

# L A W S

PASSED AT

THE TWENTY-FOURTH SESSION

OF THE

## Legislative Assembly

OF THE

STATE OF NORTH DAKOTA

---

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID  
STATE, ON TUESDAY, JANUARY EIGHTH, 1935, AND  
CONCLUDING FRIDAY, MARCH EIGHTH, 1935.

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HOLT PRINTING CO., GRAND FORKS, N. D.

## AUTHENTICATION

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STATE OF NORTH DAKOTA,  
Department of State, Bismarck.

I, James D. Gronna, Secretary of State, hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed at the Twenty-fourth Session of the Legislative Assembly of the State of North Dakota, beginning Tuesday, January 8, 1935, and terminating Friday, March 8, 1935, now on file in this office, with the exception of clerical errors.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this first day of July, 1935.

(SEAL)

JAMES D. GRONNA,  
Secretary of State.

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Secretary of State  
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## AGRICULTURE

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### CHAPTER 1

H. B. No. 206—(Sand and Lavik)

#### SALARY ASSISTANT DAIRY COMMISSIONERS

An Act fixing the maximum annual salary which may be paid the assistant dairy commissioners, and repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. That the salary for services rendered in their official capacities by the assistant dairy commissioners, shall be fixed by the Commissioner of Agriculture and Labor, at not to exceed eighteen hundred dollars (\$1800.00) per annum, for each assistant dairy commissioner.

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 All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this article shall be in full force and effect from and after its passage and approval.

Approved March 5, 1935.

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### CHAPTER 2

S. B. No. 161—(Ettestad)

#### REGULATION LIVESTOCK DEALERS

An Act providing for the regulation of dealers in livestock and poultry and defining who are dealers; act not applicable, to whom; license and bond required; powers and duties of Railroad Commission; records required of dealers; feeding, watering and weighting; acts of deceit, fraud, dishonesty, and appropriating fees collected to the use of the Board of Railroad Commissioners for the administration and enforcement of the act; penalty for violation of act; and, repealing all of Chapter 7 of the Session Laws of the State of North Dakota for the year 1933; and repealing all acts in conflict herewith; and making the act an emergency measure.

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

§ 1. DEALER DEFINED: ACT NOT APPLICABLE, TO WHOM.] The term "dealer" as used herein shall mean any person, co-partner-

ship, association or corporation engaged in the business of buying and selling and dealing in livestock, horses, mules, cattle, hogs, sheep and poultry for re-sale and shipment within or without the state, and also for re-sale in the local markets.

Nothing in this act contained shall apply to farmers or farm associations who buy and sell livestock among themselves as producers, or who purchase livestock to complete loads of livestock of their own for shipment to market where such incomplete load is not less than twenty-five per cent of a full load; and nothing in this act contained shall apply to co-operative livestock marketing associations of producers of livestock in their dealings with their members, or livestock purchased by local butchers or dealers to be slaughtered or processed in their business for local home consumption, or trading for merchandise or machinery, provided that any person, co-partnership, association or corporation licensed for the year 1935 under the provisions of Chapter 7 of the Session Laws for the year 1933 at the time of the taking effect of this act shall not be required to qualify hereunder until the year 1936.

§ 2. LICENSE AND BOND REQUIRED.] After April 1, 1935, all dealers in livestock, as herein defined, shall be duly licensed as hereinafter provided. No agent shall act for any such livestock dealer unless the dealer is duly licensed and has designated such agent to act in his behalf and notified the Board of Railroad Commissioners in his application for license or in writing of such appointment, and requested the commission to issue to such agent an agent's license; and the dealer shall be accountable and responsible for all the acts of his or its agent.

Each dealer, before entering in the business of dealing in livestock, shall annually on or before January 1 of each year, (and for the year 1935 on or before April 1) file an application with the Board of Railroad Commissioners on a form prescribed by it for a license to transact such business. The applicant shall state the nature of the business as herein above set forth, the name or names of persons applying for the license, and if the applicant be a firm, association, partnership or corporation the full name of each member of such firm, association, or partnership, or the names of the official officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership or corporation, the postoffice address and the principal place of business of the applicant, and if a foreign corporation it must state its principal place of business without the state and the name of the state incorporated in and it must also state that it has complied with the corporation laws of this state relating to foreign corporations, and such other acts as the commissioners may prescribe.

Each applicant shall file with his application a surety company bond to be approved as to amount, form and sufficiency and surety by the commission in the sum of not less than \$1,500.00 for princi-

pal's bond and that the amount of said bond be increased not less than \$500.00 for each applicant appointed by the dealer and licensed by the commission, in which the commissioners shall be the obligee but which shall be for the benefit and purpose of protecting any person dealing with the dealer in livestock from loss by reason of acts of deceit, fraud, dishonesty, forgery, and theft on the part of the principal or his agent; provided, however, that a separate bond for each agent appointed and licensed, may be given in the sum of \$1,500.00, in lieu of the additional amount on the principal bond; provided further that the commission may demand at any time additional bond for either principal or agent when in the discretion and judgment of the commission the volume of business of the principal or any agent named by such principal warrants it.

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

§ 3. POWERS AND DUTIES OF RAILROAD COMMISSION.] The commissioners may decline to grant or may revoke a license when it is satisfied that: (a) the applicant or licensee has violated any of the laws of this state governing the handling, shipment or transportation of livestock; or (b) that the applicant or licensee has been guilty of deceit, fraud, dishonesty, forgery or theft as a dealer in livestock or in dealing in livestock; or (c) that the applicant has failed or refused to furnish the information required under the terms of this act and as prescribed by the commissioners.

Before any license shall be revoked the licensee shall be furnished with a copy of the complaint made against him and a hearing shall be had before the commissioners upon at least fifteen days notice to the licensee to determine whether such license shall be revoked, and which notice may either be served by registered mail addressed to the given address of the licensee, or in the manner provided by law for the service of a summons. At the time and place fixed for the hearing the commissioners or any member thereof, or any duly authorized and appointed agent by the commission, shall take and receive evidence, administer oaths, examine witnesses and take the testimony offered, and shall submit and file the same with the commission, and the commissioners shall thereafter and based thereon make and file an order either dismissing the proceedings, or revoking the license, and that the aggrieved party shall have the right to take an appeal from any such order so entered within thirty days from the entry and service thereof upon him to the District Court of Burleigh County, North Dakota, and the same shall be tried anew in the District Court as a court case without a jury.

§ 4. RECORDS REQUIRED OF DEALER.] Each dealer shall keep such accounts, records and memoranda concerning his dealings in livestock as may from time to time be required by the commissioners, and the commissioners shall at all times have access to such accounts, records and memoranda.

On the date of purchase of livestock, the dealer shall mail to the Board of Railroad Commissioners a record in form as prescribed by that body, showing the grade of the animals, the number of animals of each grade included in the purchase, the average weight of the animals of each grade included in the purchase, and the price per hundred pounds paid for the animals of each grade, the number of animals in each grade docked, and the amount of the dockage of each grade and the total number of animals docked.

§ 5. FEEDING, WATERING, AND WEIGHING.] The seller of livestock may require the buyer to give the livestock such food as they will consume during a two-hour period prior to weighing, the feed to be furnished by the buyer at the expense of the seller, and after such feeding the animals shall be given by the buyer free access to water until their thirst is fully quenched. If, however, feeding is omitted, the actual scale weight shall apply as the sole basis for settlement with the seller. All dealers, at any concentration point, shall have the scale upon which the animals are weighed inspected and tested by some duly authorized inspector so as to produce correct weights at all times.

§ 6. ACTS OF DECEIT, FRAUD AND DISHONESTY.] When any dealer represents or states to the seller of livestock that the price offered or paid by the dealer for livestock is based directly or indirectly upon prices established upon public terminal livestock markets within or without the State of North Dakota, or in fact the purchase price is directly or indirectly based upon such terminal market prices, and which representations are in fact and substance false the dealer shall be deemed guilty of deceit, fraud and dishonesty under the terms of this act.

§ 7. For the purpose of carrying out the provisions of this act, there is hereby created in the State Treasury, a state fund to be known as the "Livestock Dealers Fund." All fees collected by the commission under the provisions of this act necessary in administering and enforcing this act, or so much thereof as may be necessary, are hereby appropriated to the use of said commissioners and shall be paid into the State Treasury monthly, and shall be credited to the said Livestock Dealers Fund to the use of the commission and shall be paid out upon proper voucher and audit by the State Auditing Board for the expenses of said commission in administering and enforcing the provisions of this act.

§ 8. PENALTY FOR VIOLATION OF ACT.] Any person who shall violate any of the provisions of this act, shall be guilty of a mis-

demeanor and shall be punished by a fine of not exceeding \$100.00 or by imprisonment in the county jail for a period not to exceed thirty days or by both such fine and imprisonment. Every person who, having been convicted of a violation of this act, shall after such conviction, violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 9. REPEAL.] That all of Chapter 7 of the Session Laws of the State of North Dakota for the year 1933 be and the same hereby are repealed; and, that all other acts or parts of acts in conflict with this act are hereby repealed.

§ 10. EMERGENCY.] This act is hereby declared to be an emergency and shall be in full force and effect from and after its passage and approval. That the Supreme Court of this state just recently handed down a decision, on January 22, 1935, in an action entitled Ernest E. Lee, plaintiff, against Abe Tolchinsky, Joe Grainer, U. S. Fidelity and Guaranty Company, et al, defendants, ..... N. D. ...., 258 N. W. ...., holding that the surety company is not liable on the bond of a buyer and dealer in livestock to the purchaser from such dealer on the re-sale on account of being infected with a contagious disease, or on account of acts of fraud and dishonesty; and that the act only applies to direct buyers of livestock from the producers of livestock; and, that the public or anyone else dealing with livestock dealers has no protection under the terms of the act and the bond required, and which decision practically nullifies the law as it stands.

Approved March 12, 1935.

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### CHAPTER 3

H. B. No. 7—(Hanson of Benson, Cunningham and Treffry)

#### WEIGHING, ETC., LIVESTOCK AT PACKING PLANTS, ETC.

An Act to provide for the weighing, grading, feeding, docking and watering of livestock at packing plants, slaughtering houses and concentration points.

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

§ 1. As used herein, the terms "packing plants" and "slaughtering houses" shall mean plants, houses and places of business where livestock purchased or acquired at places within the State of North Dakota other than a public stockyards as the same is defined by Chapter 192, Laws of 1919, are slaughtered. The term "livestock" shall mean slaughter cattle, hogs and sheep. This act shall apply only to packing plants and slaughtering houses handling livestock pur-

chased and acquired as aforesaid, and paid for upon weights ascertained either at the packing plant or slaughtering house concentration point, or at a public place other than that at which the same were acquired. "Concentration point" shall mean any stockyards at which livestock are assembled by rail, or by rail and/ or other means of transportation, and at which livestock are bought and sold or are assembled for reshipment to a packing plant or a public stockyards, or graded or weighed for the purpose of establishing a basis for sale or reshipment.

§ 2. The Board of Railroad Commissioners shall appoint at packing plants, slaughtering houses and concentration points such weighers and graders as may be necessary for weighing and grading of livestock. Every such weigher and every such grader shall be bonded in the State Bonding Fund in the sum of five thousand dollars, conditioned for the faithful discharge of his duties. Suit may be brought thereon by any person injured by the misconduct of the principal. No weighers or graders shall be maintained at any packing plant, slaughtering house or concentration point where the average daily number of livestock handled is less than 250 head. The Board of Railroad Commissioners shall prescribe and follow such reasonable regulations as it deems necessary for determining such daily average.

The shipper or his representative shall have the right to give his livestock such feed as they will consume during a two-hour period prior to weighing, feed to be furnished by the owner, proprietor or operator of the packing plant, slaughtering house or concentration point at the expense of the shipper, and after such feeding the animals shall be given by such owner, proprietor or operator, free access to water until their thirst is fully quenched. If, however, feeding is omitted, the actual scale weights shall apply as the sole basis for settlement with the shipper.

The weighers and graders shall weigh, dock and grade all slaughter livestock, not previously weighed, graded and docked, pursuant to the provisions hereof and shall keep a record thereof and of the time of arrival of livestock at such packing plants, slaughtering houses and concentration points. The weigher and/ or grader shall furnish the interested parties a certificate setting forth the number of animals weighed or graded, or both, for whose account weighed or graded, the actual weight and grade of such animal or animals, and the dockage if any. Such certificate shall be prima facie evidence of the facts therein certified.

The Board of Railroad Commissioners shall establish such rules and regulations as it deems necessary for the weighing, docking and grading of animals and for carrying out the provisions of this act. Insofar as they are applicable, the Board of Railroad Commissioners shall use the same standards as are used by the United States Bureau of Agricultural Economics.

§ 3. The commission shall prescribe the fee necessary to cover the cost of such weighing, docking, and grading, to be assessed and collected in such manner as the Commission may prescribe, and for the purpose of carrying out the provisions of this act, there is hereby created, in the State Treasury a state fund to be known as the "Livestock Weighing and Grading Fund." All fees collected by the commission under the provisions of this act necessary in administering and enforcing this act, or so much thereof as may be necessary, are hereby appropriated to the use of said commissioners and shall be paid into the State Treasury monthly and shall be credited to the said "Livestock Weighing and Grading Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board for the expenses of said commission in administering and enforcing the provisions of this act; it being the intention of this act to relieve the General Fund of the state from any and all cost in connection with the administration of the provisions hereof; provided, however, that there is appropriated out of the General Fund of the state, not otherwise appropriated, the sum of \$6,000.00 to carry out the provisions of this act.

§ 4. No weigher, docker or grader shall during his term of service be in any manner interested in the handling, shipping, producing or sale of livestock, nor in the employment of any persons or corporation engaged therein.

§ 5. Any person not duly appointed and qualified who shall assume to act as such weigher, docker or grader shall be guilty of a misdemeanor and punished by a fine of not less than fifty nor more than one hundred dollars for each offense.

§ 6. Any weigher, docker or grader who shall knowingly or carelessly weigh, dock or grade any livestock improperly or give any false certificate of weight or grade, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such officer in the performance of his duties, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 7. The scales at packing plants or slaughtering houses on which slaughter livestock is weighed to effect sale direct from the producer shall be constructed and maintained in accordance with requirements of the Board of Railroad Commissioners. All such scales shall be tested up to the maximum draft that may be weighed on the scale by the State of North Dakota at least once every thirty days.

§ 8. Any person or corporation who shall obstruct any state

weigher, docker or grader in the performance of his official duties by preventing his proper access to the scales publicly or privately owned used in the weighing of livestock or otherwise, shall forfeit to the state one hundred dollars for each such offense.

§ 9. If any part or provision of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate any other part or provision in the remainder of the act; and if any part or provision of this act shall for any reason be adjudged by any such court constitutionally inapplicable to any case within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other type of case within their terms.

§ 10. This act shall take effect and be in force from and after July 1, 1935.

Approved March 11, 1935.

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#### CHAPTER 4

S. B. No. 52—(Thorson, Green of Stutsman and Drew)

##### NORTH DAKOTA COMMISSIONERS OF THE FEDERATED CO-OPERATIVE AGRICULTURAL ASSOCIATION

An Act creating a board known as the "North Dakota Commissioners of the Federated Co-operative Agricultural Association" and providing for co-operation with other surplus producing states of the Union, describing the manner of forming the same, the purposes thereof, making an appropriation therefor, and declaring an emergency.

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

§ 1. PURPOSE OF THIS ACT.] The purpose of this act shall be to encourage the formation and maintenance of a Federated Agricultural Association, to be formed by the State of North Dakota, in conjunction with other agricultural states, for the mutual benefit and protection of such states having a community of interest in agricultural problems under Article 2 of the Constitution of the State of North Dakota.

§ 2. ASSOCIATION, HOW FORMED.] There is hereby created in the Department of Agriculture and Labor, a board to be known as the "North Dakota Commissioners of the Federated Co-operative Agricultural Association" which shall consist of three members to be appointed by the Commissioner of Agriculture and Labor. Such appointments may be made from a list of persons submitted by the Committee on Agriculture in the Senate and the Committee on Agriculture in the House of Representatives, acting jointly. Said board shall have full power and authority to present the federated plan to other agricultural states with a view to forming a group of Federated States, under the plan herein described, for the mutual bene-

fit and protection of the producers of agricultural commodities having a community of interest.

§ 3. ELIGIBILITY OF COMMISSIONERS. TERM OF OFFICE. VACANCIES.] No commissioner shall be appointed, as herein provided, unless he shall be a bona-fide farmer and engaged in the pursuit of agriculture. One commissioner shall be appointed for two years, one for four years, and the third for six years and in case of death of any such commissioner, resignation or removal from office, the vacancy shall be filled by the Governor for such an unexpired term.

§ 4. DUTIES OF COMMISSIONERS.] As soon as such Commissioners shall have been appointed and they have accepted the same, they shall proceed at once to place before the legislatures, officials, and farm organizations of other agricultural states, having a community of interest with North Dakota, in the production, distribution and sale of agricultural products, the plan herein outlined of forming said states, along with North Dakota, into a National Federated, Co-operative, Agricultural Association, for the purpose of taking group action upon all questions of agricultural productions, distribution, and legislation.

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

§ 6. AUTHORITY OF THE FEDERATION.] The said Federation, formed as provided for in Section 5 of this act, shall have power to do and perform all acts necessary to be done for the promotion of peace, happiness, and prosperity of the people engaged in agriculture in their various states, not inconsistent with the laws of such states, and bi-annually said commissioners shall file a joint report with the legislatures of their various states, showing the work done, progress made, and expense of such Federation.

§ 7. AGRICULTURAL LOBBY.] The Federation may maintain a lobby at Washington, D. C., during sessions of Congress, or at other times, for the purpose of presenting data on agricultural subjects to members of Congress and the officers of the Government, to the end that intelligent and scientific consideration may be had of the various problems confronting agriculture, and to the end that wise legislation may be passed in the interest of those engaged in agriculture, legislative demands being always limited to a just and fair position of agriculture with respect to the general business of the nation, and the demand being equally insistent that there shall be equal opportunity to all and special privileges to none. The officers of the Federation shall be at such place as shall be agreed upon and in each state

the commissioners therein named and approved shall constitute the State Lobby, with like purposes and objects of the National Lobby.

§ 8. STATE CODE COMMISSIONERS. DUTIES.] The State Commissioners, in addition to their other duties, shall constitute an Agricultural Code Commission, who shall compile all facts and data, and make recommendation in respect thereto, to the Legislature. They shall furnish such legislature and the officers of the State Government, at the beginning of each legislative session, a written report, containing such information, facts and data, and the recommendations based thereon.

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

§ 10. ADVISORY COMMISSIONERS. HOW APPOINTED. POWERS.] Any state wide commodity, educational, or protective farm organization, may select one representative from each such organization to be known as Advisory Commissioner, who shall be privileged to attend all meetings of the Federation and participate thereon in all respects as other commissioners, except that they shall have no vote.

§ 11. APPROPRIATION.] Realizing that there is at present no authorized organization among the various agricultural states of the Union having a community of interest, which directs such business as a successful business should be directed, both as to production, distribution, and legislation, and in order to make effective the purposes of this act and carry out its provisions, the sum of fifteen hundred dollars is hereby appropriated out of any moneys in the General Fund of the state not otherwise appropriated, to be paid upon the order of the board.

§ 12. EMERGENCY.] Under the purposes and objects of this act, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

## CHAPTER 5

S. B. No. 102—(Committee on Appropriations)

NORTHWEST AGRICULTURAL LIVESTOCK AND FAIR  
ASSOCIATION

An Act to amend and re-enact Section 1866A(a)4 and repeal Section 1866A(a)6, Supplement to the Compiled Laws of 1913, relating to Northwest Agricultural Livestock and Fair Association, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1866A(a)4, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1866A(a)4. When the State of North Dakota accepts the title to the land so acquired by said association, which acceptance shall be made by the Governor and Attorney General, thereupon, and not before such time, shall the deed of conveyance of said property to the state be accepted and recorded. Should this act be repealed, then and in that event, the title to said premises shall revert to, and become the property of the association that transferred the same to the state; provided, further, that the state shall never become liable for any of the debts and liabilities of said association save as appropriations shall be made therefor from time to time by the legislative assembly. The provisions of this article shall not become binding upon the state as to said fair association until such association shall adopt and file with the secretary of state an irrevocable by-law consenting to the provisions hereof and providing that its board of directors shall consist of eleven persons; and that said association shall appoint an advisory committee consisting of the governor, commissioner of agriculture and labor and state auditor together with one resident freeholder from each judicial district of the state; which said committee is privileged to attend the meetings of the association, and is at all times to be fully advised in regard thereto.

§ 2. REPEAL.] That Section 1866A(a)6, Supplement to the Compiled Laws of 1913, is hereby in all things repealed.

§ 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 20, 1935.

# ANIMALS

## CHAPTER 6

H. B. No. 112—Holte, Treffry and Fitzgerald)

### PURCHASE, ETC., HOG CHOLERA VIRUS

An Act regulating the purchase, use, administering and handling of hog cholera virus, and providing penalties therefor.

March 23, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 112 is herewith filed with your office unsigned and not vetoed. It was passed by a vote of 57 ayes, 37 nays, with 19 absent and not voting in the House, and in the Senate by a vote of 27 ayes, 15 nays and 7 absent and not voting.

There seems to be considerable difference of opinion as to the effect of the use of the hog cholera virus in the treatment of diseased herds. The Department of Agriculture advises that the use of the serum is the only effective means of complete vaccination.

This same bill was passed at the last session of the Legislature and vetoed. Many farmers are interested in having this legislation passed and inasmuch as it seems to be the difference of opinion as to the effect, it will probably be a good thing to give it a trial.

Respectfully,

WALTER WELFORD,

Acting Governor.

WW/GP

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

§ 1. The purchase for use, or possession for use, of hog cholera virus, by any person not a licensed veterinarian or farmer, who is an owner or breeder of hogs, is hereby prohibited and made unlawful. Provided that such farmer, owner, or breeder of hogs, shall not administer such hog cholera virus except to hogs owned by him; provided further, that it shall be unlawful for any person to leave exposed, or scatter or place any hog cholera virus, or bottle or container thereof, in such manner as may result in the spread of hog cholera, or as may infect any animal not treated for such disease, or may contaminate any well, stream, or body of water, or any land, or premises, with such virus or disease germs.

§ 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed two hundred (\$200.00) dollars or imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment.

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**CHAPTER 7****S. B. No. 64—(Gronvold)**

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**WOLF AND COYOTE BOUNTY**

**An Act to amend and re-enact Chapter 9 of the Session Laws of North Dakota of 1933, relating to wolf bounty; and declaring an emergency.**

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

§ 1. AMENDMENT.] That Chapter 9 of the Session Laws of North Dakota of 1933, be and the same is hereby amended and re-enacted to read as follows:

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

Two dollars and fifty cents (\$2.50) for each mature wolf or coyote killed, and one dollar (\$1.00) for each wolf or coyote pup killed prior to September 1st of the year of the whelping of such wolf or coyote pup. Provided, further, that no bounty shall be paid on wolves or coyotes killed by the Extension Division of the North Dakota Agricultural College, through the directors thereof co-operating with the Bureau of the Biological Survey of the United States Department of Agriculture.

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

Approved February 19, 1935.

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**APPROPRIATIONS**

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**CHAPTER 8****H. B. No. 30—(Committee on Appropriation)**

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**BOARD OF ADMINISTRATION—CHILD WELFARE**

**An Act making an appropriation for the use by the Board of Administration in administering child welfare laws.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$15,280.00, or so much thereof as may be necessary, for use by the Board of Administration in performing the duties imposed upon it by law in connection with the administration of the child

welfare laws of this state, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Director .....	\$ 3,840.00
Clerkhire:	
Chief Clerk and Stenographer.....	2,640.00
Postage .....	400.00
Office Supplies .....	300.00
Furniture and Fixtures .....	250.00
Printing .....	200.00
Miscellaneous .....	650.00
Travel Expense .....	2,000.00
For Physically Handicapped Children .....	5,000.00

TOTAL .....\$15,280.00

Approved March 14, 1935.

## CHAPTER 9

H. B. No. 67—Dahl of Emmons, by Request)

### DEPARTMENT OF AGRICULTURE AND LABOR—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the clerkhire, postage and travel expense of the office of Department of Agriculture and Labor, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$2,826.00, for the purpose of paying a deficit in the clerkhire, postage and travel expenses of the office of Department of Agriculture and Labor, to-wit:

Clerkhire .....	\$2,526.00
Postage .....	100.00
Travel Expenses .....	200.00

\$2,826.00

§ 2. EMERGENCY.] Whereas: It is necessary that the money hereby appropriated be immediately available to provide for the maintenance of said office of Department of Agriculture and Labor for the remainder of this fiscal year, the duties and expense of the office having increased by reason of the transfer of the Immigration Department to said office and the designation of this department as the office to handle Old-Age-Pensions, and that this appropriation is necessary to carry on the routine work of the office, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved March 13, 1935.

## CHAPTER 10

S. B. No. 140—(Committee on Appropriations)

ATTORNEY GENERAL—REPAYMENT BANK OF NORTH  
DAKOTA

An Act making an appropriation to the Attorney General to repay money borrowed from The Bank of North Dakota to pay expenses incurred for fees and disbursements in certain tax litigations, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, to the Attorney General the sum of two thousand three hundred fifty and no/100ths (\$2,350.00) dollars, or so much thereof as may be necessary to repay to The Bank of North Dakota a loan made by the Attorney General with the approval of the Industrial Commission for the purpose of paying and meeting fees and expenses necessarily incurred by the Attorney General to carry out litigations in the District Court of the United States for the District of North Dakota in six suits involving the validity of the gross earnings tax law enacted by the 1933 Legislature and in one suit involving the validity of an assessment and levy made pursuant to the provisions of Chapter 310 of the 1923 Session Laws, and in which first six mentioned suits the Montana-Dakota Power Company, a corporation, the Northern States Power Company, a corporation, Red River Power Company, a corporation, and Union Light, Heat and Power Company, a corporation, the Ottertail Power Company, a Minnesota corporation, the North Dakota Power and Light Company, the Central West Public Service Company of North Dakota, and the Northern Power and Light Company were plaintiffs, and in which last mentioned suit Fruit Growers Express Company was plaintiff.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act will be in force and effect from the date of its enactment and approval.

Approved March 4, 1935.

## CHAPTER 11

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

## BEE INSPECTION

An Act making an appropriation for the inspection and eradication of bee diseases, under the provisions of Chapter 140, Session Laws of 1923, the same being Sections 2790a1-2790a18 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,000.00, or so much thereof as may be necessary, to defray the expenses of the Commissioner of Agriculture and Labor, or his agents, in carrying out the provisions of Chapter 140, Session Laws 1923, the same being Sections 2790a1-2790a18 of the Supplement to the 1913 Compiled Laws of North Dakota for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

Approved March 4, 1935.

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## CHAPTER 12

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

### PREMIUMS BONDS STATE OFFICIALS

An Act making an appropriation for the purpose of paying premiums on bonds of State Officials as provided by Chapter 175, Session Laws of 1917, the same being Section 663a1 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$2,000.00 for the biennium, or so much thereof as may be necessary to pay the premiums on bonds of State Officials, bonded under the provision of Chapter 175, Session Laws of 1917, the same being Section 663a1 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 4, 1935.

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## CHAPTER 13

S. B. No. 184—(Fowler, Jones, McGillic and N. N. Nelson)

### BOYS' AND GIRLS' CLUB WORK, STATE AND DISTRICT FAIRS

An Act making an appropriation for the payment of the expenses to be incurred by Boys' and Girls' Club Work at State and District Fairs.

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

There is hereby appropriated out of any money of the State Treasury, not otherwise appropriated, the sum of three thousand dollars (\$3,000) for the year 1935, and a like sum for the year 1936, in equal shares, at the following named State and District Fairs of the State of North Dakota:

North Dakota State Fair Association for Fargo;  
North Dakota State Fair Association for Grand Forks;  
Northwest Agricultural Livestock and Fair Association at  
Minot; and the

Missouri Slope Agricultural and Fair Association at Mandan, for the use and benefit of the Boys' and Girls' Club premium and expenses as held and conducted at said fairs.

Approved March 2, 1935.

