundred thirty-seven north of ranges fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one west; townships one hundred thirty-eight north of ranges fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one west; townships one hundred thirty-nine north of ranges fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one west; townships one hundred forty north of ranges fifty-six, fifty-seven, fifty-eight, and fifty-nine west; and townships one hundred forty-one north of ranges fifty-six, fifty-seven, fifty-eight, and fifty-nine west lying within the county of Barnes, and shall be entitled to one senator and two representatives;
25. The twenty-fifth legislative district shall consist of townships one hundred twenty-nine north of ranges forty-seven, forty-eight, and forty-nine west; townships one hundred thirty north of ranges forty-seven, forty-eight, and forty-nine west; townships one hundred thirty-one north of ranges forty-seven, forty-eight, forty-nine, and fifty west; townships one hundred

- thirty-two north of ranges forty-seven, forty-eight, forty-nine, and fifty west; townships one hundred thirty-three north of ranges forty-seven, forty-eight, forty-nine, and fifty west; townships one hundred thirty-four north of ranges forty-eight, forty-nine, and fifty west; townships one hundred thirty-five north of ranges forty-eight, forty-nine, and fifty west; and townships one hundred thirty-six north of ranges forty-eight, forty-nine, and fifty west lying within the county of Richland, and shall be entitled to one senator and two representatives;
26. The twenty-sixth legislative district shall consist of the county of Sargent and townships one hundred twenty-nine north of ranges fifty, fifty-one, and fifty-two west; townships one hundred thirty north of ranges fifty, fifty-one, and fifty-two west; townships one hundred thirty-one north of ranges fifty-one and fifty-two west; townships one hundred thirty-two north of ranges fifty-one and fifty-two west; townships one hundred thirty-three north of ranges fifty-one and fifty-two west; townships one hundred thirty-four north of ranges fifty-one and fifty-two west; townships one hundred thirty-five north of ranges fifty-one and fifty-two west; and townships one hundred thirty-six north of ranges fifty-one and fifty-two west lying within the county of Richland, and shall be entitled to one senator and two representatives;
27. The twenty-seventh legislative district shall consist of the county of Ransom and townships one hundred thirty-three north of ranges fifty-nine, sixty, sixty-one, and sixty-two west; townships one hundred thirty-four north of ranges fifty-nine, sixty, sixty-one, and sixty-two west; townships one hundred thirty-five north of ranges fifty-nine, sixty, sixty-one, and sixty-two west; and townships one hundred thirty-six north of ranges fifty-nine, sixty, sixty-one, and sixty-two west lying within the county of LaMoure, and shall be entitled to one senator and two representatives;
28. The twenty-eighth legislative district shall consist of the county of Dickey and townships one hundred thirty-three north of ranges sixty-three, sixty-four, sixty-five, and sixty-six west; townships one hundred thirty-four north of ranges sixty-three, sixty-four, sixty-five, and sixty-six west; townships one hundred thirty-five north of ranges sixty-three, sixty-four, sixty-five, and sixty-six west; and townships one hundred thirty-six north of ranges sixty-three, sixty-four, sixty-five, and sixty-six west lying within the county of LaMoure, and shall be entitled to one senator and two representatives;

29. The twenty-ninth legislative district shall consist of the county of Stutsman, and shall be entitled to two senators and four representatives;
30. The thirtieth legislative district shall consist of the counties of Logan and McIntosh, and shall be entitled to one senator and two representatives;
31. The thirty-first legislative district shall consist of the counties of Kidder and Emmons, and shall be entitled to one senator and two representatives;
32. The thirty-second legislative district shall consist of the county of Burleigh, and shall be entitled to three senators and six representatives;
33. The thirty-third legislative district shall consist of the counties of Mercer and Oliver and townships one hundred thirty-nine north of ranges eighty-six, eighty-seven, eighty-eight, eighty-nine, and ninety west; and townships one hundred forty north of ranges eighty-six, eighty-seven, eighty-eight, eighty-nine, and ninety west lying within the county of Morton, and shall be entitled to one senator and two representatives;
34. The thirty-fourth legislative district shall consist of townships one hundred thirty-seven north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, and eighty-five west; townships one hundred thirty-eight north of ranges eighty, eighty-one, eighty-two, eighty-three, eighty-four, and eighty-five west; townships one hundred thirty-nine north of ranges eighty, eighty-one, eighty-two, eighty-three, eighty-four, and eighty-five west; and townships one hundred forty north of ranges eighty-one, eighty-two, eighty-three, eighty-four, and eighty-five west lying within the county of Morton, and shall be entitled to one senator and two representatives;
35. The thirty-fifth legislative district shall consist of the counties of Grant and Sioux and township one hundred thirty-three north, range eighty-two west; townships one hundred thirty-four north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred thirty-five north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred thirty-six north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; townships one hundred thirty-seven north of ranges eighty-six and eighty-seven west; and townships one hundred thirty-eight north of ranges eighty-six,

- eighty-seven, eighty-eight, eighty-nine, and ninety west lying within the county of Morton, and shall be entitled to one senator and two representatives;
36. The thirty-sixth legislative district shall consist of the counties of McKenzie and Dunn, and shall be entitled to one senator and two representatives;
 37. The thirty-seventh legislative district shall consist of townships one hundred thirty-seven north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; townships one hundred thirty-eight north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; townships one hundred thirty-nine north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; and townships one hundred forty north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west lying within the county of Stark, and shall be entitled to one senator and two representatives;
 38. The thirty-eighth legislative district shall consist of the county of Hettinger and townships one hundred thirty-seven north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-eight north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-nine north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred forty north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; and townships one hundred forty-one north of ranges ninety-one, ninety-two, and ninety-three west lying within the county of Stark and townships one hundred twenty-nine north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-one north of ranges ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, and ninety-eight west; and townships one hundred thirty-two north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight west lying within the county of Adams, and shall be entitled to one senator and two representatives; and
 39. The thirty-ninth legislative district shall consist of the counties of Golden Valley, Billings, Slope, and Bowman and townships one hundred twenty-nine north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight west; and townships one hundred thirty north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight

west lying within the county of Adams, and shall be entitled to one senator and two representatives.

§ 2. Numbering Legislative Districts—Classes of Senators to Provide Staggered Terms.) The senators shall be divided into two classes, those elected in legislative districts designated by even numbers shall constitute one class, and those elected in legislative districts designated by odd numbers shall constitute the other class. The senators of one class elected in the first election held under the provisions of this Legislative Apportionment law shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially. The president of the senate shall perform the lot in the presence of the majority and minority floor leaders of the senate within ten days after the commencement of the first session of the Legislative Assembly of this state which is comprised of senators elected hereunder, and shall certify in writing the results of such lot to the secretary of state within five days after its performance.