## CHAPTER 14

S. B. No. 273—(Stucke and Mutchler)

### LITTLE MISSOURI RIVER BRIDGE SURVEY, ETC.

An Act to appropriate the sum of one thousand dollars (\$1,000.00) from any moneys in the State Highway Fund for the purpose of making a preliminary survey and soundings for the construction of a bridge across the Little Missouri River at or near the intersection of the Little Missouri River with the trail passing south of Independence and crossing Section Twenty-nine (S. 29), Township One Hundred Forty-eight (T. 148), Range Ninety-one (R. 91), Dunn County, North Dakota, approximately six miles northwest of the Fort Berthold Bridge, also known as the Four Bears Bridge, under the provisions of Chapter Seventy-three (73) of the Laws of North Dakota for the year Nineteen Hundred Nineteen (1919) (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913) as amended and re-enacted by Chapter 161, Laws of 1927, as amended and re-enacted by Chapter 140 of the Laws of 1929, and directing the State Highway Commissioner forthwith to designate said trail as a feeder road to State and Federal Highway No. 8, and to forthwith make said soundings and survey, and select a bridge site; and directing said Highway Commissioner forthwith to construct such bridge, and do all necessary preliminary acts therein.

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

§ 1. There is hereby appropriated out of any moneys in the State Highway Fund, under paragraph 2 of Section 11 of Chapter 44 of the Laws of the Special Session of the 16th Legislative Assembly of the State of North Dakota for the year 1919 (Paragraph C of Section 2976t15 of the 1925 Supplement to the Compiled Laws for the year 1913) the sum of one thousand dollars (\$1,000.00), or as much thereof as may be necessary for the purpose of making a preliminary survey and soundings of the Little Missouri River, and approaches thereto, for the construction of a bridge across the Little Missouri River at or near the intersection of the Little Missouri River with the trail passing south of Independence and crossing Section Twenty-nine (S. 29), Township One Hundred Forty-eight (T. 148), Range Ninety-one (R. 91) Dunn County, North Dakota, approximately six miles northwest of the Fort Berthold Bridge, also known as the Four Bears Bridge on State and Federal Highway No. 8, under the provisions of Chapter Seventy-three (73) of the Laws of North Dakota for the year 1919, (Sections 1952a1 and 1952a2 of the 1925 Supplement to the Compiled Laws of 1913) as amended and re-enacted by Chapter 161, Laws of 1927, as amended and re-enacted by Chapter 140 of the Laws of 1929.

And the State Highway Commissioner is hereby authorized and empowered, and forthwith directed to designate the trail hereinbefore described as a feeder road or highway to State and Federal Highway No. 8.

And the said State Highway Commissioner is further authorized and empowered and forthwith directed to make the soundings and preliminary survey for such bridge, and to select the said bridge site, to make the plans and specifications for such bridge, to secure the approval thereof by the proper Federal authorities, to request the maximum amount of Federal aid allowance to feeder roads for its construction, which is designated as one hundred per cent (100%) allotment of Federal aid to feeder roads, and to request bids, award contracts, and execute the same, and authorize and make payments for the cost of such bridge in the same manner, and by the same procedure as governs the said State Highway Commissioner in the improvement of feeder roads of a State and Federal highway.

And the said State Highway Commissioner is further authorized and empowered and directed forthwith to extend, designate, locate, and improve the necessary feeder road or roads, as a part of the State and Federal Highway system, leading to such bridge, so that such bridge shall be and constitute part of the said State and Federal highway system for feeder roads, and shall be entitled to the maximum allotment of Federal aid for feeder road system, which amount is designated as one hundred per cent (100%) of the entire cost of its construction, and shall take all necessary steps to have such feeder road or roads leading to such bridge incorporated in the Federal aid to feeder road system in this state.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency to take effect and be in force from and after its passage and approval.

Approved March 8, 1935.

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## CHAPTER 15

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

### BUDGET—PARTIAL VETO

An Act to appropriate money for the expenses of the Executive, Legislative and Judicial Departments of the State Government, and for public schools, specifying the amount and time for which such appropriations shall be available, and repealing all acts, or parts of acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

March 23, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

At 1:30 o'clock, P. M., on March 14, 1935, I approve Senate Bill No. 1 in the total sums for each subdivision of the bill as follows:

Subdivision 1 —	\$ 23,574.00	Subdivision 18 —	18,235.00
Subdivision 2 —	600.00	Subdivision 19 —	66,065.34
Subdivision 3 —	68,700.00	Subdivision 20 —	66,760.80
Subdivision 4 —	13,050.00	Subdivision 21 —	74,320.00
Subdivision 5 —	125,000.00	Subdivision 22 —	84,872.80
Subdivision 6 —	29,524.80	Subdivision 23 —	6,099.00
Subdivision 7 —	16,550.00	Subdivision 24 —	18,931.60
Subdivision 8 —	53,766.72	Subdivision 25 —	13,840.00
Subdivision 9 —	40,420.16	Subdivision 26 —	4,540.00
Subdivision 10 —	28,123.76	Subdivision 27 —	11,372.00
Subdivision 11 —	11,150.00	Subdivision 28 —	4,450.00
Subdivision 12 —	49,390.00	Subdivision 29 —	114,500.00
Subdivision 13 —	35,844.00	Subdivision 30 —	1,300.00
Subdivision 14 —	39,480.00	Subdivision 31 —	2,350.00
Subdivision 15 —	20,719.32	Subdivision 32 —	1,000.00
Subdivision 16 —	29,824.00	Subdivision 33 —	4,000.00
Subdivision 17 —	91,104.00		

And disapprove of all sums in excess of the amounts and the appropriations made for the following items are reduced to the amounts hereinafter mentioned and as so reduced are approved, and as to all sums in excess of said reduced amounts for said items of the bill or items are disapproved:

Subdivision 22.

BOARD OF ADMINISTRATION

Item "Emergency Fund for State Institutions is reduced to ..... \$ 40,000.00  
 Item "Total" is reduced to..... 84,872.80

Subdivision 25.

STATE ENGINEER

Item "Hydrographic Survey" is struck out.  
 Item "Total" is reduced to..... 13,840.00

Subdivision 26.

STATE PRINTER

Item "Clerkhire" is struck out.  
 Item "Total" is reduced to..... 4,540.00

Very respectfully,

WALTER WELFORD,  
 Acting Governor.

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

§ 1. APPROPRIATIONS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE STATE GOVERNMENT AND FOR PUBLIC SCHOOLS.] The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys

in the State Treasury not otherwise appropriated, for the purposes specified in the following sections of this act.

§ 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.] Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1935, and ending June 30th, 1937.

§ 3. APPROPRIATIONS.]

Subdivision 1.

EXECUTIVE OFFICE

Salary—Governor .....	\$ 8,000.00
Clerkhire:	
Secretary to Governor .....	3,584.00
Stenographic Help .....	5,240.00
Postage .....	400.00
Office Supplies .....	200.00
Furniture and Fixtures .....	250.00
Printing .....	300.00
Miscellaneous .....	1,700.00
Travel Expense .....	1,500.00
Contingent .....	1,600.00
Governors' Conference .....	300.00
Great Lakes-St. Lawrence Deep Waterway Project .....	500.00
<b>TOTAL .....</b>	<b>\$ 23,574.00</b>

Subdivision 2.

LIEUTENANT GOVERNOR

Salary .....	\$ 600.00
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Subdivision 3.

SUPREME COURT

Salary:	
Judges Supreme Court .....	\$ 51,000.00
Clerk Supreme Court .....	4,000.00
Clerkhire:	
Stenographers to Justices .....	11,400.00
Postage .....	600.00
Office Supplies .....	400.00
Furniture and Fixtures .....	250.00
Printing .....	350.00
Miscellaneous .....	400.00
Travel Expense .....	200.00
Deficiency Appropriation for Miscellaneous.....	100.00
<b>TOTAL .....</b>	<b>\$ 68,700.00</b>

## Subdivision 4.

SUPREME COURT REPORTER AND  
STATE LAW LIBRARIAN

Salary .....	\$ 4,000.00
Postage .....	300.00
Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing and Binding .....	250.00
Miscellaneous .....	200.00
Purchase of Books and Legal Periodicals.....	3,700.00
Publishing North Dakota Reports.....	4,400.00
TOTAL .....	\$ 13,050.00

## Subdivision 5.

## JUDGES OF DISTRICT COURTS

Salary—Fifteen Judges .....	\$105,000.00
Miscellaneous expenses while holding court outside of the county in which the judges reside and while serving on Supreme Bench.....	20,000.00
TOTAL .....	\$125,000.00

## Subdivision 6.

## SECRETARY OF STATE

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Chief Clerk and Bookkeeper .....	2,620.80
Stenographers .....	4,560.00
Recording Clerks .....	4,560.00
Extra Clerkhire during Elections and Legisla- tive Assemblies .....	500.00
Postage .....	3,000.00
Office Supplies .....	800.00
Furniture and Fixtures .....	400.00
Printing .....	3,000.00
Miscellaneous .....	1,500.00
Travel Expense .....	200.00
TOTAL .....	\$ 29,524.80

## Subdivision 7.

## SECRETARY OF STATE—PUBLIC PRINTING

Legal Notices .....	\$ 400.00
Authenticated and Popular editions of 1935 Session Laws .....	3,800.00
Publicity Pamphlet .....	7,000.00

Postage Publicity Pamphlet .....	5,000.00
Investigation: Public Printing .....	350.00
<b>TOTAL .....</b>	<b>\$ 15,550.00</b>

## Subdivision 8.

## STATE AUDITOR

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Chief Clerk and Bookkeeper .....	2,784.00
Voucher and Audit Clerk .....	2,620.80
Assistant Voucher and Audit Clerk .....	2,280.00
Bookkeeper .....	2,620.80
Voucher and Warrant Clerk .....	2,280.00
Gasoline Tax Clerks .....	8,506.56
Stenographer and Extra Clerks .....	2,069.76
Bookkeeper and Warrant Clerk .....	2,620.80
Postage .....	3,500.00
Office Supplies .....	500.00
Furniture and Fixtures .....	1,500.00
Printing .....	2,500.00
Miscellaneous .....	500.00
Travel Expense .....	2,000.00
Supplies for Departments and Counties .....	1,000.00
Lists, New Taxable Lands .....	100.00
Gasoline Tax Law Enforcement, Adjusting County Care Accounts and Special Audit Work .....	500.00
New Style Cigarette Revenue Stamps .....	7,500.00
<b>TOTAL .....</b>	<b>\$ 53,766.72</b>

## Subdivision 9.

## STATE TREASURER

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Chief Clerk and Bookkeeper .....	2,784.00
Cashier .....	2,620.80
Bookkeepers (two) .....	5,241.60
Receipt Clerk .....	2,280.00
Farm Loan Clerk .....	2,280.00
Cigarette Revenue Clerks (two) .....	4,560.00
Stenographer .....	2,069.76
Extra Clerkhire .....	1,000.00
Postage .....	5,400.00
Office Supplies .....	500.00
Furniture and Fixtures .....	1,100.00
Printing .....	1,500.00

Miscellaneous .....	500.00
Travel Expense .....	200.00
TOTAL .....	\$ 40,420.16

## Subdivision 10.

## INSURANCE DEPARTMENT

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Actuary-Examiner .....	3,840.00
Chief Clerk and Stenographer .....	2,069.76
Bookkeeper .....	2,280.00
Postage .....	1,200.00
Office Supplies .....	300.00
Furniture and Fixtures .....	150.00
Printing .....	5,000.00
Miscellaneous .....	500.00
Travel Expense .....	400.00
Investigation of Unauthorized Insurance Companies .....	4,000.00
TOTAL .....	\$ 28,123.76

## Subdivision 11.

## STATE FIRE MARSHAL

Salary .....	\$ 3,600.00
Clerkhire:	
Chief Assistant .....	2,500.00
Postage .....	150.00
Office Supplies .....	100.00
Furniture and Fixtures .....	50.00
Printing .....	100.00
Miscellaneous .....	350.00
Travel Expense .....	4,000.00
Fees paid to Fire Chiefs for reporting fires.....	300.00
TOTAL .....	\$ 11,150.00

## Subdivision 12.

## ATTORNEY GENERAL

Salary .....	\$ 6,000.00
Clerkhire (Stenographers and Extra Help) .....	10,192.00
Four Assistant Attorneys General .....	16,840.00
Special Assistant Attorneys General .....	2,750.00
Commerce Counsel .....	4,608.00
Postage .....	1,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	500.00
Printing .....	1,000.00

Miscellaneous .....	1,000.00
Travel Expense .....	2,000.00
Miscellaneous Court Cases .....	2,500.00
Library .....	500.00
<b>TOTAL .....</b>	<b>\$ 49,390.00</b>

## Subdivision 13.

## DEPARTMENT OF PUBLIC INSTRUCTION

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Chief Clerk .....	2,280.00
Stenographers and Clerks .....	7,680.00
Postage .....	2,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	400.00
Printing .....	12,000.00
Miscellaneous .....	600.00
Travel Expense .....	2,000.00
<b>TOTAL .....</b>	<b>\$ 35,844.00</b>

## Subdivision 14.

DEPARTMENT OF PUBLIC INSTRUCTION  
STATE AID AND EXAMINATION

Salary—Director of Secondary Education .....	\$ 3,400.00
Clerkhire—Ass't Director of Secondary Education .....	2,280.00
Travel Expense—Director of Secondary Education .....	800.00
Expense conducting Eighth Grade and High School Examinations .....	13,000.00
State Aid:	
County Agricultural Schools .....	18,000.00
Teachers' Meetings .....	2,000.00
<b>TOTAL .....</b>	<b>\$ 39,480.00</b>

## Subdivision 15.

## AGRICULTURE AND LABOR

Salary .....	\$ 4,800.00
Clerkhire:	
Deputy .....	3,584.00
Chief Clerk .....	2,620.80
Stenographers .....	4,139.52
Postage .....	900.00
Office Supplies .....	475.00
Furniture and Fixtures .....	100.00
Printing .....	2,200.00
Miscellaneous .....	500.00

Travel Expense .....	1,000.00
Recording Brands .....	400.00
<b>TOTAL .....</b>	<b>\$ 20,719.32</b>

## Subdivision 16.

AGRICULTURE AND LABOR  
DAIRY DIVISION

Salary .....	\$ 3,584.00
Clerkhire:	
Chief Clerk .....	2,160.00
Three Inspectors .....	9,000.00
Office Tester .....	2,160.00
Stenographers .....	1,920.00
Postage .....	1,000.00
Office Supplies .....	500.00
Printing .....	500.00
Miscellaneous .....	500.00
Travel Expense .....	8,000.00
Auto Exchange .....	500.00
<b>TOTAL .....</b>	<b>\$ 29,824.00</b>

## Subdivision 17.

BOARD OF RAILROAD COMMISSIONERS

Salary—Three Commissioners .....	\$ 15,600.00
Clerkhire:	
Secretary .....	3,580.00
Chief Clerk .....	2,620.00
Traffic Expert .....	5,600.00
Assistant Traffic Expert .....	3,360.00
Reporter .....	4,000.00
Chief Engineer .....	5,000.00
Assistant Engineer .....	3,360.00
Accountant .....	5,000.00
Assistant Accountant .....	3,584.00
Stenographers .....	11,100.00
Postage .....	2,700.00
Office Supplies .....	2,000.00
Furniture and Fixtures .....	400.00
Printing .....	1,800.00
Miscellaneous .....	1,400.00
Travel Expense .....	7,000.00
Expense handling cases before Interstate Commerce Commission .....	12,000.00
Expense incurred as Members of National Association of Railway and Utilities Commissioners....	1,000.00
<b>TOTAL .....</b>	<b>\$ 91,104.00</b>

## Subdivision 18.

BOARD OF RAILROAD COMMISSIONERS  
ELEVATOR DIVISION

## Clerkhire:

Chief Elevator Accountant .....	\$ 3,584.00
Assistant Elevator Accountant .....	2,816.00
Stenographers and Clerks .....	4,560.00
Postage .....	1,250.00
Office Supplies .....	250.00
Furniture and Fixtures .....	375.00
Printing .....	900.00
Miscellaneous .....	500.00
Travel Expense and Car Exchange .....	4,000.00

TOTAL ..... \$ 18,235.00

## Subdivision 19.

## LAND COMMISSIONER

Salary ..... \$ 4,800.00

## Clerkhire:

Deputy .....	3,584.00
Office Deputy .....	3,072.00
Bookkeeper .....	2,620.80
Cashier .....	2,620.80
Manager Bond and Mortgage Department ...	2,620.80
Collection Manager .....	2,784.00
Leasing Clerk .....	2,280.00
Field Agent .....	2,784.00
Patent Clerk .....	2,280.00
Two Secretary-Stenographers .....	3,538.94
Three Stenographers .....	5,760.00
Allotment Clerk .....	1,920.00
Postage .....	4,000.00
Office Supplies .....	500.00
Furniture and Fixtures .....	500.00
Printing .....	1,500.00
Miscellaneous .....	600.00
Travel Expense .....	5,000.00
Leasing .....	3,000.00
Premium on Bonds .....	300.00
Inspection and Supervision Leased and Unleased	
School Lands .....	5,000.00
Sales-Refinance .....	5,000.00

TOTAL ..... \$ 66,065.34

## Subdivision 20.

## STATE EXAMINER

Salary ..... \$ 4,800.00

Clerkhire:	
Chief Deputy .....	3,840.00
Deputy Examiners .....	29,260.80
Clerkhire .....	5,760.00
Postage .....	1,500.00
Office Supplies .....	700.00
Furniture and Fixtures .....	400.00
Printing .....	1,000.00
Miscellaneous .....	1,000.00
Travel Expense .....	18,000.00
Bonds for Examiners .....	500.00
TOTAL .....	\$ 66,760.80

## Subdivision 21.

## STATE TAX COMMISSIONER

Salary .....	\$ 5,600.00
Clerkhire:	
Deputy Tax Commissioner .....	5,400.00
Estate Tax Deputy .....	5,040.00
Income Tax Deputy .....	4,200.00
Cashier and Bookkeeper .....	3,000.00
Corporation Clerk .....	3,240.00
Statistical Clerk .....	2,640.00
Stenographer and File Clerk .....	2,400.00
Machine Operator and File Clerk .....	2,400.00
Income Tax Clerk .....	1,920.00
Chief Clerk, Refund Department .....	2,640.00
Machine Operator, Refund Department .....	2,400.00
Special Clerk, Refund Department .....	3,600.00
Postage .....	7,500.00
Office Supplies .....	1,500.00
Furniture and Fixtures .....	1,500.00
Printing .....	7,500.00
Miscellaneous .....	1,000.00
Travel Expense .....	4,000.00
Refund Clerks (three) .....	6,840.00
TOTAL .....	\$ 74,320.00

## Subdivision 22.

## BOARD OF ADMINISTRATION

Salary—Three Members .....	\$ 14,400.00
Clerkhire:	
Executive Secretary .....	3,584.00
Office Help .....	3,580.80
Auditor .....	3,456.00
Purchasing Agent .....	3,072.00
Voucher Clerk .....	2,280.00

Supply Clerk .....	1,900.00
Postage .....	1,000.00
Office Supplies .....	700.00
Furniture and Fixtures .....	400.00
Printing .....	1,500.00
Miscellaneous .....	2,000.00
Travel Expense .....	7,000.00
Emergency Fund for State Institutions (P. V.)...	40,000.00
TOTAL .....	\$ 84,872.80

## Subdivision 23.

## STATE SECURITIES COMMISSION

Salary—Executive Officer .....	\$ 3,584.00
Clerkhire—Stenographer .....	1,140.00
Postage .....	275.00
Office Supplies .....	100.00
Printing .....	200.00
Miscellaneous .....	300.00
Investigations .....	400.00
Dues National Association .....	100.00
TOTAL .....	\$ 6,099.00

## Subdivision 24.

## STATE LIBRARY COMMISSION

Salary .....	\$ 3,200.00
Clerkhire:	
Chief Traveling Librarian .....	2,620.80
Reference Librarian .....	2,280.00
Stenographer .....	1,900.80
Clerk .....	1,560.00
Clerk .....	1,320.00
Postage .....	700.00
Office Supplies .....	600.00
Furniture and Fixtures .....	400.00
Printing .....	300.00
Miscellaneous .....	500.00
Travel Expense .....	300.00
Aids to Libraries .....	150.00
Books .....	2,500.00
Preparation of Books .....	200.00
Binding .....	400.00
TOTAL .....	\$ 18,931.60

## Subdivision 25.

## STATE ENGINEER

Salary .....	\$ 3,840.00
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Clerkhire .....	500.00
Postage .....	100.00
Office Supplies .....	400.00
Furniture and Fixtures .....	100.00
Printing .....	300.00
Miscellaneous .....	400.00
Travel Expense .....	2,000.00
Field Assistants .....	1,200.00
Hydrographic Survey .....	Veto
Missouri River Diversion .....	5,000.00

TOTAL ..... \$ 13,840.00

## Subdivision 26.

## STATE PRINTER

Salary .....	\$ 3,840.00
Clerkhire .....	Veto
Postage .....	200.00
Printing .....	200.00
Miscellaneous .....	200.00
Travel Expense .....	100.00

TOTAL ..... \$ 4,540.00

## Subdivision 27.

## ADJUTANT GENERAL

Salary .....	\$ 4,400.00
Clerkhire:	
Assistant Adjutant General .....	3,592.00
Adjutant General's Department Clerk, and Clerk, Returned Soldiers .....	2,280.00
Postage .....	250.00
Office Supplies .....	200.00
Printing .....	200.00
Miscellaneous .....	150.00
Travel Expense .....	300.00

TOTAL ..... \$ 11,372.00

## Subdivision 28.

## INDUSTRIAL COMMISSION

Clerkhire .....	\$ 2,800.00
Postage .....	400.00
Office Supplies .....	200.00
Furniture and Fixtures .....	200.00
Printing .....	250.00
Miscellaneous .....	400.00
Travel Expense .....	200.00

TOTAL ..... \$ 4,450.00

## Subdivision 29.

## TWENTY-FIFTH LEGISLATIVE ASSEMBLY

Mileage and per diem, Members.....	\$ 57,000.00
Per diem, Officers and Employees .....	20,000.00
Printing .....	30,000.00
Miscellaneous expenses and supplies .....	7,500.00
<b>TOTAL .....</b>	<b>\$114,500.00</b>

## Subdivision 30.

## STATE BOARD OF PARDONS

Appropriation for per diem, travel expenses, clerk-hire and miscellaneous items .....	\$ 1,300.00
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## Subdivision 31.

## STATE BUDGET BOARD

Per diem and other expenses of every kind incurred by the State Budget Board as prescribed by Sections 710a1 to 710a6 inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota and Chapter 93, Session Laws for the year 1929. Provided that \$50.00 of the amount appropriated for this subdivision shall become available upon the passage and approval .....	\$ 2,350.00
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## REWARD FOR APPREHENSION OF CRIMINALS

Reward for apprehension of criminals as prescribed by Chapter 200, Laws of 1917, the same being Section 11150 of the Supplement to the 1913 Compiled Laws of North Dakota.....	\$ 1,000.00
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## Subdivision 33.

## ARREST AND RETURN OF FUGITIVES FROM JUSTICE

For the arrest and return of fugitives from justice as provided by Section 11162, Compiled Laws of 1913, as amended and re-enacted by Chapter 160, Laws of 1915, the same being Section 11162 of the Supplement to the 1913 Compiled Laws of North Dakota .....	\$ 4,000.00
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§ 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.] All acts and parts of acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

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

Approved March 14, 1935.

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## CHAPTER 16

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

### BURIAL INMATES PENITENTIARY AND STATE TRAINING SCHOOL

An Act making an appropriation to pay the burial expenses of inmates of the Penitentiary and State Training School as prescribed by Section 11302 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$300.00, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to pay the costs of burial of inmates of the Penitentiary and State Training School as prescribed by Section 11302 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved February 19, 1935.

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## CHAPTER 17

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

### CIVIL WAR VETERANS—ERECTING HEADSTONES

An Act making an appropriation to pay expenses of erecting headstones over the graves of Soldiers, Sailors, and Marines of the United States War of the Rebellion.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$50.00, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to pay for the expenses of erecting headstones over the graves of Soldiers,

Sailors, and Marines of the United States War of the Rebellion, as authorized under Sections 3181, 3182, 3183 and 3184 of the Compiled Laws of North Dakota for 1913.

Approved February 19, 1935.

## CHAPTER 18

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

### COAL MINE INSPECTION

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$7,790.00 or so much thereof as may be necessary to pay salary, clerkhire, per diem and general expenses in carrying out the provisions of Chapter 168, Session Laws of 1919, the same being Sections 3084a1 to 3084a89 of the Supplement to the 1913 compiled Laws of North Dakota, and amendments thereto, relative to mine inspection, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 3,200.00
Clerkhire .....	1,440.00
Postage .....	100.00
Office Supplies .....	100.00
Furniture and Fixtures .....	100.00
Printing .....	350.00
Miscellaneous .....	300.00
Travel Expense .....	2,000.00
Examining Board .....	200.00

TOTAL ..... \$ 7,790.00

Approved March 8, 1935.

## CHAPTER 19

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

### STATE CONTINGENCY FUND

An Act making an appropriation to provide a State Contingency Fund to be placed at the disposal of the State Emergency Commission to be used as provided by Chapters 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$40,000.00, or so much thereof, as may be necessary, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to provide funds for the State Emergency Commission and which fund shall be known as the State Contingency Fund and be for the purposes authorized under Chapter 26 and 152, Session Laws of 1915, the same being Sections 283c1 to 283c6, inclusive, and Section 283c10 of the Supplement to the 1913 Compiled Laws of North Dakota.

Approved March 4, 1935.

## CHAPTER 20

H. B. No. 81—(Aljets and Keidel)

### DAIRY COMMISSIONER

An Act making an emergency appropriation to provide for the payment of the salaries of Assistant Dairy Commissioners, Official Tester, clerkhire, office supplies, printing, postage, travel expenses, auto exchange and miscellaneous expenses for the office of Dairy Commissioner, and declaring an emergency.

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

§ 1. APPROPRIATION. EMERGENCY.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$6,650.00, for the purpose of paying salaries of Assistant Dairy Commissioners, Official Tester, clerkhire, office supplies, printing, postage, travel expenses, auto exchange and miscellaneous expenses of the office of Dairy Commissioner, from the passage and approval of this act ending June the 30th, 1935, to-wit:

Salaries of 3 Assistant Dairy Commissioners.....	\$ 2,000.00
1 Chief Clerk and Secretary .....	500.00
1 Official Tester .....	500.00
Clerkhire .....	600.00
Office Supplies .....	200.00
Printing .....	800.00
Postage .....	200.00
Travel Expenses .....	1,200.00
Auto Exchange .....	500.00
Miscellaneous .....	150.00

TOTAL ..... \$ 6,650.00

§ 2. EMERGENCY.] Whereas it is necessary that the moneys hereby appropriated be immediately available to provide for the maintenance of said office of Dairy Commissioner for the remainder of this biennium, and that this appropriation is necessary to carry on the work of the office, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved March 13, 1935.

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CHAPTER 21

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

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DELEGATES NATIONAL CONVENTIONS

An Act making an appropriation to defray expenses of the delegates to National Political Conventions as prescribed by Section 916 of the Compiled Laws of 1913.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$2,000.00, for the biennium, or so much thereof as may be necessary to pay the traveling expenses of delegates to National Nominative Political Conventions as prescribed by Section 916 of the Compiled Laws of North Dakota for 1913.

Approved February 19, 1935.

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## CHAPTER 22

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

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FEEBLE MINDED—STATE AT LARGE

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

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,080.00, or so much thereof as may be necessary to care for the feeble minded whose residence cannot be determined and whose care must be borne by the state, for the biennium beginning July 1, 1935, and ending June 30, 1937.

Approved March 4, 1935.

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## CHAPTER 23

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

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INSURANCE TAX TO FIRE DEPARTMENTS

An Act making an appropriation for the purpose of paying insurance tax to the various fire departments of the state, in compliance with the provisions of Sections 3993 to 3998, inclusive, of the Compiled Laws of 1913.

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

§ I. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the

sum of \$60,000.00, or so much thereof as may be necessary to comply with the provisions of Section 3993 to 3998, inclusive, of the Compiled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various fire departments, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

Approved February 20, 1935.

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## CHAPTER 24

H. B. No. 69—(McIlraith)

### FIRE DEPARTMENTS INSURANCE TAX—DEFICIT

An Act making an appropriation to make up the deficit in the fund known as "The Insurance Tax to Fire Departments" for the purpose of paying insurance tax to the various Fire Departments of the state in compliance with the provisions of Sections 3993 to 3998 inclusive, of the Compiled Laws of 1913.

WHEREAS there was appropriated by Chapter 22 of the 1933 Session Laws of the State of North Dakota \$50,000 for the purpose of paying insurance tax to various Fire Departments of the state for the biennium beginning July 1st, 1933, and ending June 30th, 1935, and

WHEREAS there has been expended for the first half of said biennium the sum of \$26,019.60, and

WHEREAS the balance remaining in said fund will be insufficient to meet the requirements of Sections 3993 to 3998 inclusive, of the Compiled Laws of North Dakota for the year 1913 for the remainder of the biennium, now therefore

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$5,000, or so much thereof as may be necessary to make up the deficit in the fund known as the "Insurance Tax to Fire Departments" for the biennium beginning July 1st, 1933, and ending June 30th, 1935, to comply with the provisions of Sections 3993 to 3998 inclusive, of the Compiled Laws of North Dakota for the year 1913 relating to the payment of premiums received upon policies issued upon property, to various Fire Departments.

§ 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, 1935.

## CHAPTER 25

H. B. No. 43—(Committee on Appropriations)

## GAME AND FISH DEPARTMENT

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Game and Fish Fund, not otherwise appropriated, the sum of \$128,300.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Game and Fish Department, and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the Game and Fish Commissioner, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary, Commissioner, Deputy Commissioner, and Chief Game Warden .....	\$ 12,800.00
Clerkhire .....	6,500.00
Postage .....	1,500.00
Office Supplies .....	600.00
Furniture and Fixtures .....	200.00
Printing .....	4,000.00
Miscellaneous .....	5,000.00
Travel Expense .....	25,000.00
District Wardens .....	19,200.00
Maintenance of Game Farms .....	2,500.00
Maintenance of Fish Hatcheries .....	7,500.00
Rewards .....	3,500.00
Propagation .....	20,000.00
Construction .....	20,000.00

TOTAL ..... \$128,300.00

Approved March 14, 1935.

## CHAPTER 26

S. B. No. 112—(Committee on Appropriations)

## STATE GEOLOGICAL SURVEY

An Act making an appropriation for the purpose of paying salaries, stenographers and clerkhire, express and freight, postage, telegrams and telephones, office supplies, printing, traveling expenses, and miscellaneous expenses of the State Geological Survey, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$3,450.00, or so much thereof as may be necessary to pay the salaries, stenographers and clerkhire, express and freight, postage, telegrams and telephones, office supplies, printing, traveling expenses, and miscellaneous expenses of the State Geological Survey, including the Artesian Water Fund, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salaries (part time):

State Geologist, Deputy and Assistant Geologists..	\$ 1,500.00
Stenographers and Clerkhire .....	500.00
Express and Freight .....	50.00
Postage, Telegrams, and Telephones .....	100.00
Office Supplies .....	50.00
Printing .....	300.00
Traveling Expenses .....	900.00
Miscellaneous Expenses .....	50.00

TOTAL ..... \$ 3,450.00

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

Approved February 27, 1935.

## CHAPTER 27

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

### GLANDERS AND DOURINE INDEMNITY FUND

An Act making an appropriation for the Glanders and Dourine Indemnity Fund.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$500.00, or so much thereof as may be necessary to indemnify the owners of animals afflicted with the disease known as Glanders and Dourine, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

Approved March 4, 1935.

## CHAPTER 28

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

## GOVERNOR—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the clerkhire, travel and general expenses of the office of Governor, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$4,072.65, for the purpose of paying a deficit in the clerkhire, travel and general expenses of the office of the Governor, to-wit:

Secretary .....	\$ 900.00
Clerkhire .....	900.00
Postage .....	50.00
Office Supplies .....	50.00
Printing .....	100.00
Miscellaneous .....	300.00
Travel .....	300.00
Cost of outstanding bills incurred prior to July 30, 1934:	1,272.65
Deficiency in appropriations which have occurred prior to December 30, 1934 .....	200.00

TOTAL ..... \$ 4,072.65

§ 2. EMERGENCY.] Whereas: It is necessary that the money hereby appropriated be immediately available to provide for the maintenance of said Governor's Office, for the remainder of this fiscal year, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved February 20, 1935.

## CHAPTER 29

H. B. No. 40—(Committee on Appropriations)

## DEPARTMENT OF PUBLIC HEALTH

An Act making an appropriation for the purpose of paying salary, clerkhire and general expenses of the Department of Public Health.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$41,710.00, or so much thereof as may be necessary to pay the salary, clerkhire and all miscellaneous items and expenses for the Department of Public Health, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Health Officer .....	\$ 4,800.00
Clerkhire:	
Director, Communicable and Veneral Disease Control .....	4,800.00
Sanitary Engineer .....	4,800.00
Director, Vital Statistics .....	2,640.00
Chief Clerk and Accountant .....	3,000.00
Two Stenographers .....	4,320.00
Two Clerks .....	4,000.00
Postage .....	1,500.00
Office Supplies .....	1,000.00
Furniture and Fixtures .....	1,000.00
Printing .....	3,000.00
Miscellaneous .....	500.00
Travel Expense .....	3,750.00
New Car .....	600.00
Tabulating, Indexing, Filing and Binding Birth, Death and Marriage Certificates .....	2,000.00
<b>TOTAL .....</b>	<b>\$ 41,710.00</b>

Approved March 23, 1935.

## CHAPTER 30

### H. B. No. 39—(Committee on Appropriations)

#### PUBLIC HEALTH LABORATORIES

An Act making an appropriation for the purpose of paying salary, clerkhire and general expenses of the Public Health Laboratories.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$24,446.00, or so much thereof as may be necessary to pay the salary, clerkhire and all miscellaneous items and expenses for the Public Health Laboratories, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Director (part time) .....	\$ 768.00
Salary—Pathologist (part time) .....	768.00
Technicians (Main Laboratory) .....	8,960.00
Technicians (Bismarck Laboratory) .....	6,090.00
Clerkhire:	
Main Laboratory .....	1,600.00
Bismarck Laboratory .....	960.00
Postage .....	500.00
Office Supplies .....	400.00
Furniture and Fixtures (Apparatus and Equipment)...	2,000.00

Printing .....	400.00
Miscellaneous .....	800.00
Travel Expense .....	200.00
Laboratory Supplies .....	4,000.00
Emergency .....	1,000.00
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TOTAL .....	\$ 28,446.00
Less estimated income .....	4,000.00
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GRAND TOTAL .....	\$ 24,446.00

Approved March 23, 1935.

## CHAPTER 31

H. B. No. 42—(Committee on Appropriations)

### STATE HIGHWAY DEPARTMENT

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Motor Registration Fund, not otherwise appropriated, the sum of \$200,000.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the State Highway Department, and in carrying out the provisions and purposes of the State Highway Commission Act, and co-operating with the Federal Government under the Act of Congress approved July 11, 1916 (Public Document No. 156) entitled "An Act to provide that the United States shall aid the states in the construction of rural post-roads and for other purposes," and in carrying out the provisions of any other law imposing duties or conferring powers on the Highway Commissioner, and there is hereby set apart and appropriated from said Motor Registration Fund the amounts specified in this act, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Highway Commissioner .....	\$ 6,400.00
General Operating Fund .....	193,600.00
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TOTAL .....	\$200,000.00

Approved March 14, 1935.

## CHAPTER 32

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

## STATE HISTORICAL SOCIETY

An Act making an appropriation for the purpose of paying salary, clerk-hire and general expenses of the State Historical Society.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$15,970.00, or so much thereof as may be necessary to pay the salary, clerkhire and miscellaneous expenses of the State Historical Society for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Superintendent .....	\$ 3,520.00
Clerkhire:	
Librarian .....	2,400.00
Museum Assistant and Stenographer .....	1,800.00
Newspaper Clerk .....	1,800.00
Museum Assistant .....	1,800.00
Postage .....	300.00
Office Supplies .....	400.00
Furniture and Fixtures .....	800.00
Printing .....	400.00
Miscellaneous .....	300.00
Travel Expense .....	600.00
Museum .....	500.00
Books .....	600.00
State Parks .....	750.00
<b>TOTAL .....</b>	<b>\$ 15,970.00</b>

Approved March 14, 1935.

## CHAPTER 33

H. B. No. 212—(Keidel and Schauss)

## OLD FT. ABRAHAM LINCOLN SITE PURCHASE

An Act appropriating five thousand dollars (\$5,000.00) to the State Historical Society for the purchase of the site of Old Fort Abraham Lincoln in Morton County, North Dakota.

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

WHEREAS, Fort Abraham Lincoln was one of the most important military posts in North Dakota, certain episodes in its history having made it one of the historic shrines in the Northwest; and

WHEREAS, the site of Fort Abraham Lincoln is now privately owned and in constant danger of being marred or destroyed unless some means are provided for its preservation as a state park; and

WHEREAS, the State Historical Society of North Dakota has secured the services of an Emergency Conservation Work Park Camp under the direction of the National Park Service to partially restore old Fort McKeen which camp has already completed park work of the utmost value to the state; and

WHEREAS, the National Park Service has expressed a willingness to continue the camp to improve and restore Fort Abraham Lincoln at no cost to people of North Dakota if the state acquires title to the site;

§ 1. APPROPRIATION.] NOW, THEREFORE, there is hereby appropriated out of the General Fund of the State of North Dakota not otherwise appropriated, the sum of five thousand dollars (\$5,000.00) or so much thereof as shall be necessary to the State Historical Society of the State of North Dakota to be used in the purchase of the site of Old Fort Abraham Lincoln in Morton County, North Dakota, more particularly described as follows: The Southeast Quarter (SE $\frac{1}{4}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ) of Section Thirteen (13), the East One-half (E $\frac{1}{2}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) and Lots 1 and 2 of Section Twenty-four (24) all in Township One Hundred Thirty-eight (138) Range Eighty-one (81), such lands to be bought in the name of the State of North Dakota, for a state park.

Approved March 14, 1935.

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## CHAPTER 34

S. B. No. 148—(Bonzer and Brostuen)

### REIMBURSEMENT BANK OF NORTH DAKOTA FOR PARK LAND LOANS

An Act appropriating the sum of twenty-eight thousand (\$28,000.00) dollars, or so much thereof as may be required, to reimburse the Bank of North Dakota for certain funds loaned to the State Historical Society, for the purpose of purchasing State Park Lands, and declaring an emergency.

WHEREAS, the National Park Service of the United States has designated certain areas within the State of North Dakota for development of State Parks, such parks being known as the Roosevelt Regional Park, Arvilla State Park and Fort Lincoln State Park, and as a condition to such designation, the United States first required that the title to certain portions of said areas be vested in the State of North Dakota, and upon the further condition that the state provide sufficient quantities of potable water at the camp sites of said areas for the use of the Civilian Conservation Corps Units to be located there; and

WHEREAS, it was necessary that the State immediately purchase such lands and make such expenditures in order to obtain said Federal development projects, and all of which required the immediate expenditure of approximately twenty-eight thousand (\$28,000.00) dollars for which there was not available any appropriation; and

WHEREAS, the Bank of North Dakota, upon the application of the State Historical Society, did during 1934 transfer to the State Historical Society for the purposes herein specified the sum of twenty-eight thousand (\$28,000.00) dollars; Now THEREFORE:

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

§ 1. There is hereby appropriated out of the general funds of the State Treasury, not otherwise appropriated, the sum of twenty-eight thousand (\$28,000.00) dollars, or so much thereof as may be required, to reimburse the Bank of North Dakota for the funds loaned to the State Historical Society for the purposes set forth in the preamble to this act.

§ 2. An emergency is hereby declared to exist, and this act will be in force and effect from the date of its enactment and approval.

Approved March 6, 1935.

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## CHAPTER 35

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

### INSANE PATIENTS—STATE AT LARGE

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$89,000.00, or so much thereof as may be necessary, to care for the insane patients whose residence cannot be determined and whose care must be borne by the state, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

Approved February 19, 1935.

## CHAPTER 36

## H. B. No. 11—(Committee on Appropriations)

## RELEASE INSANE PATIENTS

An Act making an appropriation to provide funds to pay the necessary expenses and reasonable compensation to commissioners appointed in actions to release insane patients as prescribed by Section 2562 of the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$100.00, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary to pay the expenses and reasonable compensation to commissioners appointed in actions to release insane patients as provided for under Section 2562 of the Compiled Laws of North Dakota for 1913.

Approved March 4, 1935.

## CHAPTER 37

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

## AGRICULTURAL COLLEGE

An Act making an appropriation to pay the general maintenance, improvements and repairs, equipment, miscellaneous and public service of the Agricultural College, Fargo, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$404,095.83, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous and public service of the Agricultural College, Fargo, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## ADMINISTRATION:

1.	President's Office .....	\$ 10,822.40
2.	Business Office .....	15,456.32
3.	Registrar .....	12,716.24
4.	Telephone Exchange .....	6,728.00
5.	Publications and General Printing.....	3,500.00
5½.	Employment Bureau .....	2,000.00
6.	Divisional Expense .....	800.00

## EDUCATION:

1.	Agriculture:	
a.	Agriculture .....	110,346.12
b.	Animal Hygiene .....	4,572.88

2. Engineering:	
a. Engineering .....	69,407.20
b. School of Chemistry .....	31,576.96
3. Home Economics .....	35,788.00
4. Applied Arts and Sciences:	
a. Science and Literature .....	112,454.40
b. School of Education .....	15,895.40
c. School of Pharmacy .....	13,547.80
5. College Library .....	15,919.00
6. Music (Band, Orchestra, Etc.) .....	3,000.00
7. Physical Education for Men .....	5,000.00
8. Physical Education for Women .....	4,000.00
9. Military Science and Tactics .....	3,000.00
10. Students' Welfare .....	1,200.00
11. General Educational Expense .....	8,000.00
PHYSICAL PLANT:	
1. Power Plant .....	21,178.60
2. Fuel .....	60,000.00
3. Buildings and Grounds .....	37,510.56
4. Institutional Expense .....	6,883.28
5. Gas, Light, Power and Water .....	26,000.00
SALARY ADJUSTMENTS .....	17,160.00
TOTAL MAINTENANCE .....	\$654,463.16
Less Estimated Income .....	304,300.00
NET MAINTENANCE .....	\$350,163.16
IMPROVEMENTS AND REPAIRS:	
1. Special Improvement Assessments:	
a. Trunk Sewer and Job No. 2507.....	\$ 2,763.08
b. Trunk Water and Job No. 2601.....	1,282.69
c. Highway No. 183, 26 and 268c.....	5,186.90
2. Campus Streets, Walks and Buildings .....	6,000.00
EQUIPMENT:	
1. Special Equipment:	
a. Engineering .....	1,500.00
2. Special Equipment:	
a. Botany, Zoology, Biology .....	1,500.00
MISCELLANEOUS:	
1. Insurance on all buildings and Workmen's Compensation Bonds .....	30,200.00
PUBLIC SERVICE:	
1. Salaries and Operating Budget .....	5,500.00
TOTAL .....	\$404,095.83

Approved March 23, 1935.

## CHAPTER 38

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

## AGRICULTURAL COLLEGE EXPERIMENT STATION

An Act making an appropriation to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the Experiment Station at the Agricultural College, Fargo, North Dakota and its branch stations.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$49,759.00 or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the Experiment Station at the Agricultural College, Fargo, North Dakota, and its branch stations, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES, WAGES AND OPERATING EXPENSE—

## MAIN STATION:

1. Administration .....	\$ 6,000.00
2. Station Staff, etc. ....	104,500.00
3. Labor .....	40,000.00
4. Operating Expense .....	62,000.00

TOTAL MAINTENANCE .....	\$212,500.00
Less Estimated Income .....	212,500.00

## IMPROVEMENTS AND REPAIRS:

1. General Repairs .....	\$ 5,000.00
2. Repair Greenhouse Heating .....	900.00

## MISCELLANEOUS:

1. Heat, Light, Water, Power and Campus Service .....	40,000.00
2. Fire and Tornado Insurance .....	1,159.00
3. Workmen's Compensation Insurance .....	5,000.00

## EQUIPMENT:

1. Ice Cream Equipment .....	500.00
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TOTAL, Main Station .....	\$ 42,559.00
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## BRANCH STATIONS:

1. Dickinson .....	\$ 5,000.00
2. Edgeley .....	550.00
3. Hettinger .....	550.00
4. Langdon .....	550.00

5. Williston .....	550.00
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TOTAL, Main Station and Branch Stations.... \$ 49,759.00  
 Approved March 23, 1935.

## CHAPTER 39

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

### AGRICULTURAL COLLEGE EXTENSION DIVISION

An Act making an appropriation to pay the general maintenance, and as an offset for Federal Aid, in Extension Division work of the Agricultural College.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary to pay the general expenses in carrying out the work of the Extension Division of the Agricultural College, Fargo, North Dakota, and assist in carrying out the provisions of the Smith-Lever Federal Aid Work in the Agricultural Demonstration, as provided for under Chapter 5, Session Laws of 1915, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

1. County Agents .....	\$ 93,358.00
2. Field Agents (Agriculture) .....	53,437.43
3. Field Agents (Home Economics) .....	18,714.00
4. Boys' and Girls' Club Work .....	24,560.00
5. Home Demonstration (Homemakers' Clubs)...	30,000.00
6. Publicity and Publications .....	12,842.33
7. Administration .....	14,254.00
8. Maintenance .....	8,000.00

TOTAL .....	\$255,165.76
Less Estimated Income (Federal).....	245,165.76
TOTAL NET APPROPRIATION .....	\$ 10,000.00

Approved March 6, 1935.

## CHAPTER 40

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

### STATE SCHOOL FOR THE BLIND

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$31,686.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School for the Blind at Bathgate, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

SALARIES AND WAGES:

1. Administration .....	\$ 4,800.00
2. Faculty .....	8,568.00
3. Other Employes .....	8,000.00
4. Salary Adjustments .....	1,068.00

OPERATING EXPENSE:

1. Fuel (including freight) .....	5,300.00
2. Light, Power, Water, Gas .....	1,000.00
3. Telephone, Telegraph, Postage .....	400.00
4. Freight and Express .....	200.00
5. Insurance, Bonds, etc. ....	1,200.00
6. Printing .....	150.00
7. Travel .....	250.00
8. Office Supplies .....	150.00
9. Educational Supplies .....	600.00
10. Power House Supplies .....	350.00
11. Janitor's Supplies .....	150.00
12. Students' Welfare .....	200.00
13. Food (including meats, etc.) .....	7,500.00
14. Clothing .....	300.00
15. Hospital and Medical Service .....	500.00
16. Laundry Costs .....	200.00
17. Farm and Garden .....	700.00

TOTAL MAINTENANCE .....	\$ 41,586.00
Less estimated income, all sources .....	13,000.00

NET MAINTENANCE .....	\$ 28,586.00
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IMPROVEMENTS AND REPAIRS:

1. General .....	\$ 1,000.00
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EQUIPMENT:

1. Kitchen Utensils .....	300.00
2. Furniture, Beds and Bedding .....	300.00
3. Books and Musical Instruments .....	200.00
4. Replacement, Plumbing and Steam Fittings .....	600.00

MISCELLANEOUS ITEMS:

1. Care of Blind Children .....	500.00
2. Auto Cost .....	200.00

TOTAL .....	\$ 31,686.00
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Approved March 1, 1935.

## CHAPTER 41

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

## CAPITOL BUILDINGS AND GROUNDS

An Act making an appropriation for the maintenance of thte State Capitol and for improvements, repairs, insurance and upkeep of grounds.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$140,568.31, or so much thereof as may be necessary for the maintenance, improvements, repairs, insurance, upkeep of grounds and miscellaneous of the State Capitol Buildings. Unless otherwise specifically stated, the appropriations herein made shall be for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salaries .....	\$ 70,052.40
Maintenance, Improvements and Repairs .....	54,947.60
Repairs and Maintenance of Elevators .....	5,280.00
Insurance and Workmen's Compensation.....	6,588.31
Trees, Shrubberty and Roads .....	3,000.00
Truck .....	700.00

TOTAL ..... \$140,568.31

Approved March 14, 1935.

## CHAPTER 42

S. B. No. 71—(Committee on Appropriations)

## CAPITOL MAINTENANCE — DEFICIT

An Act making an appropriation to provide for the payment of a deficit for maintenance of the Capitol from February 1, 1935, to June 30, 1935, in the Office of the Board of Administration, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$26,000.00 for the purpose of paying a deficit in the expense of maintenance of the Capitol from February 1, 1935, to June 30, 1935, in the office of the Board of Administration, to-wit:

Capitol Maintenance Expense from February 1, 1935, to  
June 30, 1935 ..... \$ 26,000.00

§ 2. EMERGENCY.] Whereas it is necessary that the money hereby appropriated be immediately available to provide for the maintenance of the State Capitol Building of North Dakota from

February 1, 1935, to the end of this fiscal year by the Board of Administration, and that this appropriation is necessary for the purpose of maintaining said Capitol during said time, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved February 20, 1935.

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## CHAPTER 43

H. B. No. 83—(Burke)

### PURCHASE CAPITOL PARK LOTS

An Act making an appropriation for the purchase of certain lots within the plat of Capitol Park adjoining the Capitol Buildings in the City of Bismarck, North Dakota, and providing for method of disbursements thereof.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of one thousand dollars (\$1,000.00) or so much thereof as may be necessary to purchase from the owners thereof the following lots adjoining the Capitol Buildings and located within the plat of Capitol Park in the City of Bismarck, North Dakota, to-wit:

Lots 13 to 16 inclusive in Block 11; Lots 9, 10, 27, 28 and 29 in Block 21; Lot 5 in Block 28; and an undivided one-half interest in Lots 13 to 19 inclusive in Block 33; Lots 21 and 22 in Block 33; Lots 23 to 27 inclusive in Block 33; and Lots 1 and 2 in Block 31; and such other lots in said plat of Capitol Park as may be necessary to purchase to give the State of North Dakota good title to all lots located within said plat.

§ 2. METHOD OF DISBURSEMENT.] The amount hereby appropriated shall be disbursed by the Board of Administration to the person from whom any of said lots may be purchased and the title thereto shall be acquired by the said Board of Administration in the name of the State of North Dakota through such conveyance as may be approved by the Attorney General and found sufficient to base good title in the state thereto, and shall be paid upon proper vouchers audited and allowed in the manner now provided by law for the payment of claims against the State of North Dakota.

Approved March 6, 1935.

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CHAPTER 44

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

**NORTH DAKOTA CHILDREN'S HOME AND AID SOCIETY**

An Act making an appropriation for the North Dakota Children's Home and Aid Society at Fargo, North Dakota.

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

§ 1. APPROPRIATION AND METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to the Children's Welfare Bureau and by its director apportioned to the North Dakota Children's Home and Aid Society in the following manner, to-wit: The sum of \$10.00 per month shall be paid the said North Dakota Children's Home and Aid Society toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges of said society, as determined by the superintendent or superior in charge.

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

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

Approved March 4, 1935.

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CHAPTER 45

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

**FLORENCE CRITTENTON HOME**

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

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00, for the biennium be-

ginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to the Children's Welfare Bureau and by its directors apportioned to the Florence Crittenton Home, a corporation, of Fargo, North Dakota, being a maternity home now licensed in this State, to be paid to the said Florence Crittenton Home in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or physical condition necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

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

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

Approved March 4, 1935.

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## CHAPTER 46

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

### NORTH DAKOTA HOUSE OF MERCY

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

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to the Children's Welfare Bureau, and by its director apportioned to the North Dakota House of Mercy, of Fargo, North Dakota, being a maternity home now licensed in this state, to be paid to said North Dakota House of Mercy in the following manner, to-wit: The sum of \$15.00 per month shall be paid the said institution toward the support and maintenance of each poor and indigent unmarried expectant mother, or mother, and \$10.00 per month toward the support and maintenance of each poor and indigent infant or child during the time their age or general condition

necessitates their being charges in said maternity home, as determined by the superintendent or superior in charge.

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

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

Approved March 4, 1935.

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## CHAPTER 47

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

### ST. JOHN'S ORPHANAGE

An Act making an appropriation for St. John's Orphanage of Fargo, North Dakota.

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

§ 1. APPROPRIATION, METHOD OF EXPENDITURE.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000.00 for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary, to the Children's Welfare Bureau and by its director apportioned to the St. John's Orphanage in the following manner, to-wit: The sum of \$10.00 per month shall be paid to the said St. John's Orphanage toward the support and maintenance of each poor and indigent infant or child while their age or general condition necessitates their remaining as charges in said Home, as determined by the superintendent or superior in charge.

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

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

Approved March 4, 1935.

## CHAPTER 48

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

## SCHOOL FOR THE DEAF

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$142,155.36, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs and equipment of the School for the Deaf at Devils Lake, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 9,151.08
2. Faculty .....	49,548.92
3. Other Employees .....	3,992.00
4. Salary Adjustments .....	21,145.58

## OPERATING EXPENSE:

1. Fuel (including freight) .....	15,000.00
2. Light, Power, Water .....	2,000.00
3. Telephone, Telegraph, Postage .....	900.00
4. Trades Building Supplies .....	1,500.00
5. Insurance, Bonds, etc. ....	4,917.78
6. Printing .....	1,500.00
7. Travel .....	350.00
8. Office Supplies .....	300.00
9. Educational Supplies .....	1,800.00
10. Power House Supplies .....	500.00
11. Janitor's Supplies .....	1,800.00
12. Students' Welfare .....	700.00
13. Food (including meats) .....	18,000.00
14. Laundry .....	600.00
15. Hospital and Medical Service.....	1,000.00
16. Farm and Garden .....	3,500.00
17. Automobile and Bus Upkeep .....	2,000.00
18. Kitchen Supplies .....	700.00
19. Bedding, Linen and Dry Goods.....	1,600.00
20. Western Union Clock Rental.....	330.00

TOTAL MAINTENANCE .....	\$142,835.36
Less estimated income, all sources.....	20,000.00

NET MAINTENANCE .....	\$122,835.36
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## IMPROVEMENTS AND REPAIRS:

1. Heating and Plumbing .....	1,500.00
2. Electric Wiring and Supplies.....	800.00
3. Painting .....	600.00
4. General Repair of Buildings.....	2,000.00
5. Nursery Stock and Campus .....	400.00
6. Weatherstripping and Calking Trades Building .....	1,170.00
7. Reimburse F. E. R. A. for Material.....	875.00

## EQUIPMENT:

1. Library and Text Books .....	900.00
2. Furniture .....	1,500.00
3. Laundry Tumbler and Sleeve Ironer.....	1,275.00
4. Shops Equipment .....	2,000.00
5. Power House Equipment .....	5,000.00
6. Farm Equipment .....	400.00
7. Sonotone .....	800.00
8. Playground Equipment .....	100.00

TOTAL ..... \$142,155.36

Approved March 1, 1935.

## CHAPTER 49

H. B. No. 62—(Committee on Appropriations)

## SCHOOL OF FORESTRY

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School of Forestry at Bottineau, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$62,897.00, or so much thereof as may be necessary for the purpose of paying the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State School of Forestry at Bottineau, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 8,870.00
2. Faculty .....	30,671.00
3. Other Employees .....	4,050.00
4. Salary Adjustments .....	2,179.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	2,700.00
2. Light, Power, Water, Gas .....	800.00
3. Telephone, Telegraph, Postage .....	900.00
4. Freight and Express .....	500.00
5. Insurance, Bonds, etc. ....	1,232.00
6. Printing .....	500.00
7. Travel .....	200.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	800.00
10. Truck Maintenance .....	200.00
11. Janitors' Supplies .....	675.00
12. Students' Welfare .....	200.00
13. Dormitory Maintenance .....	400.00
14. State Forest Nursery .....	7,000.00
15. Forestry Extension .....	4,000.00
16. Reforestation—Co-op. with Federal Govern- ment .....	2,500.00

TOTAL MAINTENANCE .....	\$ 68,877.00
Less estimated income, all sources .....	12,000.00

NET MAINTENANCE .....	\$ 56,877.00
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## IMPROVEMENTS AND REPAIRS:

1. General Repairs .....	500.00
2. Greenhouse Addition .....	2,500.00

## EQUIPMENT:

1. Library Books and Supplies .....	400.00
2. School and Laboratory .....	800.00
3. State Forest Nursery Machinery .....	200.00
4. Contract Renewals—Typewriters .....	360.00
5. Athletics .....	50.00
6. Pick-up Truck .....	560.00

## MISCELLANEOUS ITEMS

1. Special Assessment Taxes .....	600.00
2. Appraisement .....	50.00

TOTAL .....	\$ 62,897.00
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Approved March 23, 1935.

## CHAPTER 50

H. B. No. 58—(Committee on Appropriations)

## GRAFTON STATE SCHOOL

An Act making an appropriation for the general maintenance, improvements and repairs, new buildings, equipment and miscellaneous items for the Grafton State School at Grafton, North Dakota; imposing certain duties on the Board of Administration in relation thereto when funds may be obtained from the Federal Government for the above purposes; and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$191,458.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new buildings, equipment and miscellaneous items of the Grafton State School at Grafton, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 6,080.00
2. Faculty .....	11,828.00
3. Other Employees .....	97,292.00
4. Salary Adjustments .....	5,760.00

## OPERATING EXPENSES:

1. Fuel (including freight) .....	60,000.00
2. Light, Power, Water, Gas, Ice .....	2,000.00
3. Telephone, Telegraph, Postage .....	1,200.00
4. Insurance, Bonds, etc. ....	6,500.00
5. Printing .....	800.00
6. Travel .....	300.00
7. Office Supplies .....	900.00
8. Educational Supplies .....	1,200.00
9. Power House Supplies .....	1,500.00
10. Janitors' Supplies .....	3,000.00
11. Patients' Welfare .....	1,800.00
12. Food (including meats, etc.) .....	60,000.00
13. Clothing .....	18,000.00
14. Hospital and Medical Service .....	4,000.00
15. Farm and Garden .....	9,000.00
16. Laundry .....	4,000.00
17. Incidentals .....	3,000.00

TOTAL MAINTENANCE .....	\$ 98,160.00
Less estimated income, all sources .....	252,700.00

NET MAINTENANCE .....	\$ 45,460.00
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## IMPROVEMENTS AND REPAIRS:

1. Paints and Painting .....	1,000.00
2. Building Repairs .....	2,000.00
3. Boiler House .....	6,000.00
4. Heating and Plumbing .....	800.00

## NEW BUILDINGS:

1. Girls' Dormitory—First Unit .....	95,000.00
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## EQUIPMENT:

1. Kitchen .....	1,000.00
2. Beds and Furniture .....	3,000.00
3. Furnishings .....	1,500.00
4. Laundry .....	1,500.00
5. Ice Machine .....	3,000.00
6. Furniture, Fixtures, and Furnishings.....	25,000.00

## MISCELLANEOUS ITEMS:

1. Land Rental .....	6,198.00
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TOTAL ..... \$191,458.00

## § 2. OTHER FUNDS. DUTIES OF BOARD OF ADMINISTRATION.]

The Board of Administration may also enter into any agreement relative to any funds which may be obtained from the Federal Government or any of its agencies, for the purpose of assisting in the construction of such new building, which funds may then be added to the appropriation hereby made therefor, such agreement to conform with the rules and regulations of the Federal Government or its agencies incident to obtaining such funds, and in case such funds shall be procured, then the total cost of said building may, in the discretion of the Board, exceed the amount hereby appropriated therefor; provided, however, that the total disbursements to be made out of state moneys in the construction and equipment of said new building shall in no case exceed the amount hereby appropriated therefor.

§ 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, 1935.

## CHAPTER 51

## S. B. No. 277—(Committee on Appropriations)

## GRAFTON STATE SCHOOL—SEWAGE DISPOSAL PLANT

An Act authorizing the Board of Administration to construct, either independently of or jointly with the City of Grafton, a sewage disposal plant for the Grafton State School and making an appropriation therefor.

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

§ 1. CONSTRUCTION OF SEWAGE DISPOSAL PLANT.] The Board

of Administration is hereby authorized to cause to be constructed at and for the Grafton State School in the manner provided by law a sewage disposal plant of the kind, size and material that the Board of Administration may decide upon. The Board of Administration, if it deems it advisable and to the best interests of the said institution and the state, may enter into an agreement with the City of Grafton whereby the said plant may be constructed by the said City of Grafton as a part of the sewage disposal plant of said city upon contribution by the said institution of a part of the total cost thereof, under such terms, conditions and right to use the same as may be agreed upon between the City of Grafton and the Board of Administration in behalf of the Grafton State School, which agreement shall be in writing and approved as to form and conditions by the Attorney General before it may be executed; provided, however, that in no event shall the cost of said plant or contribution thereto by the Grafton State School exceed the amount hereby appropriated therefor.

§ 2. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$27,000.00, or so much thereof as may be necessary, to be expended by the Board of Administration for the purpose of this act.

Approved March 14, 1935.

## CHAPTER 52

### S. B. No. 17—(Committee on Appropriations)

#### HOSPITAL FOR THE INSANE

An Act making an appropriation for the general maintenance and a new building for the State Hospital for the Insane at Jamestown, North Dakota, and for the construction and equipment of a new building at said Hospital; permitting the use of labor of inmates in the construction and equipment of such new building; imposing certain duties on the Board of Administration in connection therewith; and repealing all acts or parts of acts in conflict therewith.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$200,000.00, or so much thereof as may be necessary to pay the general maintenance and a new building for the State Hospital for the insane at Jamestown, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

#### SALARIES AND WAGES:

1. Administration .....	\$ 9,840.00
2. Assistant Physicians .....	11,292.00
3. Other Employees .....	175,952.00
4. Salary Adjustments .....	9,854.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	108,000.00
2. Filtration Plant .....	27,000.00
3. Telephone, Telegraph, Postage .....	3,000.00
4. Miscellaneous Administration .....	500.00
5. Insurance, Bonds, etc. ....	16,600.00
6. Printing and Office Supplies .....	1,500.00
7. Travel .....	1,000.00
8. Laundry Supplies .....	8,000.00
9. Educational Supplies, O. T. ....	4,000.00
10. Power House Supplies .....	5,000.00
11. Janitors' Supplies, Soaps and Cleaners.....	10,000.00
12. Patients' Welfare .....	16,000.00
13. Food (including meats) .....	168,000.00
14. Clothing .....	40,000.00
15. Hospital, Medical and Dental Service .....	12,000.00
16. Operating Physical Plant .....	47,500.00
17. Grounds, Farm and Garden Maintenace....	40,000.00
18. Household Supplies .....	15,000.00
19. Institutional Collections .....	5,000.00
20. Autos, Trucks and Supplies .....	9,000.00

TOTAL MAINTENANCE .....	\$744,038.00
Less estimated income, all sources .....	744,038.00

## NEW BUILDINGS AND EQUIPMENT:

1. Men's Ward Building and Equipment .....	\$200,000.00
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TOTAL .....	\$200,000.00
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§ 2. USE OF LABOR OF INMATES. DUTIES OF BOARD OF ADMINISTRATION.] Notwithstanding any law to the contrary, the Board of Administration is authorized and empowered to use without compensation any inmate of the Hospital for the Insane to do and perform any work or labor in the construction and equipment of the new building at said institution for which an appropriation is hereby made as a part of or in addition to the contract that may be awarded for said new building; and the Board of Administration may, if it sees fit and proper, award a contract or contracts for part only of the construction and equipment of said new building, and complete said building with the labor of said inmates either in whole or in part, and purchase, in the manner provided by law therefor the material necessary to be used by said inmate labor; and the Board of Administration may also enter into any agreement whereby any funds might be obtained from the Federal Government or any of its agencies for the purpose of constructing part of such new building, which funds may then be added to the appropriation hereby made therefor, the said agreement to be in conformity with the rules and regulations

prescribed for the obtention of said funds, and in that event the total cost of said new building may exceed the amount hereby appropriated therefor; provided, however, that the total disbursements to be made out of state moneys for the construction and equipment of said new building shall in no case exceed the amount hereby appropriated therefor.

Approved March 8, 1935.

## CHAPTER 53

H. B. No. 56—(Committee on Appropriations)

### DICKINSON NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses for the State Normal School, Dickinson, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$184,384.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, new building, equipment and miscellaneous expenses of the State Normal School, Dickinson, North, Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

#### SALARIES AND WAGES:

1. Administration .....	\$ 13,009.00
2. Faculty .....	94,850.00
3. Other Employees .....	16,500.00
4. Salary Adjustments .....	10,950.00

#### OPERATING EXPENSES:

1. Fuel (including freight) .....	12,000.00
2. Light, Power, Water, Gas .....	6,000.00
3. Telephone, Telegraph, Postage .....	1,800.00
4. Freight and Express .....	500.00
5. Insurance, Bonds, etc. ....	1,550.00
6. Printing .....	1,200.00
7. Travel .....	225.00
8. Office Supplies .....	800.00
9. Educational Supplies .....	2,000.00
10. Power House Supplies .....	1,200.00
11. Janitor's Supplies .....	1,500.00
12. Students' Welfare .....	2,500.00
13. Contract Renewal of Typewriters .....	800.00

14. Rural School Transportation .....	1,000.00
15. Maintenance of Dormitories .....	1,500.00
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TOTAL MAINTENANCE .....	\$169,884.00
Less estimated income, all sources.....	30,000.00
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NET MAINTENANCE .....	\$139,884.00
IMPROVEMENTS AND REPAIRS:	
1. Trees, Shrubby, Driveways .....	250.00
2. General Repairs and Upkeep .....	2,000.00
3. Resurfacing Roofs .....	1,500.00
3. Resurfacing Tunnel .....	500.00
5. Power Plant Repair and Replacing Equip- ment .....	36,300.00
EQUIPMENT:	
1. Gymnasium and Physical Education .....	400.00
2. Office .....	100.00
3. Library .....	200.00
4. Manual Training .....	300.00
5. Classroom Equipment .....	150.00
6. Laboratory Equipment and Supplies.....	400.00
7. Commercial Department .....	100.00
8. Library Books and Periodicals .....	1,500.00
9. Rural School Car .....	750.00
MISCELLANEOUS ITEMS:	
1. Appraisal .....	50.00
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TOTAL .....	\$184,384.00

Approved March 23, 1935.

## CHAPTER 54

H. B. No. 61—(Committee on Appropriations)

### MAYVILLE NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal School, Mayville, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$105,619.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School at Mayville, North

Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

SALARIES AND WAGES:

1. Administration .....	\$ 10,331.00
2. Faculty .....	80,000.00
3. Other Employees .....	13,000.00
4. Salary Adjustments .....	5,166.00

OPERATING EXPENSE:

1. Fuel (including freight) .....	14,000.00
2. Light, Power, Water, Gas .....	5,000.00
3. Telephone, Telegraph, Postage .....	1,000.00
4. Freight and Express .....	800.00
5. Insurance, Bonds, etc. ....	4,000.00
6. Printing .....	800.00
7. Travel .....	200.00
8. Office Supplies .....	400.00
9. Educational Supplies .....	2,000.00
10. Power House Supplies .....	1,000.00
11. Janitor's Supplies .....	1,000.00
12. Students' Welfare .....	1,000.00
13. Extension .....	2,000.00
14. Commencement Supplies .....	200.00
15. Car, Truck, Bus Maintenance .....	1,000.00
16. City Practice Teaching (not included in salary) .....	1,000.00
17. Rural Practice Teaching (not included in salary) .....	1,000.00
18. Grounds .....	100.00

TOTAL MAINTENANCE .....	\$144,997.00
Less estimated income, all sources .....	47,500.00

NET MAINTENANCE ..... \$ 97,497.00

IMPROVEMENTS AND REPAIRS:

1. Plumbing, Heating, Ventilating .....	600.00
2. General Repairs .....	1,000.00
3. Shingling Buildings .....	1,000.00
4. Painting (general) .....	300.00
5. Resetting Boiler 1 .....	2,000.00
6. Thermostats and Valves .....	200.00

EQUIPMENT:

1. Replacement of Equipment .....	500.00
2. Typewriters .....	250.00
3. Library .....	1,000.00
4. Filing Equipment .....	100.00

5. Physical Education Equipment .....	100.00
6. New Equipment—Class Rooms and Offices.	100.00
7. Adding Machine .....	122.00
8. Replacement Furniture and Rugs .....	250.00
9. Science Equipment .....	300.00

## MISCELLANEOUS ITEMS:

1. Appraisal .....	100.00
2. Miscellaneous Items (not budgeted) .....	200.00

TOTAL ..... \$105,619.00

Approved March 23, 1935.

## CHAPTER 55

H. B. No. 54—(Committee on Appropriations)

## MINOT NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School, Minot, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$207,630.00 or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School, Minot, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 16,483.00
2. Faculty .....	165,000.00
3. Other Employes .....	32,208.00
4. Salary Adjustments .....	10,514.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	22,000.00
2. Light, Power, Water, Gas .....	1,400.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	1,000.00
5. Insurance, Bonds, etc. ....	2,800.00
6. Printing .....	1,300.00
7. Travel .....	225.00
8. Office Supplies .....	800.00
9. Educational Supplies .....	6,000.00
10. Power House Supplies .....	1,400.00

11. Janitors' Supplies .....	2,500.00
12. Students' Welfare .....	1,200.00
13. Campus Maintenance .....	800.00
14. Dormitory .....	650.00
15. Operating Car and Truck .....	2,000.00
16. Library Supplies .....	250.00
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TOTAL MAINTENANCE .....	\$270,530.00
Less estimated income, all sources .....	80,000.00
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NET MAINTENANCE .....	\$190,530.00
IMPROVEMENTS AND REPAIRS:	
1. General .....	2,000.00
2. Harrison School Building .....	7,500.00
EQUIPMENT:	
1. Library Books and Periodicals .....	2,000.00
2. General .....	2,000.00
MISCELLANEOUS ITEMS:	
1. Taxes and Special Improvements .....	3,500.00
2. Appraisements .....	100.00
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TOTAL .....	\$207,630.00
Approved March 23, 1935.	

## CHAPTER 56

H. B. No. 55—(Committee on Appropriations)

### VALLEY CITY NORMAL

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School at Valley City, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$213,729.23, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the State Normal School at Valley City, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

#### SALARIES AND WAGES:

1. Administration .....	\$ 16,805.00
2. Faculty .....	165,000.00
3. Other Employees .....	30,000.00
4. Salary Adjustments .....	10,590.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	28,000.00
2. Light, Power, Water, Gas .....	2,400.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	500.00
5. Insurance, Bonds, etc. ....	4,697.00
6. Printing .....	1,300.00
7. Travel .....	200.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	5,500.00
10. Power House Supplies .....	1,700.00
11. Janitor's Supplies .....	2,500.00
12. Students' Welfare .....	500.00
13. Miscellaneous Items .....	1,500.00

TOTAL MAINTENANCE .....	\$273,692.00
Less estimated income, all sources .....	80,000.00

NET MAINTENANCE .....	\$193,692.00
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## IMPROVEMENTS AND REPAIRS:

1. General .....	5,000.00
2. Heating Plant .....	1,500.00
3. Grounds, Walks, Drives .....	250.00

## EQUIPMENT:

1. Library .....	2,000.00
2. Furniture—Dormitory .....	400.00
3. Furniture, Apparatus and Machinery .....	1,500.00

## MISCELLANEOUS ITEMS:

1. Special Assessments .....	3,737.23
2. Rural Training .....	5,500.00
3. Appraisals .....	150.00

TOTAL .....	\$213,729.23
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Approved March 23, 1935.

## CHAPTER 57

## H. B. No. 59—(Committee on Appropriations)

## NORMAL AND INDUSTRIAL SCHOOL, ELLENDALE

An Act making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal and Industrial School at Ellendale, North Dakota.

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

§ 1. There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$73,125.00,

or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Normal and Industrial School at Ellendale, North Dakota, for the biennium beginning July 1st, 1933 (1935), and ending June 30th, 1937, to-wit:

SALARIES AND WAGES:

1. Administration .....	\$ 9,340.00
2. Faculty .....	58,376.00
3. Other Employees .....	15,018.00
4. Salary Adjustment .....	4,136.00

OPERATING EXPENSE:

1. Fuel (including freight) .....	8,500.00
2. Light, Power, Water, Gas .....	1,000.00
3. Telephone, Telegraph, Postage .....	720.00
4. Freight and Express .....	275.00
5. Insurance, Bonds, etc. ....	3,250.00
6. Printing .....	720.00
7. Travel .....	200.00
8. Office Supplies .....	450.00
9. Educational Supplies .....	1,800.00
10. Power House Supplies .....	400.00
11. Janitors' Supplies .....	800.00
12. Students' Welfare .....	1,350.00
13. Farm Maintenance .....	900.00
14. Practice Teaching, City Schools .....	1,000.00
15. Practice Teaching, Rural Schools .....	900.00

TOTAL MAINTENANCE .....	\$109,135.00
Less estimated income, all sources .....	42,000.00

NET MAINTENANCE ..... \$ 67,135.00

IMPROVEMENTS AND REPAIRS:

1. Watermain .....	200.00
2. Walks and Grounds .....	200.00
3. Repairs of Buildings .....	2,000.00
4. Relaying Sewer Line .....	300.00
5. General Repairs .....	600.00

EQUIPMENT:

1. Laboratories .....	600.00
2. Replacements .....	750.00
3. Library Books, Magazines, etc. ....	1,000.00

MISCELLANEOUS ITEMS:

1. Appraisal .....	40.00
2. Items of Expense not previously included..	300.00

TOTAL ..... \$ 73,125.00

Approved March 14, 1935.

## CHAPTER 58

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

## STATE PENITENTIARY—PARTIAL VETO

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

TO THE HONORABLE THE SECRETARY OF STATE:

At 11:00 o'clock, A. M., March 23, 1935, I approve Senate Bill No. 19 in the total sum of \$255,681.20 and disapprove it in all sums in excess of that amount, and the appropriations made for the following item in said bill are reduced to the amount hereinafter mentioned, and as so reduced the said bill and items are approved, and as to all sums in excess of said reduced amounts for said item, the said bill or item is disapproved:

Under Operating Expense, Item 18 for Maintenance, autos, trucks, tractors is struck out.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$260,681.20, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Penitentiary, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 12,441.42
2. Faculty .....	768.00
3. Other Employees .....	58,296.78
4. Salary Adjustments .....	3,575.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	24,000.00
2. Light, Power, Water, Gas .....	10,000.00
3. Telephone, Telegraph, Postage .....	2,000.00
4. Freight and Express .....	1,200.00
5. Insurance, Bonds, etc. ....	10,500.00
6. Printing .....	400.00
7. Travel .....	300.00
8. Office Supplies .....	400.00
9. Educational Supplies .....	100.00
10. Power House Supplies .....	2,000.00
11. Janitor's Supplies .....	6,400.00
12. Inmates' Welfare .....	2,200.00

13. Food (including meats, etc.) .....	70,000.00
14. Clothing .....	18,000.00
15. Hospital and Medical Service .....	10,000.00
16. Bertillion and Escapes .....	1,000.00
17. Transportation and Clothing .....	11,000.00
18. Maintenance, Autos, Trucks, Tractors .....	Veto
19. Inmates' Wages .....	19,000.00
20. Maintenance Farm and Shops .....	20,000.00
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TOTAL MAINTENANCE .....	\$283,581.20
Less estimated income, all sources .....	42,000.00
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NET MAINTENANCE .....	\$241,581.20
IMPROVEMENTS AND REPAIRS:	
1. General .....	5,000.00
2. Heating System Repairs and Replacement..	2,000.00
3. Alterations for Refrigeration .....	500.00
EQUIPMENT:	
1. Kitchen .....	900.00
2. Farm .....	1,000.00
3. Plumbing, Carpenter, Blacksmith Shop....	200.00
2. Hospital .....	200.00
5. Refrigerating Plant .....	2,300.00
MISCELLANEOUS ITEMS:	
1. Rent of Land .....	2,000.00
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TOTAL .....	\$255,681.20
Approved March 23, 1935.	

## CHAPTER 59

S. B. No. 249—(Committee on Appropriations)

PENITENTIARY—SEWERAGE SYSTEM EXTENSION TO THE  
CITY OF BISMARCK

An Act authorizing the Board of Administration to construct a sewerage system to extend the present sewerage system of the State Penitentiary to connect with the City of Bismarck system of sewerage, providing for the use of prison labor, or to make provision for its construction by governmental agency; making an appropriation therefor, and declaring an emergency.

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

§ 1. The Board of Administration is hereby authorized and directed to construct a sewerage system to extend from the present sewerage system of the State Penitentiary to the sewerage system of

the City of Bismarck at the intersection of the center line on Main Avenue and Ninth Street in the City of Bismarck, providing that such city will permit connection without present or future expense to the State of North Dakota, and for such purpose the Board of Administration is hereby authorized and directed to purchase all materials and supplies necessary therefor, and to employ either prison labor for the purpose of doing the necessary work or in lieu thereof, the Board of Administration is authorized and (and) directed to secure the performance of the necessary labor for the construction of such sewerage system through the Federal Emergency Relief Administration, or any other governmental agency by which such work may be done, in whole or in part.

§ 2. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of \$13,214.90 or so much thereof as may be necessary to pay the necessary cost of materials, equipment and superintendence of the construction of such sewerage system, to-wit:

Materials, engineering, contingencies, rental of equipment and Workmen's Compensation Insurance .....	\$ 12,277.40
Skilled Foreman .....	937.50

TOTAL .....	\$ 13,214.90
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§ 3. EMERGENCY.] An emergency is hereby declared to exist inasmuch as the present sewerage system of the State Penitentiary creates a nuisance and a menace to public health, and this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1935.

## CHAPTER 60

H. B. No. 57—(Committee on Appropriations)

### STATE SCHOOL OF SCIENCE

An Act making an appropriation for the general maintenance, improvements and repairs and equipment of the State School of Science at Wahpeton, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$83,638.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs and equipment of the State School of Science at Wahpeton, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 10,273.00
2. Faculty .....	73,367.00
3. Other Employees .....	11,025.00
4. Salary Adjustments .....	4,733.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	11,750.00
2. Light, Power, Water, Gas .....	4,750.00
3. Telephone, Telegraph, Postage .....	1,450.00
4. Freight and Express, .....	650.00
5. Insurance, Bonds, etc. ....	2,340.00
6. Printing .....	1,500.00
7. Travel .....	500.00
8. Office Supplies .....	400.00
9. Educational Supplies .....	6,300.00
10. Power House Supplies .....	400.00
11. Janitors' Supplies .....	1,500.00
12. Students' Welfare .....	450.00
13. House Rent .....	3,000.00
14. Trade Supplies .....	4,500.00
15. Grounds .....	300.00
16. Miscellaneous .....	2,800.00

TOTAL MAINTENANCE .....	\$141,988.00
Less estimated income, all sources.....	70,000.00

NET MAINTENANCE .....	\$ 71,988.00
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## IMPROVEMENTS AND REPAIRS:

1. General .....	5,000.00
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## EQUIPMENT:

1. Trades .....	5,000.00
2. Library, Books and Supplies .....	800.00
3. Class Room .....	850.00

TOTAL .....	\$ 83,638.00
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Approved March 23, 1935.

## CHAPTER 61

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

## NORTH DAKOTA SOLDIERS' HOME

**An Act making an appropriation for the North Dakota Soldiers' Home at Lisbon, North Dakota; providing for reports and deductions, and declaring an emergency.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$15,000.00, for the biennium beginning July 1, 1935, and ending June 30, 1937, or so much thereof as may be necessary, for the maintenance and support of the North Dakota Soldiers' Home located at Lisbon, North Dakota, said sum to be paid as follows: \$7,000.00 to be available immediately upon passage and approval of this act, the sum of \$2,000.00 on July 1, 1935, and each succeeding six months thereafter the remainder in three equal payments.

§ 2. REPORTS AND CERTIFICATES. PAYMENTS.] The Superintendent in charge of said home shall make semi-annual reports to the State Auditor of the State of North Dakota, duly certified under oath, showing the amount of money remaining unexpended and estimating the amount of money which shall be required for the succeeding six months, and, if it shall appear from said report and estimate that the full amount appropriated for the succeeding six months exceeds the amount of the estimate, then the amount to be paid shall be reduced to the amount of said estimate.

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

Approved March 13, 1935.

## CHAPTER 62

### H. B. No. 60—(Committee on Appropriations)

#### STATE TRAINING SCHOOL—PARTIAL VETO

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

TO THE HONORABLE THE SECRETARY OF STATE:

At 5:50 P. M., on March 14, 1935, I approved House Bill No. 60 in the total sum of \$206,345.00, and disapproved it in all sums in excess of that amount, and the appropriations made for the following items in said bill are struck out, and the bill as so reduced is approved:

Under "Improvements and Repairs" item No. 4, "Boiler Repairs" is struck out.

Under "Equipment" items No. 6, "Sound Equipment (pictures)," and No. 8, "Fire Hose," are struck out.

The bill is, therefore, approved in the total sum of \$206,345.00.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the

sum of \$209,845.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the State Training School, Mandan, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

### SALARIES AND WAGES

1. Administration .....	\$ 8,604.00
2. Faculty .....	13,677.00
3. Other Employees .....	44,000.00
4. Salary Adjustments .....	3,314.00

### OPERATING EXPENSE:

1. Fuel (including freight) .....	18,000.00
2. Light, Power, Water, Gas .....	5,800.00
3. Telephone, Telegraph, Postage .....	1,500.00
4. Freight and Express .....	1,000.00
5. Insurance, Bonds, etc. ....	13,700.00
6. Printing .....	400.00
7. Travel .....	1,750.00
8. Office Supplies .....	500.00
9. Educational Supplies .....	2,000.00
10. Power House Supplies .....	3,500.00
11. Janitor's Supplies .....	1,500.00
12. Students' Welfare .....	3,000.00
13. Food (including meats, etc.) .....	40,000.00
14. Clothing .....	18,000.00
15. Hospital and Medical Service .....	8,000.00
16. Students' Wage .....	500.00
17. Farm and Garden Maintenance .....	8,000.00
18. Laundry Supplies .....	2,000.00
19. Grounds .....	200.00
20. Carpenter and Plumbing Shops, Auto Truck Repairs, Gas and Oil .....	4,500.00

TOTAL MAINTENANCE .....	\$205,445.00
Less estimated income, all sources .....	15,500.00

NET MAINTENANCE .....	\$189,945.00
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### IMPROVEMENTS AND REPAIRS:

1. Painting—All Buildings .....	1,000.00
2. Roof—Chapel .....	600.00
3. Stucco Buildings .....	1,000.00
4. Boiler Repairs .....	Veto
5. Repair Tunnels .....	500.00
6. Recast Two Water Tanks .....	3,000.00
7. Recover Gym Roof .....	500.00

**EQUIPMENT:**

1. Vocational and Shop .....	400.00
2. Household .....	500.00
3. Laundry—Washing Machine .....	3,000.00
4. One Coal Truck .....	800.00
5. Tools .....	500.00
6. Sound Equipment (pictures) .....	Veto
7. Farm .....	600.00
8. Fire Hose .....	Veto

**MISCELLANEOUS ITEMS:**

1. Burial Expense and Rewards .....	1,000.00
2. Land Rental .....	3,000.00

TOTAL ..... \$206,345.00

Approved March 14, 1935.

**CHAPTER 63**

H. B. No. 136—(Godwin)

**STATE TRAINING SCHOOL—SEWERAGE SYSTEM**

**An Act authorizing the Board of Administration to construct a sewerage system to extend from the present sewerage system of the State Training School to connect with the syndicate sewer of the City of Mandan; making an appropriation therefor; and declaring an emergency.**

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

§ 1. The Board of Administration is hereby authorized and directed to immediately construct a sewerage system to extend from the present sewerage system of the State Training School to the west end of the syndicate sewer of the City of Mandan, provided such city will permit connection without present or future expense in regard to sewerage disposal to the State of North Dakota, and for such purpose is hereby directed to purchase all materials and supplies necessary therefor, and employ all labor requisite to such work and the supervision thereof.

§ 2. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of seven thousand five hundred dollars, or so much thereof as may be necessary to carry out the provisions of this act.

§ 3. An emergency is hereby declared to exist, inasmuch as the present sewerage system of the State Training School creates a public nuisance and a menace to the public health, and this act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1935.

## CHAPTER 64

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

## TUBERCULOSIS SANATORIUM

An Act making an appropriation for the general maintenance, improvements and repairs, providing for an infirmary with the fixtures therefor, equipment and miscellaneous expenses for the Tuberculosis Sanatorium at San Haven, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$285,106.20, or so much thereof as may be necessary for paying the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the Tuberculosis Sanatorium at San Haven, North Dakota, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## SALARIES AND WAGES:

1. Administration .....	\$ 8,788.80
2. Other Employees .....	90,222.40
3. Salary Adjustments .....	4,950.00

## OPERATING EXPENSE:

1. Fuel (including freight) .....	37,000.00
2. Telephone, Telegraph, Postage .....	2,500.00
3. Freight and Express .....	4,500.00
4. Insurance, Bonds, etc. ....	7,500.00
5. Printing .....	1,000.00
6. Travel .....	600.00
7. Office Supplies .....	800.00
8. Educational Supplies .....	350.00
9. Powerhouse Supplies .....	3,500.00
10. Janitors' Supplies .....	3,500.00
11. Patients' Welfare .....	1,900.00
12. Food (including meats, etc.) .....	105,000.00
13. Clothing, Beds, Bedding, etc. ....	6,000.00
14. Hospital and Medical Service .....	20,000.00
15. Farm, Garden, Dairy Maintenance.....	18,000.00
16. Laundry and Water Softening Supplies ....	6,000.00
17. Refunds .....	1,000.00
18. Auto and Truck Maintenance .....	3,000.00
19. Dishes, Crockery, Glassware Supplies .....	2,000.00
20. To supplement receipts from counties and individuals for the care of patients whom the Board of Administration may transfer from San Haven for treatment elsewhere	

under the direction and supervision of the Sanatorium .....	10,000.00
TOTAL MAINTENANCE .....	\$338,111.20
Less estimated income, all sources.....	242,055.00
NET MAINTENANCE .....	\$ 96,056.20
NEW BUILDING AND EQUIPMENT:	
1. Infirmary and Equipment .....	165,000.00
IMPROVEMENTS AND REPAIRS:	
1. General Repairs .....	3,900.00
2. Garden Irrigation System .....	300.00
3. Repairing and Remodeling Old Unit.....	9,000.00
EQUIPMENT:	
1. Laundry Equipment .....	1,050.00
2. Power House Equipment .....	3,800.00
3. Lawn and Yard Equipment .....	500.00
4. Farm Equipment .....	1,000.00
5. Hospital Equipment .....	2,000.00
6. Furniture .....	500.00
7. Kitchen Equipment .....	2,000.00
TOTAL .....	\$285,106.20

§ 2. OTHER FUNDS. DUTIES OF BOARD OF ADMINISTRATION.]

The Board of Administration may also enter into any agreement relative to any funds which may be obtained from the Federal Government or any of its agencies, for the purpose of assisting in the construction of such new building, which funds may then be added to the appropriation hereby made therefor, such agreement to conform with the rules and regulations of the Federal Government or its agencies incident to obtaining such funds, and in case such funds shall be procured, then the total cost of said building may, in the discretion of the Board, exceed the amount hereby appropriated therefor; provided, however, that the total disbursements to be made out of state moneys in the construction and equipment of said new building shall in no case exceed the amount hereby appropriated therefor.

§ 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, 1935.

## CHAPTER 65

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

## UNIVERSITY

An Act making an appropriation to pay for the general maintenance, improvements and repairs, lignite testing, clay testing, equipment and miscellaneous expenses of the State University at Grand Forks, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$578,689.00, or so much thereof as may be necessary to pay the general maintenance of the State University at Grand Forks, North Dakota, together with the improvements and repairs, lignite testing, clay testing, Student F.E.R.A. office, equipment and miscellaneous items, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

## MAINTENANCE—EDUCATIONAL SERVICE:

1. a. College of Engineering .....	\$ 61,458.00
b. State-wide Service on Natural Resources .....	19,576.00
2. College of Science, Literature and Arts....	175,000.00
3. School of Commerce .....	33,394.00
4. School of Education .....	91,073.00
5. Graduate Division .....	1,600.00
6. School of Law .....	23,590.00
7. School of Medicine .....	24,956.00
8. Military Training for Men .....	3,000.00
9. Physical Education for Men .....	5,900.00
10. Library .....	23,040.00
11. Dispensary .....	4,300.00
12. General Educational Service .....	7,000.00
12½. Dean of Men .....	4,000.00
13. Office of Dean of Women .....	6,000.00
Correspondence Study Courses and Emergency Fund .....	26,440.00

## MAINTENANCE—ADMINISTRATION:

1. President's Office .....	10,659.00
2. Business Office .....	15,291.00
3. Registrar's Office .....	14,011.00
4. Stenographic Bureau .....	8,982.00
5. Telephones, Telephone Switchboards, Telegraph and Tolls .....	6,500.00
6. Employment Bureau .....	1,900.00
6½. Student F.E.R.A. Office .....	3,240.00
7. Publications, General Printing, etc. ....	3,090.00

## MAINTENANCE—PROPERTY:

1. Grounds and Property .....	3,380.00
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2. Buildings Maintenance, including Janitors, Repairs, etc. ....	35,000.00
2½. Increase Janitors' Salaries .....	5,000.00
3. Power Plant—Direct .....	90,000.00
4. Power Plant—Indirect .....	2,000.00
5. Office of Superintendent of Buildings and Grounds, including Plumber, Carpenter, Painter, Electrician, etc. ....	25,000.00
SALARY ADJUSTMENTS:	
Provided that this salary increase is a uniform increase of ten per cent over the basis of two years ago .....	24,885.00
TOTAL MAINTENANCE .....	\$759,265.00
Less estimated income .....	212,000.00
NET MAINTENANCE .....	\$547,265.00
IMPROVEMENTS AND REPAIRS .....	6,220.00
EQUIPMENT .....	2,490.00
MISCELLANEOUS .....	22,714.00
TOTAL .....	\$578,689.00
Approved March 23, 1935.	

## CHAPTER 66

S. B. No. 163—(Committee on Appropriations)

### UNIVERSITY—DEFICIT PUBLIC HEALTH LABORATORIES

An Act making an appropriation to the University of North Dakota to meet a deficiency in the appropriation for the biennium expiring June 30, 1935, for the Public Health Laboratories; and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated to the University of North Dakota out of the moneys in the State Treasury, not otherwise appropriated, the sum of two thousand (\$2,000.00) dollars, or so much thereof as may be necessary, for the use of the Public Health Laboratories at the said University and at the substation at Bismarck, North Dakota, for the purpose of meeting a deficiency in the appropriations made for said Public Health Laboratories, for the biennium ending June 30, 1935.

§ 2. EMERGENCY.] An emergency is declared hereby to exist, and this act shall become effective from the date of the enactment and approval.

Approved March 6, 1935.

## CHAPTER 67

H. B. No. 70—(McIlraith)

## INSURANCE DEPARTMENT—DEFICIT

**An Act making an appropriation to pay the deficit in the Printing Fund of the Department of Insurance of the State of North Dakota.**

WHEREAS Section 172 of the 1913 Compiled Laws provides that the commissioner of Insurance shall furnish insurance companies required to make reports to him the necessary blank forms for the statement required, and whereas, said section also provides that the Commissioner of Insurance shall cause to be prepared and printed a report for the biennium, and

WHEREAS the Brandon Insurance Service Company of Nashville, Tennessee, did prepare and deliver to and for the Insurance Department of the State of North Dakota for the year 1934, the blank forms required and that there is due and owing to said company for said material and work, the sum of \$667.55, and

WHEREAS the Knight Printing Company of Fargo, North Dakota, did print and publish for the Insurance Department of the State of North Dakota the 1933 biennial report and that there is due said Knight Printing Company for said material and services the sum of \$201.17, and whereas there is insufficient moneys in the Printing Fund of the Department of Insurance to pay said accounts, now therefore

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$868.72 for the use of the Commissioner of Insurance of the State of North Dakota for the payment to the Brandon Insurance Service Company of Nashville, Tennessee, the sum of \$667.55, and for the payment to the Knight Printing Company of Fargo, North Dakota, \$201.17. Said sums to be paid upon vouchers approved by the Commissioner of Insurance and the State Auditing Board.

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

Approved March 14, 1935.

## CHAPTER 68

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

## JUDGES OF DISTRICT COURT—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the salary and, also, the expenses of District Judges while holding court outside the county in which the judges reside and while serving on the Supreme Bench.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,746.42, for the purpose of paying a deficit in the salary and, also, the expenses of District Judges while holding court outside the county in which the judges reside, and while serving on the Supreme Bench, to-wit:

Salary .....	\$ 5,746.42
Expenses of District Judges while holding court outside the county in which the judges reside and while serv- ing on the Supreme Bench .....	5,000.00

TOTAL .....	\$ 10,746.42
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Approved February 21, 1935.

## CHAPTER 69

S. B. No. 65—(Committee on Appropriations)

## CITY OF BISMARCK—EXPENSE 1933 LEGISLATIVE ASSEMBLY

An Act making an appropriation to provide for the payment to the City of Bismarck, North Dakota, its actual expenses incurred for the use of the Municipal Auditorium and World War Memorial Building by the 1933 Legislative Assembly for labor, steam heat, light and power, water, janitors and washroom supplies, and repairs and miscellaneous items.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$4,397.44, for the purpose of paying the City of Bismarck, North Dakota, for its actual expenses incurred in furnishing and providing for the use of the 1933 Legislative Assembly of the State of North Dakota, the Municipal Auditorium and the World War Memorial Building, for labor, steam heat, light and power, water, janitors and washroom supplies, repairs and miscellaneous items, to-wit:

Labor .....	\$ 1,258.35
Steam Heat .....	1,133.00
Light and Power .....	917.25
Water .....	190.27
Janitors and Washroom Supplies .....	728.43
Repairs and Miscellaneous .....	170.14
	<hr/>
	\$ 4,397.44

Approved February 20, 1935.

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## CHAPTER 70

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

### LEGISLATIVE PRINTING—DEFICIT 23RD SESSION

An Act making an appropriation to provide for the payment of a deficit in the appropriation for printing expense of the Twenty-third Session of the Legislative Assembly of the State of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of seven thousand nine hundred fifty-eight dollars and thirty-two cents (\$7,958.32) for the purpose of paying a deficit in the legislative printing expense incurred by the Twenty-third Session of the Legislative Assembly of the State of North Dakota.

Approved February 20, 1935.

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## CHAPTER 71

H. B. No. 130—(Committee on Appropriations)

### EXPENSES 1934 SPECIAL LEGISLATIVE ASSEMBLY

An Act making an appropriation for the purpose of defraying the expense of mileage, per diem and other incidental expenses in connection with the special session of the Legislature convened on July 19, 1934.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of six thousand dollars (\$6,000.00), or so much thereof as is necessary to pay the per diem for one day and mileage at the rate of ten cents per mile and by the shortest regularly traveled route, either by rail or highway, of members of the Senate and House of Representatives, and not over fifteen employees, who traveled to Bismarck to attend the Special Session of the Legislative Assembly of the State

of North Dakota, upon the filing of sworn statements with the State Auditor, stating the mileage to which they are entitled, as provided for above, and further stating that they were in Bismarck on July 19, 1934.

After these affidavits are filed and approved by the State Auditor, he is hereby authorized to issue warrants to each individual applicant out of that part of the six thousand dollars \$(6,000.00) hereby appropriated.

The unexpended balance shall be returned into the General Fund.

The State Auditor shall keep a record of each transaction and file a report of same with the State Senate at the next regular session.

No part of the above appropriation shall be used for any other purpose than is herein stated, and the State Auditor shall be accountable for the use of this appropriation for any other purpose. This appropriation shall include the sum of five hundred dollars (\$500.00), or as much thereof as may be necessary to defray the expenses of the investigating committee.

Approved March 14, 1935.

## CHAPTER 72

H. B. No. 355—(Committee on Delayed Bills)

### LEGISLATIVE PRINTING DEFICIT 24TH SESSION

An Act making an appropriation for payment of a deficit in the amount appropriated for payment of per diem of employees of Twenty-fourth Legislative Assembly, and appropriation for deficit in the printing account of the Twenty-fourth Legislative Assembly, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$18,000.00 for the purpose of paying a deficit in the per diem account of the employees of the Twenty-fourth Legislative Assembly and for the purpose of payment of a deficit in the printing account for printing done for the Twenty-fourth Legislative Assembly, to-wit:

Deficit Per Diem Account of Legislative Employees. . . .	\$ 10,000.00
Deficit Printing Account . . . . .	8,000.00

TOTAL . . . . .	\$ 18,000.00
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§ 2. EMERGENCY.] It is necessary that the money hereby appropriated be immediately available to provide for the payment of the per diem of the employees of the Twenty-fourth Legislative As-

sembly, and deficit in the printing account of the Twenty-fourth Legislative Assembly. This act is hereby declared an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1935.

## CHAPTER 73

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

### LIVESTOCK SANITARY BOARD

An Act making an appropriation for the per diem, salaries and general expenses of the State Livestock Sanitary Board.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$21,200.00, or so much thereof as may be necessary to pay the general expenses of the State Livestock Sanitary Board for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary—Executive Officer and State Veterinarian.....	\$ 4,800.00
Clerkhire—Stenographer .....	2,000.00
Postage .....	300.00
Office Supplies .....	150.00
Furniture and Fixtures .....	200.00
Printing .....	200.00
Miscellaneous .....	150.00
Travel Expense and Service Board's Agents .....	12,000.00
Insurance Workmen's Compensation Bureau.....	600.00
Compensation and Expenses of Members of State Livestock Sanitary Board .....	800.00

TOTAL ..... \$ 21,200.00

Approved March 14, 1935.

## CHAPTER 74

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

### MINIMUM WAGE DEPARTMENT

An Act making an appropriation for the purpose of paying salary and miscellaneous general expenses of the Department of Minimum Wage.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the

sum of \$3,992.00, or so much thereof as may be necessary to pay salary and all miscellaneous general expenses in carrying out the provisions of Chapter 174, Laws of 1919, the same being Sections 396b1 to 396b16 of the Supplement to the 1913 Compiled Laws of North Dakota, and amendments thereto, relative to minimum wage, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 2,462.00
Postage .....	200.00
Office Supplies .....	100.00
Furniture and Fixtures .....	200.00
Printing .....	250.00
Miscellaneous .....	80.00
Travel Expense .....	400.00
Hearings, Conferences, Witness and Legal Fees .....	300.00
<b>TOTAL .....</b>	<b>\$ 3,992.00</b>

Approved March 6, 1935.

## CHAPTER 75

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

### REGISTRAR OF MOTOR VEHICLES

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the any moneys in the State Treasury, in the Motor Registration Fund, not otherwise appropriated, the sum of \$113,340.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Department of the Registrar of Motor Vehicles for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 3,840.00
Clerkhire .....	40,000.00
Postage .....	30,000.00
Office Supplies .....	2,000.00
Furniture and Fixtures .....	2,500.00
Printing .....	2,000.00
Miscellaneous .....	1,000.00
Travel Expense .....	1,000.00
License Plates .....	28,000.00
Refunds .....	3,000.00
<b>TOTAL .....</b>	<b>\$113,340.00</b>

Approved March 14, 1935.

**CHAPTER 76****S. B. No. 5—(Committee on Appropriations)****NATIONAL GUARD**

**An Act making an appropriation to provide funds for the maintenance of the North Dakota National Guard or State Militia, as provided for under Chapter 35 of the Political Code of the Compiled Laws of North Dakota, for the year 1913 and amendments thereto, and to meet other requirements prescribed by the Federal Statutes.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$60,000.00, or so much thereof, as may be necessary to provide proper maintenance for the North Dakota National Guard or State Militia, as prescribed in Chapter 35 of the Political Code of the Compiled Laws of North Dakota for the year 1913 and amendments thereto, and to meet other requirements prescribed by the Federal Statutes, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

Approved February 16, 1935.

**CHAPTER 77****S. B. 232—(Committee on Appropriations)****NATIONAL GUARD: DEFICIT**

**An Act to make an appropriation to provide for payment of a deficit in the maintenance of the National Guard Fund, and declaring an emergency.**

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$10,388.58 for the purpose of paying a deficit in the maintenance of the National Guard Fund of the State of North Dakota.

§ 2. EMERGENCY.] Whereas, there is now a deficit in the above fund, and it is necessary that the money be appropriated and immediately made available, this act is hereby declared to be an emergency measure, and shall be in full force and effect from and after the date of its passage and approval.

Approved March 2, 1935.

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CHAPTER 78

S. B. No. 139—(Committee on Appropriations)

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BOARD OF PARDONS

An Act making an appropriation to meet a deficiency in the appropriations made to the Board of Pardons for the biennium period expiring June 30, 1935, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of eight hundred ninety and no/100 (\$890.00) dollars to the Board of Pardons to meet the deficiency which has accrued and will accrue in the appropriation made to that Board for the biennium period expiring June 30, 1935.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act will be in force and effect from the date of its enactment and approval.

Approved March 4, 1935.

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CHAPTER 79

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

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PRESIDENTIAL ELECTORS

An Act making an appropriation to pay the expenses and per diem of Presidential Electors as prescribed by Section 1038 of the Compiled Laws of 1913.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$200.00, for the biennium, or so much thereof as may be necessary to pay the expenses and per diem of Presidential Electors as prescribed by Section 1038 of the Compiled Laws of North Dakota for 1913.

Approved February 19, 1935.

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CHAPTER 80

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

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MISCELLANEOUS REFUNDS

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of

any moneys in the State Treasury, not otherwise appropriated, the sum of \$2,000.00 for the biennium beginning July 1st, 1935, and ending June 30th, 1937, or so much thereof as may be necessary for the purpose of making certain refunds out of the General Fund and which is known as the Miscellaneous Refund Account, used for the purpose of refunding money erroneously paid into or credited to the General Fund.

Approved March 4, 1935.

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## CHAPTER 81

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

### STATE SEED DEPARTMENT—PARTIAL VETO

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

TO THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF NORTH DAKOTA:

At 2:30 o'clock, P. M., on March 8, 1935, I approve House Bill No. 35, in the total sum of \$15,000.00, and disapprove it in all sums in excess of that amount, and the appropriation made for the following item in said bill is cut out:

Administration, Commissioner, and Clerk .....None

This reduction is made for the reason that the law creating this department provided the sum of \$15,000.00 and on March 1, 1935, the balance in this fund to the credit of the State Seed Department was \$13,788.36. This department is one of those which should be and could be made self-sustaining and that by leaving the amount required for the Commissioner and Clerk, this department will still be able to function.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$18,840.00, or so much thereof as may be necessary, to apply in addition to any other income for the purpose of defraying the expenses of the maintenance and operation of the State Seed Department as prescribed by Chapter 258 and Chapter 214, Session Laws of North Dakota for 1931, and in carrying out the provisions of any law imposing duties or conferring powers on the State Seed Commissioner, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Administrative (Commissioner and Clerk) .....	\$ 3,840.00
General Service and Regulatory Work, Seed Testing Laboratory, Federal-State Market Grade Super- vision, Sundry Equipment and Supplies.....	15,000.00
<b>TOTAL .....</b>	<b>\$ 18,840.00</b>

Approved March 8, 1935.

## CHAPTER 82

H. B. No. 84—(Burke)

### STATE OFFICERS—OFFICE RENT

An Act making an appropriation for the payment of rent due for offices occupied by state officers and for which no prior appropriation was made available, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury a sum of one thousand seven hundred fifty dollars (\$1,750.00) to pay office rent due the following named persons for the period and in the amounts hereinafter mentioned, to-wit:

Lahr Motor Sales Co. of Bismarck, North Dakota, for rent of office rooms for the month of January, 1934, for the Board of Railroad Commissioners and the Ad- jutant General .....	\$ 450.00
George A. Duemeland, Bismarck, North Dakota, for rent of office rooms for the months of January, Febru- ary and March, 1934, for the State Health Depart- ment, Livestock Sanitary Board, and State Labora- tory .....	750.00
George A. Duemeland, Bismarck, North Dakota, for rent of office rooms for the months of April to Decem- ber, both inclusive, 1934, for the State Laboratory...	450.00
Dr. F. F. Gribenow, Bismarck, North Dakota, for rent of office room for the month of January, 1934, for the State Hail Department .....	100.00
<b>TOTAL .....</b>	<b>\$ 1,750.00</b>

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this appropriation shall be made available immediately upon the passage and approval of this act.

Approved March 6, 1935.

## CHAPTER 83

S. B. No. 103—(Committee on Appropriations)

## STATE TREASURER—DEFICIT

An Act making an appropriation to provide for the payment of a deficit in the maintenance of the office of State Treasurer for the remainder of the fiscal year ending June 30th, 1935, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$3,640.21, for the purpose of paying a deficit in the expense of maintenance in the office of State Treasurer for the remainder of the fiscal year ending June 30th, 1935, to-wit:

Clerkhire .....	\$ 959.00
Postage .....	1,077.38
Supplies .....	557.21
Printing .....	546.62
Miscellaneous .....	500.00

TOTAL ..... \$ 3,640.21

§ 2. EMERGENCY.] Whereas it is necessary that the money hereby appropriated be immediately available to provide for the maintenance of the office of State Treasurer for the remainder of the fiscal year ending June 30th, 1935, this act is hereby declared an emergency and shall take effect from and after its passage and approval.

Approved February 20, 1935.

## CHAPTER 84

S. B. No. 261—(Bonzer)

## TRANSFER \$50,000 TO RETURNED SOLDIERS FUND

An Act transferring a sum of fifty thousand dollars from the General Fund to the "Returned Soldiers Fund" heretofore transferred from the Returned Soldiers Fund to the General Fund under the provisions of Chapter 82 of the Session Laws of 1931, and declaring an emergency.

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

§ 1. APPROPRIATION.] The sum of fifty thousand dollars (\$50,000) is hereby transferred from the general fund to the special fund known as the "Returned Soldiers Fund," created and existing under the provisions of Section 3187c1 of the Supplement to the Compiled Laws of 1913. The above amount (\$50,000), having been

transferred by Chapter 82 of the Session Laws of 1931 and which amount, (\$50,000), is now needed to pay proper, legal, and authenticated claims against the State of North Dakota for the Returned Soldiers Fund.

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

Approved March 7, 1935.

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## CHAPTER 85

S. B. No. 186—(Brostuen)

### TRANSFER \$78,293.94 TO STATE EQUALIZATION FUND

An Act transferring \$78,293.94 from certain fund in office of State Treasurer, derived from the United States, to the State Equalization Fund, appropriating the same for school purposes, and providing that funds derived in the future from same source shall be placed in the State Equalization Fund and used for school purposes, repealing all acts in conflict therewith, and declaring an emergency.

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

§ 1. The State Treasurer shall transfer the sum of \$78,293.94, the same being a fund in said office accumulated from the state's share or portion of certain sales, bonuses, royalties and rentals received by the United States relative to certain mineral lands in this state and as provided by Section 191, Title 30 of the United States' Code, Annotated, to the State Equalization Fund as provided by Chapter 229 of Session Laws of North Dakota for 1933, or acts amendatory thereof or supplemental thereto and the same is hereby appropriated to the use and benefit of the public schools of this state and shall be apportioned and disbursed in accordance with the provisions of said Chapter 229, Session Laws of North Dakota for 1933, or acts amendatory thereof or supplemental thereto.

§ 2. Any funds hereafter received by this state under and by virtue of said Section 191, Title 30 of the United States' Code, Annotated, shall be placed in the State Equalization Fund as provided by Chapter 229, Session Laws of North Dakota for 1933, or acts amendatory thereof or supplemental thereto and appropriated to such purpose and apportioned and disbursed in accordance with the provisions of said latter chapter.

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

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

Approved March 6, 1935.

**CHAPTER 86****H. B. No. 16—(Committee on Appropriations)****VETERANS' SERVICE COMMISSIONER**

An Act making an appropriation for the purpose of paying salary, clerk-hire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Laws of 1927 and Chapter 74, Laws of 1929.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$9,925.00, or so much thereof as may be necessary, to pay salary, clerkhire, travel and general expenses of the office of Veterans' Service Commissioner as prescribed by Chapter 281, Session Laws of North Dakota for 1927, and Chapter 74, Session Laws of North Dakota for 1929, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 4,800.00
Clerkhire:	
Secretary .....	2,150.00
Extra Clerk .....	600.00
Postage .....	600.00
Office Supplies .....	300.00
Printing .....	75.00
Miscellaneous .....	300.00
Travel Expense .....	800.00
Rent .....	300.00
<b>TOTAL .....</b>	<b>\$ 9,925.00</b>

Approved March 4, 1935.

**CHAPTER 87****H. B. No. 9—(Committee on Appropriations)****VETERINARY MEDICAL EXAMINERS**

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$710.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and miscellaneous expenses of the State Board

of Veterinary Medical Examiners as authorized under Sections 2711 to 2720, inclusive, of the Compiled Laws of 1913, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 240.00
Clerkhire .....	20.00
Postage .....	20.00
Printing .....	50.00
Travel Expense .....	380.00
<b>TOTAL .....</b>	<b>\$ 710.00</b>

Approved March 4, 1935.

## CHAPTER 88

### H. B. No. 31—(Committee on Appropriations)

#### VOCATIONAL EDUCATION AND REHABILITATION

An Act making an appropriation for the purpose of carrying out the provisions of Chapter 203, Session Laws 1919, and Chapter 115, Session Laws 1921, the same being Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$20,200.00, or so much thereof as may be necessary to pay the expenses of carrying out the provisions of Chapter 203, Session Laws 1919 and Chapter 115, Session Laws 1921, the same being Sections 1471b1 to 1471b9 and 1471c1 to 1471c8 of the Supplement to the 1913 Compiled Laws of North Dakota, relative to vocational education and vocational rehabilitation, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 2,000.00
Clerkhire .....	800.00
Postage .....	150.00
Office Supplies .....	100.00
Printing .....	400.00
Miscellaneous .....	250.00
Travel Expense .....	1,500.00
Vocational Rehabilitation .....	15,000.00
<b>TOTAL .....</b>	<b>\$ 20,200.00</b>

Approved March 5, 1935.

## CHAPTER 89

H. B. No. 44—(Committee on Appropriations)

## WORKMEN'S COMPENSATION BUREAU

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Workmen's Compensation Fund, not otherwise appropriated, the sum of \$127,940.00, or so much thereof as may be necessary for the payment of salaries of the members of the Bureau, of the Secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers, and other assistants, and all other expenses of the Bureau authorized in the Workmen's Compensation Acts, and the premium on the bond of the State Treasurer, for the biennium beginning July 1st, 1935, and ending June 30th, 1937, to-wit:

Salary .....	\$ 13,440.00
Clerkhire .....	69,000.00
Postage .....	12,000.00
Office Supplies .....	2,500.00
Furniture and Fixtures .....	3,000.00
Printing .....	4,000.00
Miscellaneous .....	7,000.00
Travel Expense .....	7,000.00
Automobile Equipment and Maintenance .....	2,000.00
Legal Expenses .....	8,000.00

TOTAL ..... \$127,940.00

Approved March 13, 1935.

## CHAPTER 90

H. B. No. 132—(Jensen, by request)

## WORKMEN'S COMPENSATION BUREAU—DEFICIT

An Act making a special appropriation to cover deficits in the clerkhire, printing, postage and office supplies funds for the maintenance and operation of the Workmen's Compensation Bureau.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury in the Workmen's Compensation Fund, not otherwise appropriated, the sum of twenty-three thousand nine hundred fifty dollars (\$23,950.00), or so much thereof as may

be necessary for the payment of clerkhire, printing, postage and office supplies of the Workmen's Compensation Bureau authorized by the Workmen's Compensation Act and to cure deficits which would otherwise occur in the said funds for the biennium ending June 30, 1935, to-wit:

Clerkhire .....	\$ 18,450.00
Printing .....	2,000.00
Postage .....	1,000.00
Office Supplies .....	2,500.00
	<hr/>
	\$ 23,950.00

which sums are in addition to all appropriations previously made for said funds for the said biennium.

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

Approved March 8, 1935.

## ATHLETICS

### CHAPTER 91

H. B. No. 213—(McIlraith)

#### STATE ATHLETIC COMMISSION

**An Act creating the State Athletic Commission, prescribing its powers and duties, providing penalties for violations and repealing all acts or parts of acts in conflict herewith.**

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

§ 1. There is hereby created the State Athletic Commission to consist of three members, citizens of this state, of good moral character and over the age of twenty-one years; one of whom shall be a practicing physician in the state and one of whom shall be a practicing attorney in the state, who shall be appointed by the Governor and shall hold office at his pleasure for a term of three years, except as herein provided and until their successors are appointed and qualified. The third member of said board shall be the Commissioner of Agriculture and Labor, who shall be chairman of said commission by virtue of his office.

§ 2. Within thirty days after the passage of this act the Governor shall appoint as member of such commission one commissioner for a term of one year and one for a term of three years, such terms to commence on the first day of the month following such appointments. Any vacancy in office shall be filled by appointment by the

Governor for the unexpired portion of the term. No commissioner shall directly or indirectly promote any boxing, sparring or wrestling exhibition, or shall directly or indirectly engage in the managing of any boxer or wrestler or be interested in any manner in the proceeds from any boxing or wrestling exhibition.

§ 3. The commissioners shall serve without compensation, but shall be reimbursed from the funds of the commission for their expenses, actually and necessarily incurred in the performance of their duties.

§ 4. The State Athletic Commission shall have power to appoint and, at its pleasure, remove a boxing and wrestling commissioner and to prescribe his powers and duties. The boxing and wrestling commissioner shall be secretary of the State Athletic Commission but shall not be a member of the commission. His salary shall be fixed by the commission at \$600.00 per annum, in addition to expenses actually and necessarily incurred in the performance of his duty. He shall have power to provide necessary office quarters, equipment and supplies, and employ such assistance as may be necessary, but such quarters, equipment, supplies and assistance shall be provided only with the sanction of the athletic commission. All salaries and expenses shall be paid out of the fund of the commission as hereinafter provided.

§ 5. The State Athletic Commission shall have charge and supervision of all boxing, sparring and wrestling exhibitions held in the State of North Dakota and shall have power :

(1.) To provide such rules and regulations governing the conduct of boxing, sparring and wrestling exhibitions.

(2.) To issue licenses to individuals or organizations desiring to promote or conduct such exhibitions and to suspend or revoke such licenses at pleasure. Every application for such license shall designate the territory in which he intends to operate, and the license granted shall entitle the licensee to conduct such exhibition in such territory and no other, provided that no person or organization with license to promote or conduct such exhibitions shall directly or indirectly engage in the managing of any boxer or wrestler.

(3.) To collect 10% of the gross receipts from admission to boxing, sparring and wrestling exhibitions held within the state, and all moneys so collected shall be paid into the State Treasury and are hereby appropriated for the purpose specified in this act.

(4.) Provided, however, that the provisions of this act shall not apply to any boxing, sparring or wrestling exhibitions, the net proceeds of which are to be devoted to charitable purposes.

§ 6. All moneys of the commission shall be paid into the State Treasury and shall be disbursed at the direction of the commission in the same manner as other state funds are disbursed, save as herein otherwise provided. The 10% collected by said commission as

provided by Section 5, Subdivision 3, shall be paid into the said treasury at such times as the State Treasurer may direct.

§ 7. Unless revoked by the commission, licenses granted hereunder shall authorize the individuals or organizations receiving the same to conduct boxing, sparring and wrestling exhibitions in the community designated therein for the period of time specified, subject to the rules and regulations of the commission and to such restrictions as the commission may in its discretion incorporate therein. No boxing, sparring or wrestling exhibitions shall be held on Sunday and no boxing or sparring or wrestling match shall be of more than ten rounds duration, said rounds not to exceed three minutes each.

§ 8. The commission shall have authority to collect and require the payment of an annual license fee for the license above mentioned, pursuant to the following schedule:

For cities of ten thousand or more population . . . . .	\$50.00
For cities of from five thousand to ten thousand population . . . . .	\$25.00
For cities of less than five thousand population . . . . .	\$10.00
For all other licenses to hold or to operate a boxing, sparring match or wrestling exhibition . . . . .	\$10.00

The commission shall require the payment of said annual license fee at the time of the issuance of the license. The money so derived by the commission shall be paid to the State Treasurer and together with the 10% tax hereinbefore set forth may be disbursed by the commission for the purpose of paying the expenses of the commission in the administration of the law herein provided for. The commission shall also have authority to license all boxers, wrestlers, managers and referees, and may, in its discretion, require them to pay an annual fee, not to exceed the sum of \$5.00 per year. All moneys collected by said commission from such licenses shall be paid to the State Treasurer and may be disbursed by the commission for the payment of expenses incurred by it.

§ 9. The commission shall make rules and regulations to govern the holding of amateur and professional boxing and wrestling exhibitions within the state, and such rules and regulations shall conform, as nearly as practicably can be, to the rules and regulations prescribed by the New York Boxing Commission. The promoter or holder of any bout for which any charge is made or money collected shall be liable to pay the 10% of gross receipts as hereinbefore provided.

§ 10. Before any license shall be granted to any person or organization to conduct, hold or give any boxing, sparring match, or wrestling exhibition such applicant therefor shall execute and file with the commission a bond in such sum as the commission may direct, but in no event less than \$500.00, conditioned for the payment

of the 10% gross gate receipts and license fees herein provided. Upon the filing and approving of such bond the commission shall issue a certificate of filing and approval which shall be filed by the applicant with his application for license, and no such license shall be issued until such certificate shall be so filed.

§ 11. The boxing and wrestling commissioner shall, before entering upon his duties, furnish a bond in such sum as the commission may direct but in no event less than \$5,000.00, conditioned upon the faithful performance of the duties of his office.

§ 12. Any person or persons who shall send or cause to be sent, published or otherwise made known, any challenge to fight or engage in any public boxing, sparring match or wrestling exhibition or contest, with or without gloves, for any prize, reward or compensation or at which any admission fee is charged, either directly or indirectly, or shall go into training preparatory for such match, exhibition or contest, or shall act as a trainer, aider, arbiter, backer, referee, umpire, second, surgeon, assistant or attendant at such match, exhibition or contest, or any preparation for same, and any owner or lessee of any grounds, building or structure, permitting the same to be used for such match, exhibition or contest shall be deemed guilty of a misdemeanor; providing, however, that this section shall not apply to boxing or sparring or wrestling exhibitions held or to be held under license issued by the State Athletic Commission and in keeping with the rules and regulations issued by it.

§ 13. The State Athletic Commission shall biennially make to the Governor a full report of its proceedings ending the last day of the preceding December and may submit with such report such recommendations pertaining to its affairs as it shall deem desirable. If, at the time of making such biennial report the moneys collected by the commission shall exceed the sum of \$1,000.00 all moneys in excess thereof shall be placed in the general fund of the state.

§ 14. Whenever any individual or organization shall fail to make a report of receipts of any contest at the time prescribed by said commission, or to pay the fee herein provided, or whenever such report is unsatisfactory to the commission, it may cause the books and records of such individual or organization to be examined and may subpoena and examine under oath officers and other persons as witnesses for the purpose of determining the amount due, pursuant to the provisions of this act, which amount he may, upon and as a result of such examination, fix and determine. In case of default in the payment of any amount so ascertained to be due, together with the expenses incurred in making such examination for a period of twenty days after notice to such delinquent individual or organization of the amount to which the same may be fixed, such delinquent shall, ipso facto, forfeit and shall thereby be disqualified from receiving any new license or any renewal of license and shall, in addi-

tion, forfeit to the State of North Dakota the sum of \$500.00 which may be recovered by the Attorney General in the name of the State of North Dakota in the same manner as other penalties are by law recovered.

§ 15. Boxing, sparring matches or wrestling exhibitions as provided for hereunder shall not be held in municipalities in which such contests or exhibitions are declared illegal by ordinance, and all boxing, sparring matches or wrestling exhibitions held in any municipality in this state shall be held in conformity with the ordinance of said municipality.

§ 16. All boxing, sparring matches and wrestling exhibitions and those participating therein held in the high schools, the schools of higher learning, Young Men's Christian Associations, in the State of North Dakota, shall be exempted from the provisions of this act.

§ 17. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1935.

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## BANKS AND BANKING

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### CHAPTER 92

S. B. No. 133—(Peterson and Whelan , by request)

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#### REGULATION ISSUE AND SALE OF CAPITAL NOTES, DEBENTURES, ETC.

##### BANKING INSTITUTIONS

An Act authorizing banking institutions to issue and sell capital notes or debentures and preferred stock; prescribing, defining and regulating the manner, terms, conditions, limitations and restrictions under and upon which the same may be issued and sold.

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

§ 1. CAPITAL DEBENTURE.] With the approval of the State Examiner any banking institution, as defined herein, may at any time through action of its board of directors and without requiring any action of its stockholders issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors.

The term "capital" as used in the laws of this state relating to banking shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any banking institution and sold by it to the Reconstruction Finance Corporation. The capital stock of any such banking institution may be deemed to be unim-

paired when the amount of such capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the State Examiner. Before any such capital notes or debentures are retired or paid by the bank any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank.

Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such institution, and shall not be held liable for assessments to restore impairments in the capital of such institution.

§ 2. PREFERRED STOCK.] Notwithstanding any other provisions of law of this state, any state bank, savings bank, or trust company organized and existing under and by virtue of the laws of North Dakota may, with the consent and approval of the State Examiner, upon written consent of all stockholders, or by a vote of stockholders owning a majority of the stock of such bank, upon not less than sixty days' notice, given by registered mail to the stockholders' last known post office address, pursuant to action taken by their board of directors, issue preferred stock of one or more classes, in such amount and upon such condition and limitations, and with such par value as shall be approved by the State Examiner, and upon such authorization the directors may make such amendments to their articles of incorporation as may be necessary for this purpose; but in the case of a newly organized bank which has not yet issued common stock, the requirement of notice to and vote of stockholders shall not apply.

§ 3. DESIGNATION OF CAPITAL.] Any preferred stock lawfully issued by a banking institution organized under the laws of this state shall be included in determining whether such banking institution has complied with the minimum capital stock requirements provided by law for banking institutions in this state. Such preferred stock may be used in the capital structure of such institution in the reduction of the common stock or in addition thereto, provided, however, that nothing herein contained shall be construed as in any manner decreasing the amount of capital required of such an institution under the laws of this state.

§ 4. DEBENTURES—EXCHANGE OF.] Any such institution may, upon first obtaining the consent and approval of the State Examiner, exchange such preferred stock for capital notes or debentures now held by the Reconstruction Finance Corporation of the United States.

§ 5. RIGHTS, PRIVILEGES AND LIABILITIES.] The holders of such preferred stock shall be entitled to such rights and privileges and shall be subject to such limitations and restrictions with respect

to dividends, voting, conversion rights, control of management, retirement and replacement of such stock, rights and preferences in case of liquidation and any other rights or privileges as may be fixed and provided in the articles of incorporation. Also preferred stock shall be nonassessable and the holders thereof shall not be held individually responsible as such holders for any debts, contracts or engagements of such bank.

§ 6. DEFINITION.] The term "banking institution," as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this state.

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

Approved March 7, 1935.

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## CHAPTER 93

S. B. No. 134—(Peterson and Whelan, by request)

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### CAPITAL STOCK OF BANKS

An Act to amend and re-enact Section 17 of Chapter 96 of the Session Laws of North Dakota for the year 1931, relating to capital stock of banks.

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

§ 1. AMENDMENT.] Section 17 of Chapter 96 of the Session Laws of North Dakota for the year 1931, is hereby amended and re-enacted to read as follows:

§ 17. CAPITAL STOCK.] Hereafter no banking association shall be organized under this act with a capital stock of less than fifteen thousand dollars, nor in towns or cities of over five thousand inhabitants with a capital stock of less than twenty thousand dollars; nor in cities of over ten thousand inhabitants, with a capital stock of less than twenty-five thousand dollars; and in addition to the capital requirements herein provided for there shall also be subscribed and paid in at the time of organization a surplus equal to twenty per cent of such required capital. Provided further that the State Examiner shall require that the capital stock of any such association be increased whenever such capital and surplus shall amount to less than ten per cent of the deposits of such association. All of the capital stock and surplus of every such association as herein provided shall be paid in before it shall be authorized to commence business, and evidence of such payment of capital stock and surplus either in actual money or a deposit in a previously approved correspondent bank must be furnished to the State Examiner or Deputy Examiner before the certificate of authority may be delivered. For the purpose of this section, the population of the city may be determined by using

the population shown by the most recent state or national census. No association having been organized to transact business in any city and which may have sold or converted its business to a national bank, or other banking business which is continued at the same place, shall be allowed to remove its charter or its articles of incorporation to, and recommence business at another place, except with the consent and approval of the State Banking Board, and where it can be clearly shown that a banking association which has not changed, sold or conveyed its business as hereinbefore recited, is located at a place where there is not sufficient business for the profitable conduct of a bank, such association may apply to the State Banking Board for authority to remove its business to some other place within the state and to change its name if desired; and upon the approval of such application by the State Banking Board and the proper amendment of the articles of incorporation, the Board may issue authority for such removal and change; provided, that no such association shall be allowed to remove its business to any city without having the full amount of capital stock and surplus required by this act for a new organization in such city. A renewal charter shall not be granted until satisfactory evidence has been furnished the State Banking Board that the capital and surplus of the association seeking to renew is increased if necessary to conform with the requirements of this act relating to new banks and that its articles of incorporation have been properly amended and its required capital and surplus paid in.

Approved March 7, 1935.

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## CHAPTER 94

S. B. No. 128—(Fine, McGillic and Gronvold)

### NATIONAL HOUSING ACT LOANS

An act to promote the objects of the Act of Congress of the United States entitled, "National Housing Act," approved June 27, 1934, and acts amendatory thereof or supplemental thereto, by authorizing banks, savings banks, trust companies, building and loan associations, and insurance companies, to make loans pursuant to Title I and II of the National Housing Act, and by authorizing banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, associations and corporations, subject to the laws of this state, to invest in mortgages insured, and in debentures issued, by the Federal Housing Administrator, and to invest in securities of national mortgage associations or similar national mortgage credit institutions now or hereafter organized under Title III of the National Housing Act, and by excepting banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, and associations, subject to the laws of this state from the application of laws of this state requiring

security upon which loans or investments may be made, or limiting making of loans to shareholders or members of the lender, or prescribing the nature, amount or form of such security, or limiting or prescribing the interest rates upon loans or investments, or the period for which loans or investments may be made, provided such loans, securities or investments are insured by the Federal Housing Administrator, and providing for invalidity, and declaring an emergency to exist.

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

§ 1. Banks, savings banks, trust companies, building and loan associations, and insurance companies, are authorized:

(a) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are insured pursuant to Title I, Section 2, of the National Housing Act, and to obtain such insurance.

(b) To make such loans, secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure pursuant to Title II of the National Housing Act, and to obtain such insurance.

§ 2. It shall be lawful for banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, associations and corporations, subject to the laws of this state, to invest their funds, and the moneys in their custody or possession, eligible for investment, in notes or bonds secured by mortgage or deed of trust insured by the Federal Housing Administrator, and in debentures issued by the Federal Housing Administrator, pursuant to Title II of the National Housing Act, and in securities issued by national mortgage associations or similar national mortgage credit institutions now or hereafter organized under Title III of the National Housing Act.

§ 3. No law of this state requiring security upon which loans or investments may be made, or limiting making of loans to shareholders or members of the lender, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing paragraphs.

§ 4. [INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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

Approved March 2, 1935.

## CHAPTER 95

S. B. No. 132—(Peterson and Whelan, by request)

### DEFINING BANKING INSTITUTIONS—AUTHORIZING U. S. POSTAL SAVINGS DEPOSITS, FEDERAL DEPOSIT INSURANCE, ETC.

An Act defining banking institutions within the meaning of this act; authorizing such banking institutions to enter into such contracts, incur such obligations and generally to do such acts as may be appropriate or necessary to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, including the right to receive and hold United States Postal Savings Deposits, which may, at any time, be available or enure to said banking institutions or their depositors, stockholders, conservators, liquidators or receivers, under or by virtue of any act, regulation or resolution of the Congress of the United States or any department, board, agency or officer thereof; to aid, regulate, foster, promote or safeguard banking institutions and depositors, including the act creating the Federal Deposit Insurance Corporation and prescribing, defining and regulating the manner, terms, conditions, limitations and restrictions under and upon which said banking institutions, their stockholders, depositors, conservators, liquidators or receivers may take advantage of, comply with and act upon the rights and privileges hereby granted to them, and declaring an emergency.

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

§ 1. DEFINITION.] The term "banking institution," as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

§ 2. POWERS.] Any banking institution now or hereafter organized under the laws of this state is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of Section 8 of the Federal "Banking Act of 1933" (Sec. 12B of the Federal Reserve Act, as amended,) which established the Federal Deposit Insurance Corporation and provided for the insurance of deposits, or of any other provisions of that or of any other act or regulation of Congress to aid, regulate or safeguard banking institutions and their depositors,

including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporation. It shall also have the right and power, upon the approval and consent of the State Examiner, to take, receive and hold United States Postal Savings Deposits and to take any and all action necessary to procure the deposit of the same.

§ 3. RECEIVERS. LIQUIDATION.] The Federal Deposit Insurance Corporation created by Section eight of the Federal "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said Corporation, and which shall have been closed on account of inability to meet the demands of its depositors.

The appropriate state authority, having the right to appoint a receiver or liquidator of a banking institution, may in its discretion, in the event of such closing tender to said Corporation the appointment as receiver or liquidator of such banking institution, and if the Corporation accepts said appointment, the Corporation shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator.

§ 4. SUBROGATION.] Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the Corporation, whether or not it shall have become receiver or liquidator of such closed banking institution, as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits, in the same manner and to the same extent as subrogation of the Corporation is provided for in Sub-section (1) of Section 12B of said Federal Reserve Act, as amended (being Section 8 of said "Banking Act of 1933") in the case of the closing of a national bank: Provided, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this state.

§ 5. EXAMINATIONS. REPORTS.] The State Examiner is authorized to accept in his discretion in lieu of any examination authorized by the laws of this state to be conducted by his department of a banking institution the examination that may have been made of same within a reasonable period by the Federal Deposit Insurance Corporation provided a copy of said examination is furnished to said State Examiner. Said State Examiner may, also, in his discretion accept

any report relative to the condition of a banking institution which may have been obtained by said Corporation within a reasonable period, in lieu of a report authorized by the laws of this state to be required of such institution by his department, provided a copy of such report is furnished to said State Examiner.

Said State Examiner may furnish to said Corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same, and may give access to and disclose to said Corporation or any official or examiner thereof any and all information possessed by the office of said State Examiner, with reference to the conditions or affairs of any such insured institution.

Nothing in this section shall be construed to limit the duty of any banking institution in this state, deposits in which are to any extent insured under the provisions of Section 8 of the "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) or of any amendment of or substitution for the same, to comply with the provisions of said act, its amendments or substitutions, or the requirements of said Corporation relative to examinations and reports, nor to limit the powers of the State Examiner with reference to examinations and reports under existing law.

§ 6. BORROWING.] With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the State Banking Board, or of a court or by action of its directors or in the event of its insolvency or suspension, the State Examiner and/ or the receiver or liquidator of such institution with the permission of said State Banking Board may borrow from said Corporation and furnish any part or all of the assets of said institution to said Corporation as security for a loan from same, provided, that where said Corporation is acting as such receiver or liquidator, the order of a Judge of a District Court of North Dakota shall be first obtained approving such loan. Said State Banking Board upon the order of a Judge of a District Court of North Dakota, and upon a like order and with the permission of said State Banking Board the receiver or liquidator of any such institution may sell to said Corporation any part or all of the assets of such institution.

The provisions of this section shall not be construed to limit the power of any banking institution, or receivers or liquidators to pledge or sell assets in accordance with any existing law.

§ 7. ASSETS. TITLE TO.] Upon the acceptance of the appointment of a receiver or liquidator aforesaid by said Corporation, the possession of and title to all the assets, business and property of such banking institutions of every kind and nature shall pass to and vest in said Corporation as such receiver or liquidator, and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

§ 8. STOCKHOLDERS' LIABILITY.] Among its other powers, said Corporation, in the performance of its powers and duties as such receiver or liquidator, shall have the right and power upon the order of a Judge of a District Court of North Dakota to enforce the individual liability of the stockholders, and directors of any such banking institution.

of the stockholders, and directors of any such banking institution.

§ 9. VALIDITY.] The validity of any provision or part of this act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid such decision shall not affect the validity of any of the remaining provisions or parts of this act.

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

§ 11. EMERGENCY.] Whereas an emergency exists in that it is necessary that banks, savings banks and trust companies be in a position to take advantage of and comply with the requirements of laws of the United States relating to the subject matter covered by this act as soon as possible, therefore this act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1935.

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## CHAPTER 96

S. B. No. 311—(Fine and Greene)

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### BUILDING AND LOAN ASSOCIATION INVESTMENT INSURANCE IN FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

An Act to authorize building and loan associations to insure members' investments in Federal Savings and Loan Insurance Corporation and to provide for the conversion of building and loan associations and other home financing organizations into Federal savings and loan associations, prescribing the procedure therefor, defining the results thereof and providing for the indebtedness of such associations, and declaring an emergency.

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

§ 1. Any such association may do all things necessary to obtain, continue, pay for and terminate insurance of its shares with Federal Savings and Loan Insurance Corporation.

§ 2. Any building and loan association or other home financing organization by whatever name or style it may be designated, eligible to become a Federal Savings and Loan Association may convert itself into a Federal Savings and Loan Association by following the procedure hereinafter outlined.

A. At any regular or special meeting of the shareholders of any

such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders by a two-thirds affirmative vote of those present in person or by proxy may declare by resolution the determination to convert such association into a Federal Savings and Loan Association.

B. A copy of the minutes of such meeting of the shareholders verified by the affidavit of the president or vice-president and the secretary of the meeting shall be filed within ten days after said meeting, in the office or department of this state having supervision of such association. Such verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the holding and of the action of such meeting.

C. Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, the board of directors and officers of such association shall take such action and do all things necessary to make it a Federal Savings and Loan Association. Within ten days after receipt of the Federal charter there shall be filed in the office or department of this state having supervision of such association a copy of such charter issued to such association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal Savings and Loan Association certified by, or on behalf of, the Federal Home Loan Bank Board. Upon the filing of such instrument such association shall cease to be a state association and shall thereafter be a Federal Savings and Loan Association.

§ 3. At the time when such conversion becomes effective as hereinbefore provided, such association shall cease to be supervised by this state and all of the property and rights of such association including all of its right, title and interest in and to all property of every kind and character whether real, personal or mixed shall immediately by operation of law and without any conveyance or transfer whatsoever and without any further act or deed, continue to be vested in such association under its new name and style as a Federal Savings and Loan Association and under its new jurisdiction; and such Federal Savings and Loan Association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by it as a state association and said Federal Savings and Loan Association at the time of the taking effect of such conversion shall continue responsible for all of the obligations of said state association to the same extent as though said conversion had not taken place; it being expressly declared that the said Federal Savings and Loan Association shall be merely a continuation of the said state association under a new name and new jurisdiction and such revision of its corporate structure as may be considered necessary for its proper operation under said new jurisdiction.

§ 4. All laws and parts of laws in conflict with any of the provisions of this act are hereby repealed.

§ 5. If any provision in this act, or the application thereof to any person, corporation or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons, corporations or circumstances, shall not be affected thereby.

§ 6. EMERGENCY.] Whereas, an emergency exists in that it is necessary that building and loan associations and other home financing organizations be in a position to take advantage of and comply with the requirements of the laws of the United States relating to the subject matter covered by this act. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

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## BEER

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### CHAPTER 97

S. B. No. 195—(Drew, Trout and Gronvold)

**BEER SALES—POWERS AND DUTIES BEER COMMISSIONER,  
GOVERNING BOARDS CITIES AND VILLAGES, ETC.**

An Act to amend and re-enact Sections, 3, 5, 7, 8, and 11 of the Initiated Measure entitled "An Act Providing for the Manufacture and Sale, within the State, of Beer, as defined by the Congress of the United States, making regulations under which the same may be done, providing a revenue therefrom, and repealing Senate Bill No. 263, passed by the 23rd Legislative Assembly of the State of North Dakota, and all other acts or parts of acts in conflict with the provisions of this Act." approved by the people of the State of North Dakota at the Special Election held on the 22nd day of September, 1933, relating to the manufacture and sale of beer, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 3 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 3. BEER COMMISSIONER—POWER AND DUTIES.] There is hereby established for the purpose of carrying out the provisions of this act, an officer to be known as the State Beer Commissioner of the State of North Dakota, whose duty it shall be to license all persons, firms, corporations, partnerships and associations, who may desire to engage in the sale of beer, either wholesale or retail, and such officer shall be appointed by the Governor of the state, and

shall hold his office for a period of two years, unless re-appointed for a similar term or terms. Such officer may be, in the discretion of the Governor, the State Regulatory Officer of the State of North Dakota, as now constituted. Such officer shall, before licensing any person, firm, corporation, partnership, or association, require such applicant to submit, in writing, such information as said Commissioner shall deem necessary to insure the sale of beer by reputable persons, of good moral character. The Commissioner shall have power to refuse a license to any person applying therefor, on the ground that such applicant does not have the qualifications required by this act, and shall have power to revoke any license upon discovery that any of such qualifications is lacking, or has ceased, or for violation of the terms of this act or of the liquor laws of the State of North Dakota. But the decision of the Commissioner, relative to the refusing or revoking a license, shall always be subject to review by the courts of this state; provided, however, that to obtain a review, the party aggrieved shall furnish a bond in an amount to be set by the Judge of the District Court for the faithful observation of the laws of the State of North Dakota, relative to the operation of the business licensed during the pendency of the appeal.

§ 2. AMENDMENT.] That Section 5 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, be amended and re-enacted to read as follows:

§ 5. FEES FOR LICENSE.] The minimum state fee for retail license to sell beer in this state shall be the sum of \$50.00 per year, and the maximum shall be \$100.00 per year to be collected by said Commissioner and turned over to the Treasurer of the State of North Dakota. License fees for the retailing of beer shall be as follows:

Each place in rural districts or in towns, villages or cities of less than 500 population .....	\$ 50.00
Each place in towns, villages or cities over 500 population .....	\$100.00

The license fee so paid shall cover a year beginning with October 23rd of one year and running until October 22nd of the next, both dates inclusive. No reduction in fees shall be granted because application is granted or license issued during such license year.

§ 3. AMENDMENT.] Section 8 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 8. DELEGATION OF POWER TO INCORPORATED CITIES AND VILLAGES AND BOARD OF COUNTY COMMISSIONERS WITH REFERENCE TO BEER LICENSES.] There is hereby conferred upon the governing bodies of each incorporated city and village the authority to require

licenses from retailers of beer in such village or city, and to license, and to deny and revoke licenses for cause, and to regulate the business of vendors at retail of beer authorized to be sold by this act, in their respective jurisdictions, subject to review by the Courts of the State, to impose and collect a license fee therefor, and to provide for the punishment of any violation of any such regulations, according to the provisions of law, excepting that such regulations shall be uniform, and that all applicants for license, who are qualified under Section 2 of this act, shall be granted licenses by said municipalities.

There is hereby conferred upon the board of county commissioners of each county the same powers and authority as are herein granted to the governing boards of incorporated cities and villages, relative to the retailing of beer in all territory outside of incorporated cities and villages.

It shall be unlawful for any place licensed to retail beer in all territory outside of incorporated cities and villages, to sell, give away, or permit to be consumed in any such place any beer or beverage authorized to be sold under the provisions of this act between the hours of two o'clock A. M. and seven o'clock A. M.

Any person violating the provisions of this act relative to the hours permitted for the sale of beer shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment, and in addition thereto the license shall be revoked. It shall be the duty of the states attorney, the sheriff, his deputies and all police officials to rigidly enforce all the provisions of this act, and their failure so to do shall be sufficient grounds for their removal from office.

§ 4. AMENDMENT.] Section 11 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 11. WHOLESALERS AND DISTRIBUTORS AUTHORIZED TO DISTRIBUTE BEER. LICENSE AND RESTRICTIONS.] Any person, firm, corporation, partnership, or association regularly engaged in legitimate wholesale business within the state may be licensed to distribute beer by wholesale. They shall be licensed for that purpose by the State Beer Commissioner upon submitting to said Commissioner an application in writing, on such forms as the Commissioner shall require, showing such information as shall be required to bring them under the provisions of this act. Each said distributor shall pay a wholesaler's license fee of \$200.00 to be collected by the Commissioner and paid to the State Treasurer. No distributor, licensed to do business in this state, shall ever be licensed to retail the sale of beer within the state, in quantities less than a case. No applicant for wholesaler's or distributor's license shall be eligible therefor, unless the applicant

has established both a warehouse for handling the beer under such license and a bona fide office in which is kept a complete set of records, correspondence and files relative to all beer transactions, within the State of North Dakota.

§ 5. AMENDMENT.] That Section 7 of the Initiated Measure for the manufacture, sale, and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 7. BREWERIES MAY BE ESTABLISHED WITHIN THE STATE.] Any person, firm, corporation, partnership or association, shall have the right to establish within the state, a brewery for the manufacture of beer as defined herein, upon making an application and paying to said Commissioner a license fee of \$500.00 per annum, to be paid to the Treasurer of the State of North Dakota. Said license shall also entitle said brewery to sell its manufactured product to duly licensed wholesale dealers or jobbers regularly engaged in legitimate wholesale business as in this act defined. Provided, however, that no brewer, domestic or foreign, operating within or without the state, shall be licensed to operate or conduct, directly or indirectly, either in the name of the brewery or as a subsidiary or through any of its officers, agents or employees, branch or distributing office, as a wholesale dealer in this state. Provided further that no brewery operating within or without the state shall be licensed to engage in the retail sale of beer within the state.

§ 6. SAVING CLAUSE, REPEAL.] If any provisions of this act shall be held invalid, the other provisions therein shall not be affected, and the law now in force relating to the same subject shall continue in full force and effect. Provided, that any act or parts of acts in conflict with any of the provisions of this act are hereby expressly repealed.

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

Approved March 12, 1935.

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## CHAPTER 98

S. B. No. 304—(Committee on Taxes and Tax Laws)

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### BEER TAXES

An Act to amend and re-enact Section Six (6) of that certain initiated law adopted by the voters of the State of North Dakota at the special election held September 22, 1933, entitled as follows: "An Act defining and providing for the manufacture, sale and distribution of beer, providing revenue therefrom, and licenses therefor, prohibiting the transfer of licenses, excluding certain persons from the right to purchase the same, appointing a State Beer Commissioner and defining his powers, duties, and salary; authorizing cities,

villages and county commissioners to provide a local tax and prescribe rules and regulations under which beer may be sold and authorizing municipalities to provide penalties for violation of their regulations; providing for the administrative expense of this act; making it unlawful for any person to engage in the manufacture or sale of beer without first obtaining a license therefor; providing a penalty for the violation of the provision thereof; providing for a saving clause as to constitutionality; and repealing Senate Bill No. 263 passed by the 23rd Legislative Assembly of the State of North Dakota, and all acts or parts of acts in conflict with this act, and making an appropriation to carry out the provisions hereof," and declaring an emergency.

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

§ 1. AMENDMENT.] That Section Six (6) of said initiated law be and the same is hereby amended and re-enacted to read as follows:

§ 6. ADDITIONAL STATE REVENUE—THE AMOUNT THEREOF AND HOW COLLECTED.] From and after the taking effect of this act there is hereby levied and assessed and there shall be collected and paid to the State Treasurer upon all beer sold in North Dakota to consumers, the following taxes, to be paid prior to the sale and delivery thereof to the consumer and at the time said beer is delivered to the retailer; on each pint of beer in bottles or other container, one cent; on each quart of beer in bottles or other containers, two cents; on each gallon of beer, in kegs or other containers, eight cents. All beer sold in this state shall be put up in bottles, kegs or other containers, so that stamps can be affixed thereto in the manner hereinafter provided, the stamps representing the payment of said tax shall be provided by the Commissioner and purchased from him. The proceeds of the sale of such stamps to be turned over to the Treasurer of the State of North Dakota, and such stamps shall be affixed to the bottles, kegs or other containers containing said beer in such manner that the opening of the container breaks the stamps, thereby preventing the use of the stamp a second time; provided, however, that the net amount of monies received and collected under this act between the effective date hereof and the first day of April, 1937, after the payment of the expenses of administering this act, shall be credited, by the State Treasurer to the Real Estate Bond Interest Payment Fund provided for and established by Chapter 182 of the Session Laws of 1929, and the State Board of Equalization shall consider and include the payments made hereunder, in determining the necessity for the making of any levy as provided and required by said Chapter 182.

§ 2. EMERGENCY.] Whereas, the additional revenue provided for herein is necessary for the objects and purposes set forth, therefore an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

## CHAPTER 99

H. B. No. 363—(Committee on Delayed Bills)

## SALE BEER COMMISSIONER AUTOMOBILES, ETC., BY BOARD OF ADMINISTRATION

An Act directing the Board of Administration of the State of North Dakota to sell, at public auction or private sale, automobiles and automobile equipment purchased by the Beer Commissioner of the State of North Dakota; authorizing said board to demand, receive and take possession of such property; directing Attorney General to institute suits or proceedings at request of Board of Administration; permitting deduction of costs and expenses connected with said sale; providing for disposition of balance of the receipts and requiring report to Governor; repealing acts in conflict and declaring an emergency.

WHEREAS: The Beer Commissioner of the State of North Dakota, by virtue of authority granted under the provisions of that certain initiated measure creating the office of Beer Commissioner did purchase a number of automobiles and certain automobile equipment, and

WHEREAS: The conditions which prompted the purchase of said cars no longer exists:

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

§ 1. Immediately upon taking effect of this act the Board of Administration of the State of North Dakota is hereby directed to take possession of automobiles and automobile equipment purchased by the Beer Commissioner of the State of North Dakota under authority granted such Commissioner in that certain measure initiated by the people of this state creating the office of Beer Commissioner, the use of which is not required by the State Regulatory Department in the enforcement of the provisions of the initiated measure hereinbefore referred to, and fixing his powers and duties, and for that purpose, and for the purpose of carrying out the provisions of this act, said Board of Administration is hereby authorized and empowered to employ such assistance as may be necessary, and, in the name of the board, to make demand upon all persons, firms or corporations, and upon all state officials or employees, in possession of any of said automobiles, or any part of said equipment, and may enforce such demands by instituting such actions or proceedings as shall be found necessary; it being hereby declared to be the duty of the Attorney General of this state to institute such actions or proceedings upon the request of the board.

§ 2. Immediately upon receiving said automobiles, or any of them or any part of said equipment, the board shall, with the least possible delay, proceed to sell said property, either at private sale or public auction and upon such notice as the board shall determine

upon. Such sales shall be fairly conducted to the end that the highest possible price may be obtained for the property sold.

§ 3. The proceeds from the sales to be made under the provisions of this act shall be disposed of in the following manner:

(a) In paying costs and expenses of the Board of Administration in taking possession of and selling the property.

(b) The balance of the proceeds to be paid to the State Treasurer to be by him received and disbursed in the manner and form provided for receipt and disbursement of other funds under the initiated measure herein referred to.

§ 4. As soon as the property herein referred to has been sold the Board of Administration shall make a full, complete, itemized and detailed statement and report of its actions and proceedings to the Governor, and shall serve a copy of such report and statement upon the Beer Commissioner.

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

§ 6. EMERGENCY.] Whereas the property referred to in this act is no longer being used for the purposes for which the same was purchased, and said property is depreciating in value very rapidly, therefore an emergency is hereby declared, and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

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## CHIROPODY .

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### CHAPTER 100

H. B. No. 8—(Morgan)

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#### DEFINING CHIROPODIST, LICENSE

An Act to amend and re-enact Sections 2 and 8 of Chapter 95, Session Laws of 1929: "An act to regulate the practice of chiropody, to create a State Board of Chiropody, to provide for the examination and licensing of chiropodists and providing penalties for the violation thereof."

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

§ 1. AMENDMENT.] That Section 2 of Chapter 95 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 2. For the purpose of and within the meaning of this Act, a chiropodist is defined as one who examines, diagnoses and treats abnormal nail conditions, excrescences occurring on the feet, includ-

ing corns, warts, callosities, bunions and arch disorders, or one who treats medically, mechanically or by physio therapy in a chiropradic manner the human foot.

§ 2. AMENDMENT.] That Section 8 of Chapter 95 of the Session Laws of 1929 is hereby amended and re-enacted to read as follows:

§ 8. Provided, however, that all chiropradists who have been engaged in the practice of chiroprady in the State of North Dakota for twelve months immediately preceding the date of approval of this bill shall, upon furnishing proof thereof to the board and paying fee of ten dollars (\$10.00) be entitled to a license upon passing a satisfactory examination.

Approved March 1, 1935.

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## CONSTITUTIONAL AMENDMENTS PROPOSED

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### CHAPTER 101

Senate Concurrent Resolution E—(Erickson and Thatcher)

#### ASSESSMENT OF PROPERTY—WHERE AND HOW MADE

A Concurrent Resolution to amend and re-enact Section 179 of Article 11 of the Constitution of the State of North Dakota as amended by Article 20 of the amendments thereto, relating to revenue and taxation.

*Be It Resolved by the Senate, the House of Representatives Concurring:*

That the following amendment to Section 179 of Article XI of the Constitution of the State of North Dakota, as amended by Articles 4, 20 and 44 of the amendments thereto, be agreed to and submitted to the qualified electors of the State of North Dakota for approval or rejection in accordance with the provisions of Section 202 of Article XV, as amended, of the Constitution of the State of North Dakota:

AMENDMENT.] That Section 179 of Article XI of the Constitution of the State of North Dakota, as amended by Articles 4, 20, and 44 of the amendments thereto, be amended and re-enacted to read as follows:

179. To the end that the burden of taxation may be equitable upon all property and in order that no property which is made subject to taxation shall escape, the Legislature is empowered to divide all property, both real and personal, and including franchise, privileges and licenses to do business in this state, into classes, and to

prescribe which property shall for taxation purposes belong to each class, and to determine what class or classes of property shall be subject to taxation and what property, if any, shall not be subject to taxation. Taxes shall be uniform on all property of the same class, and shall be assessed, levied and collected in such manner and at such time and by such board or officer or officers as the Legislature shall prescribe. The Legislature may provide by law for the levy and assessment by the State Board of Equalization, in lieu of all other state or local taxes thereon in the same class, of a per centum of the gross earnings or net incomes, as the Legislature shall prescribe, of the person, firm, corporation, co-partnership or association owning, using, renting or controlling the property belonging to any of said classes, but such per centum shall be uniform for each class, and all property of each of said persons, firms, corporations, co-partnerships or associations shall be subject to a paramount lien in favor of the state for the amount of such levy and assessment from the date of its assessment until the levy so made is paid. The Legislature may impose taxes upon incomes and occupations and taxes upon incomes and occupations may be graduated and progressive and reasonable exemptions may be provided. The property of a person, firm, corporation, co-partnership or association may belong to and be assessed partly in one class and partly in another according to its character and use as classified by the Legislature.

Filed March 5, 1935.

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## CHAPTER 102

House Concurrent Resolution A-4—(Jensen)

### ELECTION, TERMS, COUNTY OFFICERS

A Concurrent Resolution providing for the amendment of Section 173 of Article 10 of the Constitution of North Dakota, as amended by Article 41 of the amendments thereof, and as amended by Chapter 84 of the 1933 Session Laws of the State of North Dakota, relating to county officers.

*Be It Resolved by the House of Representatives, the Senate Concurring:*

That the following proposed amendment to Section 173 of Article 10 of the Constitution of the State of North Dakota, as amended by Article 41 of the amendments thereof, and as amended by Chapter 84 of the 1933 Session Laws of the State of North Dakota, is agreed to and that the same be submitted to the qualified electors of the State of North Dakota for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 173 of Article 10 of the Constitution of the State of North Dakota, as amended by Article

41 of the amendments thereof, and as amended by Chapter 84 of the 1933 Session Laws of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 173. At the first general election held after the adoption of this amendment, and every two years thereafter, there shall be elected in each organized county in the state, a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold their office until their successors are elected and qualified; provided in counties having twelve thousand population, or less, the county judge shall also be the clerk of the district court. Provided further, that in counties having a population of six thousand (6,000), or less, the registrar of deeds shall also be clerk of the district court and county judge, provided a majority of the legal electors of said county, voting upon the question at any general, primary, or special election, shall approve such consolidation of said offices. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Filed March 8, 1935.

## CHAPTER 103

Senate Concurrent Resolution W—(Green, Thatcher, and Lemke)

### LEGISLATIVE POWER, INITIATIVE AND REFERENDUM

A Concurrent Resolution providing for the amendment of Section 25 of Article 2 of the Constitution of the State of North Dakota, relating to the Legislative Power of the State, and the Initiative and Referendum:

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following proposed amendment to Section 25 of Article 2 of the Constitution of the State of North Dakota is agreed to and that the same be submitted to the qualified electors of the state for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 25 of Article 2 of the Constitution of the State of North Dakota is hereby amended and re-enacted to read as follows:

§ 25. The legislative power of this state shall be vested in a Legislature consisting of a Senate and a House of Representatives. The people, however, reserve the power, first to propose measures and to enact or reject the same at the polls; second, to approve or

reject at the polls any measure or any item, section, part or parts of any measure enacted by the Legislature.

The first power reserved is the initiative. Twenty thousand electors at large may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the Secretary of State not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Twenty thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the Legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure shall not prevent the remainder from going into effect. Such petition shall be filed with the Secretary of State not later than ninety days after the adjournment of the session of the Legislature at which such measure was enacted. No initiative or referendum petition shall be circulated or filed during a regular or special session of the Legislature.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the Secretary of State and shall be voted upon at any state-wide election designated in the petition, or at any special election called by the Governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

Any measure, except an emergency measure submitted to the electors of the state shall become a law when approved by a majority of the votes cast thereon. And such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency measure, such measure shall be a law until voted upon by the electors, and if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure shall be submitted to the electors at a special election if so ordered by the Governor or if the referendum petition filed against it shall be signed by thirty-five thousand electors at large. Such special election shall be called by the Governor and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the Legislature.

The Secretary of State shall pass upon each petition, and if he finds it insufficient he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the Secretary of State in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the Secretary of State shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If the proceedings

are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petition, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title which shall fairly represent the subject matter of the measure, and the names of at least five electors who shall constitute the "committee for petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors, shall be: "Be it enacted by the people of the State of North Dakota." In submitting measures to the electors, the Secretary of State, and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the ones receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the Governor shall not extend to the measures initiated by or referred to the electors. No measures enacted or approved by a vote of the electors shall be repealed or amended by the Legislature, except upon a yea and nay vote upon roll call of two-thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

Filed March 8, 1935.

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## CHAPTER 104

House Concurrent Resolution A-13—(Hanson of Benson)

### SALE OF SCHOOL AND PUBLIC LANDS

A Concurrent Resolution providing for the amendment of Section 158 of Article 9 of the Constitution of North Dakota as amended by Article 13 of the Amendments thereof, relating to school and public lands.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following proposed amendment to Section 158 of Article 9 of the Constitution of the State of North Dakota as amended by Article 13 of the Amendments thereof, is agreed to and that the

same be submitted to the qualified electors of the state for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota, as amended.

§ 1. AMENDMENT.] That Section 158 of Article 9 of the Constitution of the State of North Dakota, as amended by Article 13 of the Amendments thereof, is hereby amended and re-enacted to read as follows:

§ 158. No land shall be sold for less than the appraised value and in no case be sold for less than ten dollars (\$10.00) per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows:

One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than four per cent per annum, payable annually in advance; provided that when payments are made before due they shall be made at an interest paying date, and one year's interest in advance shall be paid on all moneys paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and shall be at public auction and to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the land to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one quarter section, and those subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided that the land contracted to be sold by the state shall be subject to taxation from the date of contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then thereupon the contract of sale for such land shall, if the Board of University and School Lands so determine, become null and void. Any lands under the provision of Section 158 of the Constitution of the State of North Dakota that have heretofore been sold, may be paid for, except as to interest as provided, further, that any school or institutional lands that may be required for townsite purposes, school house sites, church sites, cemetery sites, sites for other educational or charitable institutions, public parks, fair grounds, public highways, railroad right of way or for other railroad uses and purposes, reservoirs for the storage of water for irrigation, drain ditches, and lands that may be required for any of the purposes over which the right of eminent domain may be exercised under the Constitution and the laws of the State of North Dakota, may be sold under the provisions of this act, and shall be paid for, principal and interest, in full in advance at the time of the sale, or at any time thereafter, and patent issued therefor, when

principal and interest are paid. Any of the said lands, including lands held in trust for any purpose, may, with the approval of the Board of University and School Lands, be exchanged for lands of the United States, as the Legislature may provide, and the lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject, and the state shall reserve all mineral and water and water power rights in lands so transferred by the state.

Filed March 7, 1935.

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## CHAPTER 105

Senate Concurrent Resolution M.—(Miklethun)

### SALE, RENTAL AND DISPOSAL, SCHOOL AND UNIVERSITY LANDS.

A Concurrent Resolution providing for the amendment of Section 156 of Article 9 of the Constitution of North Dakota, relating to investment of funds arising from the sale, rental and disposal of school and university lands.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following proposed amendment to Section 156 of Article 9 of the Constitution of the State of North Dakota be agreed to and submitted to the qualified electors of the State for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

§ 1. AMENDMENT.] That Section 156 of Article 9 of the Constitution of the State of North Dakota be, and the same is, hereby amended to read as follows:

§ 156. The Superintendent of Public Instruction, Governor, Attorney General, Secretary of State and State Auditor shall constitute a Board of Commissioners, which shall be denominated the "Board of University and School Lands," and subject to the provisions of this article and any law that may be passed by the Legislative Assembly, said Board shall have control of the appraisalment, sale, rental and disposal of all school and university lands; and said Board shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations in Section 160 of this article, with power in the board to compromise the obligation, security, claim or demand resulting from any such investment, and fully satisfy the same upon payment or settlement in an amount less than the whole of the principal or interest, or both, then remaining unpaid which, in the sound judgment of the board, is deemed necessary to reduce loss.

Filed February 28, 1935.

# CORPORATIONS

## CHAPTER 106

S. B. No. 225—(Wog and Brostuen)

### INCORPORATION COOPERATIVE GRAZING ASSOCIATIONS

An Act to provide for the incorporation of Cooperative Grazing Associations to aid in the conservation, restoration, improvement, development and utilization of forage resources in the State of North Dakota; to authorize such associations to lease County, State, Federal, or other lands for such purposes, and to create grazing districts, and to provide for the management and use of such lands which will best conserve, restore, improve and develop the forage value thereof.

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

§ 1. For the purposes of this act the words

“Associations” shall mean a cooperative grazing association;

“District” shall mean a cooperative grazing district;

“Subdivision” shall mean any portion or block of land situated within the outside boundaries of a district;

“Person” shall mean any natural person or any firm, partnership or corporation;

“Grazing area” shall mean any area of land consisting of fifty thousand acres, or more, situated in any one county in this State, that has been or may be acquired by the United States, or any of its departments, corporations, or agencies, that may be leased by an association for grazing purposes.

§ 2. A corporation, mutually operated, for the purpose of aiding in the conservation, restoration, improvement, development and utilization of natural forage resources within a county, where a grazing area has been acquired, to be jointly used by its members, and for aiding in the restoration, conservation, improvement, development and utilization of lands which may be leased from the United States, or from any of its departments, corporations, or agencies, and/or from the State of North Dakota, or from any of its departments, boards or agencies, and/or from any county or political subdivision in this State, or from other persons, shall be known as a “Cooperative Grazing Association.”

Only one such association shall be organized within any county.

Lands leased by such an association and utilized by its members for grazing purposes under such definite restrictions, regulations and limitations by the association as shall contribute to the conservation, restoration, improvement and development of the forage resources of such land, shall be known as a “Cooperative Grazing District.”

§ 3. Fifteen or more persons who are the owners or lessees

of land situated within a grazing area and who are engaged in the raising of livestock, may form a non-profit cooperative grazing association under the provisions of this act.

§ 4. Each association formed under this act must prepare written articles of incorporation in triplicate, to be subscribed by the incorporators and acknowledged by three or more of them before an officer authorized by the law of this state to take acknowledgments of deeds and conveyances. One of such copies shall be filed in the office of the Secretary of State, who, upon the payment of the fees herein provided, shall issue a certificate of incorporation; one shall be filed with the Dean of the State College of Agriculture, and one shall be retained for the records of the association. Such articles of incorporation shall set forth:

(a) The name of the association, which shall include the words "Grazing Association."

(b) The purposes for which it is formed.

(c) The county in which such proposed association is to be located, and the place where its principal business will be transacted, and the postoffice address thereof.

(d) The membership fee, which shall in no case be greater than five dollars (\$5.00) per year.

(e) The term for which it is to exist, not exceeding forty years.

(f) The names and residences of the persons who subscribed to the articles of incorporation, who must be owners or lessees of land within the outside boundaries of any grazing area.

(g) Whether the property and grazing rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property and grazing rights and interests respectively, of each member, may and shall be determined and fixed; and the association shall have power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles of incorporation shall not be altered, amended, or repealed, except by the written consent or the vote of three-fourths of the members.

(h) The names and residences of those who are to serve as directors until their successors are elected and qualified.

(i) The number of directors thereof, shall consist of one director from each congressional township in the proposed district, who must be eligible to membership in the association, and the term of office of such directors.

§ 5. The articles of incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors, and then adopted by a vote representing two-thirds of all

of the members of the association. Amendments to the articles of incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of this state.

§ 6. Each association incorporated under this act must, within thirty days after its incorporation, adopt for its general government and management, a code of by-laws not inconsistent with the powers granted by this Act, and to carry out the objects and purposes of the association. A majority vote of the members, or their written assent, is necessary to adopt such by-laws. These by-laws shall include the following matters:

(a) The time, place and manner of calling and conducting its meetings. In voting at meetings no proxies shall be allowed.

(b) The number of members constituting a quorum.

(c) The number of directors constituting a quorum.

(d) The number, qualifications, compensation, and duties of directors and officers, whose term of office shall be one year; the time and manner of their election.

(e) One director to be elected from each congressional township in the district by the majority vote of the members residing in such township.

(f) Penalties for violation of the by-laws or of any regulations, limitation or restrictions, imposed by the Board of Directors for the conservation, improvement, development and utilization of forage resources within the district.

(g) The amount of entrance, organization and membership fees, if any, each of which shall in no case exceed the sum of five dollars (\$5.00); the manner and method of collection of the same, and the purposes for which they may be used.

(h) The amount which each member shall be required to pay annually, to be determined by the directors and not to exceed the sum of five dollars (\$5.00) per year, to carry on the business of the association; and the charge, if any, to be paid by each member for services rendered by the association to him, and the time of payment and the manner of collecting the same.

(i) The date of the annual meeting of the association and rules for the manner and method of calling general and special meetings.

(j) The manner of filling vacancies in the board of directors or any office.

§ 7. Such by-laws may be altered or amended by the members at any regular or special meeting called for that purpose by a two-thirds vote of the members of the association.

§ 8. Each association organized under this act shall have the following powers:

(a) To lease from the United States, or any of its departments, corporations or agencies, and/or from the State of North Dakota, or any of its departments or agencies, or from any county

or political subdivision therein, or from any other person or association, lands for grazing purposes and for the raising of forage crops, and to assign and transfer such leases or any portion of them.

(b) To construct or acquire fences, reservoirs, or other facilities, for the care of livestock.

(c) To apportion to members grazing rights within such district on such terms, conditions and limitations as may be specified by the directors thereof, not in conflict with any of the provisions contained in any lease or leases by the association with the county, state, or Federal Government, or any of its departments, boards or agencies.

(d) To borrow money.

(e) To issue grazing permits to non-members.

(f) To act as agent of, and to cooperate with, the Federal and/or State Government, or any department or agency of the Federal and/or State Government, in the conservation, restoration, improvement, development and utilization of the forage resources in this state, or for any other purpose, and to accept and use any funds provided by the Federal or State Government, or any department or agency thereof.

(g) To do each and everything necessary, suitable or proper for the accomplishment of any one or more of the objects herein enumerated; or conducive to, or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized, or to the activities in which it is engaged; and in addition any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this Act; and to do any such thing anywhere.

§ 8. Any person who is an owner or lessee of land within the proposed boundaries or residing on the border of the area within or without the county and have heretofore been dependent upon the land within the area of any Cooperative Grazing District, who is also engaged in the raising of livestock within the area, shall be entitled to become a member by paying the membership fee, by subscribing to the by-laws, and by complying with the rules, regulations and limitations determined by the directors thereof.

When any member shall dispose of land owned or leased by him and upon which his membership in the association and the grazing rights in the district are based, then he shall cease to be a member of such association.

When any member shall dispose of all or part of the land owned or leased by him, so that another individual, or other individuals, shall, by the purchase and ownership or transfer of the lease to such land, acquire right to membership and to grazing rights, then the rights and interests involved and the grazing rights of all the parties shall be determined by the board of directors.

Each member shall have one vote.

Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee.

§ 9. Cooperative Grazing Associations organized under this act shall, upon completion of organization and incorporation, file with the Register of Deeds of the county, and with the Dean of the State College of Agriculture, a map or plat of the grazing district proposed to be created and the subdivisions therein.

Whenever any incorporated grazing association shall enlarge or reduce the area included within its district, or change or modify its boundaries, or subdivisions, it shall file with the Register of Deeds, and the Dean of the State College of Agriculture, a map or plat indicating such changed boundaries.

§ 10. The directors shall have power:

(a) To exercise the full corporate power as authorized in this act.

(b) To make such regulations for the management and control of the affairs of the association and of the manner of utilization of grazing within their district not inconsistent with the terms, conditions and limitations of leases of land contained therein.

(c) To apportion grazing rights within their district to members, and in doing so shall consider the following factors:

(1) The amount of winter feed that the member can raise on land owned or leased by him situated in the district or on land situated within two miles of the outside boundary of the district.

(2) The dependence of the member on the grazing in the district.

(3) The amount of stock previously grazed by the member in the area where the district is located.

(4) The amount of grass that will be available for the stock of all the members of the association.

(d) To create subdivisions in the district and to specify the kind and number of stock that may be permitted to graze in such subdivisions.

(e) To determine the length of time during which stock of any member may graze in the district or in any subdivision thereof.

(f) To determine grazing fees to be imposed on members or non-members on a per head basis for grazing rights.

(g) To grant to non-members grazing permits within such district when the amount of forage within the district is greater than the needs of the members, but no such permits shall be granted when such use shall be inconsistent with the terms of leases of county, state or Federal lands within the district, or with a safe policy of forage conservation within such district.

(h) On behalf of the association, to enter into leases with any

county or counties in which the district is located, or with the State or Federal Government, or any departments or agencies thereof, or with other persons, for tracts of land within or contiguous to such district.

(i) To specify the breeds, quality and number of male breeding animals which each member must furnish when stock are grazed in a common pasture within the grazing district, or in any subdivision thereof.

(j) To make rules and regulations governing the treatment, care or removal of diseased animals, and to prevent the spreading of any disease among the stock ranging in the district, or in any subdivision thereof.

(k) To suspend or expel any member for failure or refusal to pay his membership or grazing fees, or to abide or conform to the rules and regulations of the association, or its board of directors.

(l) To make rules and regulations governing the automatic suspension of the right of a member when he ceases to be eligible to membership in the association, and the manner of assignment and transfer of the interests of members, and the condition upon which, and the time when membership of any member shall cease.

(m) To set up such reserve for contingencies as in their judgment they deem advisable, after paying all costs, lease rentals, and/or other expenses.

(n) To enter into agreements, conform to regulations or act in conjunction with the state or federal government, or any department or agency thereof, to bring about the conservation, restoration, improvement, development and utilization of the forage resources in the district.

(o) To create an executive committee of not less than five from their number who shall at all times, except during a regular or special meeting of the board of directors, have and exercise such of the powers vested in the board of directors, as they may provide by resolution to be adopted at any regular meeting of such board.

§ 11. No member shall be permitted to graze more than five hundred cattle units during a full twelve-month period in each year, or a correspondingly larger number for a shorter grazing period during each year. Two cattle units shall be equivalent of one horse, and six sheep the equivalent of one cattle unit and three yearling cattle the equivalent of two cattle units.

For the purposes of this act, a yearling is a cattle animal not less than seven months nor more than eighteen months old on May first of the year when its age is being determined; a cattle unit is a cattle animal over eighteen months old on May first of the year when its age is being determined.

§ 12. The members of the board of directors shall hold their office for a period of one year or until their successors are elected and qualified.

The board shall elect from their number a president and one or more vice-presidents; they shall also elect a secretary and a treasurer, who need not be members, and they may combine the two latter offices and designate the combined office as a secretary-treasurer; and fix the fees or salary or allowance of such officer or officers of the association, as well as of the directors and the executive committee.

The treasurer, or secretary-treasurer (when the offices are combined), shall be custodian of all the funds of the association and shall give bond in such an amount as may be required by the board of directors.

§ 13. The Secretary of State shall charge for the filing and recording of articles of incorporation under this act the sum of two dollars (\$2.00), and for any amendment thereto the sum of two dollars (\$2.00), and for issuing a certificate of incorporation the sum of three dollars (\$3.00).

§ 14. If any section of this act shall be declared unconstitutional for any reason, the remainder of the act shall not be affected thereby.

§ 15. All acts, or parts of acts, in conflict with this act are hereby repealed.

Approved March 13, 1935.

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## CHAPTER 107

H. B. No. 300—(Dahl of Emmons and Solberg)

### POWERS COOPERATIVE MARKETING ASSOCIATION.

An Act to amend and re-enact Section 4609B6, of the Supplement to the 1913 Compiled Laws of North Dakota, providing enlarged powers to co-operative marketing associations in connection with the handling of co-operative products.

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

§ 1. AMENDMENT.] That Section 4609b6, of the Supplement to the 1913 Compiled Laws of North Dakota be and the same is hereby amended and re-enacted as follows:

§ 4609b6. POWERS.] Each association incorporated under this act shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling, or utilization of any agricultural products produced or delivered to it by its members or others; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring, or use by its members and others of supplies, machinery, or equipment; or in the financing of any

such activities; or in any one or more of the activities specified in this section; provided, however, that the association does not deal in the products of non-members to an amount greater in value than such as are handled for it by members and does not purchase supplies, machinery, and equipment for non-members in an amount greater in value than the value of the supplies, machinery and equipment purchased for members.

(b) To borrow money and to make advances to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase or otherwise acquire, and to hold, own, and exercise all rights or ownership in, and to sell, transfer, or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(f) To buy, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto.

(g) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this act; and to do any such thing anywhere.

Approved March 13, 1935.

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## CHAPTER 108

H. B. No. 86—(Sand)

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### CREDIT UNIONS.

An Act providing for the organization of Credit Unions, the incorporation thereof, the internal regulation and management of same, defining their powers and duties, fixing the number of officers and committees, defining their powers, tenure, compensation and duties, providing for the adoption and amendment of by-laws, prohibiting the use of the term "credit unions" by other persons, firms, associations or corporations, defining membership therein, regulating the rights of borrowers, interest on loans, capital, reserves, loans, security, dividends, fines, expulsion and withdrawal of members, dissolution, change of place of business, taxation of property, pro-

viding for reports and examinations, placing the same under the supervision of the State Banking Board.

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

§ 1. SAVINGS AND CREDIT ASSOCIATION MAY BE ORGANIZED. METHOD OF ORGANIZATION.] Any seven residents of the State of North Dakota may apply to the State Banking Board for permission to organize a corporate cooperative association to be known as a credit union.

A credit union is organized in the following manner:

(a) The applicants execute in duplicate a certificate of organization by the terms of which they agree to be bound. The certificate shall state:

1. The name and location of the proposed credit union.
2. The names and addresses of the subscribers to the certificate and the number of shares subscribed by each.
3. The par value of the shares of the credit union which shall not exceed \$10.00 each.

(b) They next prepare proposed by-laws for the general governance of the credit union consistent with the provisions of this act, and execute the same in duplicate.

(c) The certificate and the proposed by-laws, both executed in duplicate, are forwarded to the State Examiner.

(d) The State Examiner shall, within thirty days of the receipt of said certificate and by-laws, determine whether they comply with the provisions of this act, and whether or not the organization of the credit union in question would benefit the members of it and be consistent with the purposes of this Act.

(e) Thereupon the said State Examiner shall notify the applicants and State Banking Board of his decision. If it is favorable said Board shall instruct the Secretary of State to issue a charter, attach to the duplicate certificate of organization and return the same, together with duplicate by-laws to the applicants, upon payment of a filing fee of \$5.00 to the Secretary of State.

(f) The applicants shall thereupon file the said duplicate of the certificate of organization, with the charter attached thereto with the register of deeds of the county within which the credit union shall have its place of business, who shall make a record of said certificates and return it, with his certificate of record attached thereto, to the said Secretary of State for permanent record.

(g) Thereupon the applicants shall become and be a credit union, incorporated in accordance with the provisions of this act.

In order to simplify the organization of credit unions the said Secretary of State shall, upon passage of this act, cause to be prepared an approved form of certificate of organization and a form of by-laws, consistent with this act which may be used by credit union incorporators for their guidance, and on written application

of any seven residents of the state, shall supply them, without charge, with a blank certificate of organization and a copy of said form of suggested by-laws

§ 2. AMENDMENT OF BY-LAWS. APPROVAL BY STATE BANKING BOARD.] To amend certificate of organization or by-laws whether at a general or special meeting, proposed amendments shall be fully set forth in the notice of the meeting. Any amendments to the by-laws shall be approved by three-fourths of the members then present, which number shall constitute a quorum. Any and all amendments to the certificate of organization or by-laws must be approved by the State Banking Board, before they become operative. The certificate of organization may be amended by a majority vote of the entire membership of the credit union at a meeting called for that purpose. In case such amendment is adopted the resolution containing a full text thereof and verified by its president and treasurer and approved by the State Banking Board shall be recorded in the office of the register of deeds in the county in which said credit union is located.

§ 3. USE OF CERTAIN WORDS A MISDEMEANOR.] It shall be a misdemeanor for any person, association, co-partnership or corporation (except corporations organized in accordance with the provisions of this act) to use the words "credit union" in their name or title.

§ 4. POWERS OF CREDIT UNION.] A credit union shall have the following powers:

(a) To receive the savings of its members either as payment on shares or as deposits (including the right to conduct Christmas clubs, vacation clubs and other such thrift organizations within its membership.)

(b) To make loans to members for provident or productive purposes.

(c) To make loans to a co-operative society or other organization having membership in the credit union.

(d) To deposit in state and national banks and trust companies and central credit unions authorized to receive deposits.

(e) To invest in any investment legal for savings banks or for trust funds in the State.

(f) To borrow money as hereinafter indicated.

§ 5. MEMBERSHIP IN CREDIT UNIONS.] Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and subscribe to at least one share, pay the initial installment thereon and the entrance fee. Organization (incorporated or otherwise) composed for the most part of the same general group as the credit union membership may be members. Credit union organizations shall be limited to groups (of both large and small membership) having a common bond of occupation,

or association or to groups within a well defined rural or urban district.

§ 6. TO BE UNDER STATE BANKING BOARD.] Credit unions shall be under the supervision of the State Banking Board. They shall report to the State Examiner at least twice annually, upon call of the State Examiner on blanks supplied by the said Examiner for that purpose. Additional reports may be required. Credit unions shall be examined at least annually by the said Examiner. For failure to file reports when due, unless excused for cause, the credit union shall pay to the treasurer of this state \$5.00 for each day of its delinquency. If the said Examiner determines that the credit union is violating the provisions of this act, or is insolvent, the said State Banking Board may serve notice on the credit union of his intention to revoke the charter. If, for a period of fifteen days after said notice, said violation continues, the said State Banking Board may revoke said charter and take possession of the business and property of said credit union and maintain possession until such time as they shall permit it to continue business or its affairs are finally liquidated. They may take similar action if said report remains in arrears for more than fifteen days.

The credit union shall pay the same fees to the State Examiner for examination as are now provided for building and loan associations.

§ 7. FISCAL YEAR: MEETINGS AND VOTING AT.] The fiscal year of all credit unions shall end December 31. General and special meetings may be held in the manner and for the purposes indicated in the by-laws, provided, however, that 30 days before any regular meeting and ten days before any special meeting written notice shall be mailed to each member and in the case of a special meeting the notice shall clearly state the purpose of the meeting and what matters will be considered thereat. At all meetings a member shall have but a single vote whatever his share holdings. There shall be no voting by proxy, provided, however, that any firm, society or corporation having a membership in the credit union may cast its vote by one person upon presentation by him of written authority of such firm, society or corporation.

§ 8. ANNUAL MEETINGS: ELECTION OF OFFICERS.] At the annual meeting (the organization meeting shall be the first annual meeting) the credit union shall elect a board of directors of not less than five members, a credit committee of not less than three members and a supervisory committee of three members, all to hold office for such terms respectively as the by-laws provide and until successors qualify. A record of the names and addresses of the members of the board and committees and the officers shall be filed with the State Examiner within ten days of their election, and each director shall also deposit with said Examiner one share as a qualifying requirement.

§ 9. OFFICERS AND DIRECTORS.] At their first meeting the directors shall elect from their own number a president, vice president, treasurer and clerk, of whom the last two named may be the same individual. It shall be the duty of the directors to have general management of the affairs of the credit union, particularly:

- (a) To act on applications for membership.
- (b) To determine interest rates on loans and on deposits.
- (c) To fix the amount of the surety bond which shall be required of all officers and employees handling money, subject to the approval of the State Examiner.
- (d) To declare dividends, and to transmit to the members recommended amendments to the by-laws.
- (e) To fill vacancies in the board and in the credit committee until successors are chosen and qualify.
- (f) To determine the maximum individual share holdings and the maximum individual loan which can be made with and without security.
- (g) To have charge of investments other than loans to members.
- (h) To establish a schedule of fines, in the discretion of the Board, for non-payment of interest when due.

The duties of the officers shall be as determined in the by-laws, except that the treasurer shall be the general manager. No member of the board or of either committee shall, as such, be compensated, except that reasonable compensation may be paid the treasurer, to be fixed by the board.

§ 10. CREDIT COMMITTEE TO PASS ON LOANS.] The credit committees shall have the general supervision of all loans to members. Applications for loans shall be on a form, prepared by the credit committee, and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section an assignment of shares or deposits or the endorsement of a note may be deemed security. No loan shall be made unless the obligation bears two responsible endorsers. At least a majority of the members of the credit committee shall pass on all loans and approval must be unanimous. The credit committee shall meet as often as may be necessary after due notice to each member.

§ 11. DUTIES OF SUPERVISORY COMMITTEE.] The supervisory committee shall:

- (a) Make an examination of the affairs of the credit union at least quarterly, including an audit of its books and, in the event said committee feels such action to be necessary, it shall call the members together thereafter and submit to them its report.
- (b) Make an annual audit and report and submit the same at the annual meeting of the members.
- (c) By unanimous vote, if it deem such action to be necessary

to the proper conduct of the credit union, suspend any officer, director or member of committee and call the members together to act on such suspension. The members of said meeting may sustain such suspension and remove such officer permanently or may reinstate said officer.

By majority vote the supervisory committee may call a special meeting of the members to consider any matter submitted to it by said committee. The said committee shall fill vacancies in its own membership.

§ 12. CAPITAL: ENTRANCE FEE.] The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from said member or for any loan endorsed by him. A credit union may charge an entrance fee as may be provided by the by-laws, not to exceed 50 cents.

§ 13. WHO MAY HOLD SHARES.] Shares may be issued and deposits received in the names of a minor or in trust in such manner as the by-laws may provide. The name of the beneficiary must be disclosed to the credit union.

§ 14. INTEREST RATES.] Interest rates on loans made by a credit union shall not exceed 1 per cent a month on unpaid balances.

§ 15. MAY BORROW MONEY.] A credit union may borrow from any source in total sum which shall not exceed 25 percent of its assets, unless the State Examiner shall authorize a larger amount.

§ 16. MAY LOAN MONEY.] A credit union may loan to members. Loans must be for a provident or productive purpose and are made subject to the conditions contained in the by-laws. A borrower may repay his loan in whole or in part any day the office of the credit union is open for business. No director, officer or member of committee may borrow from the credit union in which he holds office beyond the amount of his holdings in it in shares and deposits, unless approved by three-fourths of the other members of the board of directors, nor may he endorse for borrowers.

§ 17. RESERVED FUNDS.] Every credit union shall maintain a reserve fund which at all times shall be kept liquid and intact and used as a reserve against bad loans and other losses and shall not be loaned to members or used to pay expenses of the credit union or otherwise distributed except in case of liquidation. All entrance fees, fines and each year, before the declaration of a dividend ten per cent of the gross earnings shall be set aside as a reserve fund against said bad loans and other losses until such time as such fund shall equal fifteen per cent of the assets of the credit union, and thereafter there shall be added to such fund at the end of each fiscal year such per cent of the gross earnings as will be required to maintain such fund as herein provided. There shall also be established

and at all times maintained a reserve of not less than five per cent of the amount of the deposits; which shall be in cash and balances due from solvent banks. Upon recommendation of the board of directors and approval of a majority of the members present at any annual meeting, a reserve fund of not more than 5 per cent of net earnings may be set aside and used for education, cultural and general welfare purposes.

§ 18. DIVIDENDS.] On recommendation of the directors a credit union may, at the end of the fiscal year, declare a dividend from net earnings, which dividend shall be paid on all shares outstanding at the end of the fiscal year. Shares which become fully paid up during the year shall be entitled to a proportional part of said dividend calculated from the first day of the month following such payment in full.

§ 19. EXPULSION OF MEMBERS.] A member may be expelled by two-thirds vote of the members present at a special meeting called to consider the matter or at the annual meeting, but only after a hearing. Any member may withdraw from the credit union at any time but notice of withdrawal may be required. All amounts paid on shares or as deposits of an expelled or withdrawing member, with any dividends or interest accredited thereto to the date thereof shall, as funds become available and after deducting all amounts due from the member to the credit union, be paid to him. The credit union may require 60 days' notice of intention to withdraw shares and 30 days' notice of intention to withdraw deposits. Withdrawing or expelled members shall have no further right in the credit union but are not, by such expulsion or withdrawal, released from any remaining liability to the credit union.

§ 20. PROCESS OF VOLUNTARY DISSOLUTION.] The process of voluntary dissolution shall be as follows:

(a) A credit union may be voluntarily liquidated after four-fifths of the entire membership shall have voted such liquidation at a special meeting called by a majority of the board of directors for that purpose, upon thirty days' mailed written notice to each member clearly stating the purpose of such special meeting. By a majority vote of the members present at such meeting, a committee of three members shall be elected to liquidate the credit union.

(b) Immediately after such meeting and before such committee shall proceed with the liquidation, the officers of the credit union shall file with the State Examiner a certified copy of the minutes of such meeting, a written statement outlining the plan of liquidation and a verified statement in writing signed by a majority of the officers consenting to such liquidation containing the names and addresses of all officers and directors of the credit union. After the State Examiner shall by proper examination determine that such credit union is solvent, he shall issue a certificate of approval of the liquidation, which certificate shall be filed with the register of deeds

in the county where such credit union is located. From and after such special meeting the credit union shall cease to do business except for the purposes of liquidation. Before commencing such liquidation such committee shall execute and file with the State Examiner a bond running to the State of North Dakota for the benefit of the members and creditors of the credit union in such amount and with such sureties and in such form as shall be approved by the State Examiner conditioned for the faithful performance of all duties of its trust.

(c) Upon filing of such certificate with the Register of Deeds, the credit union shall be deemed dissolved and its corporate existence terminated except for the purpose of discharging its debts, collecting and distributing its assets and doing all other acts required in order to liquidate. The credit union shall have a corporate existence and may sue and be sued.

(d) If the credit union shall not be completely liquidated and its assets discharged within three years after such special meeting of the members, the State Examiner shall take possession of the books, records and assets and proceed to complete the liquidation in the manner then provided by law for the liquidation of closed banks.

(e) Funds representing unclaimed dividends in liquidation in the hands of such liquidating committee or the State Examiner for six months after date of final dividend shall be deposited with the State Treasurer who shall within one year thereafter pay over the money so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same, and at the end of such year the State Treasurer shall credit all residue of such deposit to the General Fund.

(f) Upon completion of the liquidation by such liquidating committee it shall file with the State Examiner a verified statement in writing signed by the members of such committee stating that all debts of the credit union including deposits, have been paid except unclaimed dividends, and if any such, the amount thereof, the names of the persons entitled thereto with their last known addresses, and all books and papers of the credit union shall thereupon be deposited with the State Examiner.

§ 21. MAY CHANGE PLACE OF BUSINESS.] A credit union may change its place of business on written permission of the State Examiner.

§ 22. SHALL BE DEEMED SAVINGS BANKS FOR TAXATION PURPOSES.] A credit union shall be deemed a consumers co-operative association for purposes of taxation.

§ 23. CONFLICTING ACTS REPEALED.] All laws and parts of laws in conflict herewith are hereby repealed.

Approved March 13, 1935.

## CHAPTER 109

S. B. No. 281—(Fine and Greene of Stutsman)

## MUTUAL AID CORPORATIONS

An Act relating to the incorporation of mutual aid non-profit corporations, and defining their purposes and powers and declaring an emergency.

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

§ 1. Co-operative non-profit corporations with or without capital stock may be organized for the purpose of effectuating any plan or program of any state or Federal or other agency or corporation for giving assistance, financial or otherwise, in rural rehabilitation, subsistence farming, housing or co-operative endeavors of any nature or description, or engaging in such endeavors without assistance. Corporations organized under this act shall be known as "mutual aid corporations," which three words shall form a part of the name of each corporation so organized.

§ 2. Any number of persons, not less than seven residing in the territory to be served thereby, may form a mutual aid corporation. They shall make and subscribe written articles of incorporation in duplicate and acknowledge the same before any officer authorized to take acknowledgement of deeds. One copy shall be retained for the records of the corporation and the other copy shall be signed and recorded by the Secretary of State who shall issue a certificate of incorporation upon receipt of such articles and the payment of the fees hereinafter provided.

§ 3. The Secretary of State shall charge for the filing and recording of articles of incorporation under this act, the sum of \$2.00 and for issuing a certificate of incorporation the sum of \$3.00, regardless of the amount of its capital stock.

§ 4. Corporations organized under this act shall have the power:

(1) To engage in any corporate activity not otherwise prohibited by law.

(2) To borrow money to an amount fixed by its articles of incorporation (whether in excess of the amount of its capital stock or not), and to lend the same to its members upon such terms and in such manner as may be provided by the by-laws, and to pledge as collateral to any obligation of the corporation any notes, mortgages, pledges or other security held by it as a result of any loan made or to be made to any member.

(3) To act as the agent or representative of any state, Federal or other agency or corporation giving assistance to rural rehabilitation, subsistence farming, housing or co-operative endeavors of any nature.

(4) To purchase or otherwise acquire, and to hold, own and exercise all right of ownership in, and to sell, transfer or pledge shares of the capital stock, bonds or other obligations of any Federal, state or other agency or corporation giving assistance to the co-operative endeavors hereinbefore referred to.

(5) To buy, hold and exercise all privileges of ownership over such real or personal property (including its own stock) as may be necessary or convenient for the conduct and operation of the business of the corporation or incidental thereto, and to pledge or mortgage the same.

(6) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein numerated; or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; and in addition, to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the corporation is organized or to the activities in which it is engaged; and in addition, any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this act.

§ 5. Such corporation may require that any member or stockholder applying for a loan from or through such corporation shall comply with and conform to such rules and regulations with reference to purchase of additional stock or additional fees and dues to be paid by borrowing members or stockholders as may be fixed by the by-laws, and may require that borrowing members or stockholders shall make deposits or give security for the repayment of loans. No loan shall be made to any person not a member or stockholder of the corporation. Other co-operative and voluntary associations, not incorporated, engaged in activities for the benefit of which the corporation is formed may be admitted to membership or become a stockholder, as the case may be, in the manner provided by the by-laws, upon the payment of all proper fees and dues and upon the filing with the secretary of the corporation, of a duly certified copy of a resolution of the board of directors of such other corporation or association authorizing some member or officer thereof to act as its agent and attorney in connection with the affairs of the corporation and to cast its vote at all meetings thereof, which said authority may be revoked only by the filing of a certified copy of a resolution naming and appointing some other agent or representative or by the withdrawal of the corporation or association as a member or stockholder as the case may be.

§ 6. The board of directors of such corporation shall consist of five members or stockholders who shall hold their offices for a period of one year, or until their successors are elected and qualified. The board shall select from among its members a president and shall select from among the members or stockholders of the association a

secretary-treasurer who shall serve for a period of one year, or until their successors are elected and qualified. No officer or director shall receive any compensation for his services as such, save and except that the secretary-treasurer may be paid such fees or salary as may be authorized by the by-laws. The secretary-treasurer shall be the custodian of all funds of the corporation and shall give bond in such an amount as may be fixed by the by-laws.

§ 7. The articles of incorporation shall set forth:

- (1) The name of the association which shall include the three words "mutual aid corporation."
- (2) The purpose for which formed.
- (3) The place where its principal business will be transacted.
- (4) The territory to be served by the corporation.
- (5) If organized without capital stock, whether the property rights and interests of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests respectively of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles shall not be altered, amended or repealed except by the written consent or the vote of three-fourths of the members.
- (6) If organized with capital stock, the amount of such stock and the number of shares in which it is divided, and the par value thereof.
- (7) The names and residences of those who are to serve as directors until their successors are elected and qualified.

§ 8. The articles of incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of all the members or stockholders of the association. Amendments to the articles of incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of the state.

§ 9. BY-LAWS.] Each association incorporated under this act shall, within thirty days after its incorporation, adopt for its government and management, a code of by-laws not inconsistent with the powers granted by this act. A majority vote of the members or stockholders or their written assent shall be necessary to adopt such by-laws. Each association may, under its by-laws, provide, among other things, for the following:

- (1) The time, place and manner of calling and conducting its meetings.
- (2) The number of stockholders or members constituting a quorum.

(3) The right of stockholders or members to vote by proxy or by mail, or both, and the conditions, manner and form of such votes.

(4) The number of directors constituting a quorum.

(5) Penalties of violation of the by-laws.

(6) The amount of entrance, organization and membership fees, if any; and the manner and method of collection of the same and the purposes for which they may be used.

(7) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection.

(8) The time for the annual election of officers and the mode and the manner of giving notice thereof.

(9) The number and qualifications of stockholders or members of the corporation and the conditions precedent to membership or ownership of stock; the method, time and manner of permitting members to withdraw or the holders of stock to transfer the same; the manner of assignment or transfer of the interest of members and their shares of stock; and the conditions upon which and the time when membership of any members shall cease; and automatic suspension of the rights of a member when he ceased to be eligible to membership; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest or stock and provision for its purchase by the association upon the death, withdrawal, or expulsion of a member.

This section is permissive and not mandatory and is not exclusive of the right of the corporation to adopt other by-laws for the purpose of attaining the objects and purposes of the corporation.

§ 10. No member or stockholder shall be entitled to more than one vote, regardless of the amount of interest or the number of shares of stock held by him.

§ 11. It is the purpose and object of this act to permit the organization of the mutual aid corporations as expeditiously and as economically as possible and to extend to such corporations all rights, powers and privileges necessary or incidental to the full attainment of the objects of any and all grants, gifts, benefits or assistance rendered or to be rendered by any state, Federal or other agency or corporation in the development of rural rehabilitation, subsistence farming, housing or other co-operative endeavors, and to the attainment of this purpose this act shall be liberally construed. The provisions governing the manner of the accomplishment of the objects do not form an inducement for the enactment hereof. If any provision is found to be violative of the Constitution, it is hereby declared that the remainder of the act would have been enacted had it been eliminated.

§ 12. EMERGENCY.] Whereas, programs are now proposed

and in operation for the development of the activities contemplated by this act, and it is necessary that machinery to enable the people of the State of North Dakota to take advantage thereof should be immediately provided. Now, therefore, this act is declared to be an emergency and shall be in full force and effect immediately upon its passage and approval.

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

Approved March 13, 1935.

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## CHAPTER 110

S. B. No. 172—(Lynn)

### RENEWAL CORPORATE EXISTENCE AFTER EXPIRATION

An Act authorizing the renewal of the period of corporate existence of certain corporations whose period of duration has expired without the renewal thereof, and legalizing acts and contracts of such corporations made or done and performed subsequent to the expiration of the original period of existence of such corporations.

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

§ 1. RENEWAL OF CORPORATE EXISTENCE.] Any corporation heretofore organized under the laws of this state, whose period of duration has expired and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding twenty (20) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the State Treasury twenty-five dollars in addition to the fees as now provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of its period of duration.

§ 2. TWO YEAR LIMITATION.] Such proceedings to obtain such extension shall be taken within two (2) years after the taking effect of this act.

§ 3. ORIGINAL ACTS DECLARED VALID.] When such steps are taken within such period, or have been heretofore taken, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act, any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

§ 4. APPLICATION.] This act shall not apply to any corporation the charter of which has been declared forfeited by the final

judgment of any court of competent jurisdiction in this state, nor to any corporations as to which there is any action or proceedings pending in any of the courts in this state for the forfeiture of its charter, nor to any corporation whose directors have acted as trustees under the provisions of Section 4567, Compiled Laws of 1913.

Approved March 2, 1935.

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## CHAPTER 111

S. B. No. 137—(Whelan)

### LEGALIZATION TITLES TO LANDS ACQUIRED BY CORPORATIONS

An Act to amend and re-enact Section 4 of Chapter 89 of the Session Laws of the State of North Dakota for the year 1933 relating to prohibition against corporation farming, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 89 of the Session Laws of the State of North Dakota for the year 1933 is hereby amended and re-enacted to read as follows:

§ 4. TITLE LEGALIZED.] That the title and ownership of any real estate acquired, in any manner, by any domestic or foreign corporation, since the approval and adoption of the aforesaid initiated law, is hereby declared to be legal and valid for all purposes, notwithstanding any provisions in said initiated law contained, but subject, however, to all of the provisions now contained in said initiated law as hereby amended and re-enacted. It is hereby expressly declared lawful for any corporation, domestic or foreign, subject to the other provisions of this act, to take and acquire title to real estate, by deed or other conveyance, where such deed or conveyance is taken or given, in exchange for lands heretofore acquired, or in partial or in full satisfaction of any mortgage, lien or other encumbrance held or owned by such corporation on such real estate; any and all deeds and conveyance of real estate to any corporation heretofore taken by any corporation, either in exchange for lands heretofore acquired, or in partial or in full satisfaction of any mortgage, lien or other encumbrance on such real estate, are hereby declared legal and valid for all purposes.

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

Approved March 7, 1935.

## COUNTIES

### CHAPTER 112

H. B. No. 68—(Symington)

#### BOND CERTAIN COUNTY OFFICERS

An Act relating to the bonds to be furnished by certain county judges, clerk of district court and/or register of deeds filling offices as consolidated pursuant to the provisions of Chapter 84, Laws of 1933, and declaring an emergency.

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

§ 1. BONDS REQUIRED.] That from and after the taking effect of this act, in counties where the office of county judge, clerk of the district court and register of deeds, or in counties where the office of county judge and clerk of the district court have been consolidated by reason of the Constitutional amendment as set forth in Chapter 84 of the Session Laws of 1933, only one bond shall be required, said bond being in the amount required of the clerk of the district court prior to the consolidation of said offices.

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

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

Approved February 6, 1935.

### CHAPTER 113

H. B. No. 236—(Black and Graham)

#### COMPENSATION AND MILEAGE COUNTY HEALTH OFFICERS

An Act to amend and re-enact Section 409 of the Compiled Laws of North Dakota for 1913 as amended by Chapter 105 of the Session Laws of North Dakota for 1929, relating to compensation of president, vice president of the board of health and county superintendent of health, mileage and expenses, and repealing all acts in conflict therewith.

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

§ 1. That Section 409 of the Compiled Laws of North Dakota for 1913 as amended by Chapter 105 of the Session Laws of North Dakota for 1929, be, and the same is hereby amended and re-enacted to read as follows:

§ 409. COMPENSATION.] The president and vice president of

the board shall receive three dollars per day for every day in which they may be actually and necessarily engaged in the performance of their duties and five cents per mile for every mile actually and necessarily traveled, in the discharge of their duties. The county superintendent of health shall receive from two hundred dollars to six hundred dollars a year from his office work, which sum shall be determined annually by the county commissioners, and according to the efficiency of the health officer and the amount and character of the work performed. He shall also receive five dollars per day for every day or fraction thereof that he may be actually and necessarily engaged in the performance of his official duties, not including work confined to his office, and in addition thereto, all his other necessary and actual expenses incurred while so engaged. Neither the county superintendent of health, or any deputy shall receive more than ten cents per mile for each mile actually and necessarily traveled in the performance of his duties.

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

Approved March 14, 1935.

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## CHAPTER 114

S. B. No. 280—(Fine and Greene of Stutsman)

### COUNTY DEBT ADJUSTMENT BOARDS

An Act to provide for the establishment of county debt adjustment boards, prescribing the duties and powers of such boards and the duties of the judges and the clerks of the district courts as regards such boards.

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

§ 1. Within thirty days after the taking effect of this act, it shall be the duty of the judges of the district courts of the several judicial districts of the State of North Dakota to appoint, by joint action of the judges within each judicial district, a debt adjustment board for each county within the district. Said board shall consist of not less than three and not more than seven members who shall serve at the pleasure of the district judges of the district within which the county is located, and their services shall be rendered without fee or compensation. The board of county commissioners may authorize payment of the actual expenses of the members of the county adjustment board. In such case expenses shall be paid in the same manner and out of the same funds as expenses of county officers are paid. Provided, however, that not to exceed five hundred dollars may be expended in any county in any year for this purpose. Each member shall take and file with the clerk of the district court an oath of office in the manner and form provided by law for county offices.

§ 2. Whenever any debtor or creditor shall call upon the debt adjustment board of the county within which the debtor resides for assistance and pay to the clerk of the district court a filing fee of \$5.00, it shall be the duty of the clerk of the district court to call a meeting of the debtor and his creditors at the earliest possible date and to notify the members of the debt adjustment board and the debtor and creditors of the time and place of such meeting; provided, that if a debtor requesting such a meeting shall make and file an affidavit that he is financially unable to pay the fee, the payment thereof shall be waived. At the meeting of the debt adjustment board any one or more members of the board may conduct a hearing as to the financial condition of the debtor, and the condition of all his financial obligations shall be fully examined into and considered, and it shall be the duty of the board to attempt to conciliate between debtor and creditors, and to advise and assist in arriving at a fair basis upon which the debts can be adjusted, refinanced, or paid, and to advise, counsel and assist the parties in arriving at some agreement as to the future conduct of the relations between them. The members of the county debt adjustment board shall have power to administer oaths in all matters and proceedings before the board.

§ 3. Any offer of settlement or compromise made during, or incident to, proceedings before the county debt adjustment board shall not be admissible in evidence in any court in this state; but such offers of settlement or compromise shall be subject to the general rules relating to offers of settlement or compromise.

§ 4. Rules of procedure for debt adjustment boards may be prescribed and adopted in the same manner and by the same authority as rules of practice are prescribed and adopted for the district courts.

§ 5. The clerk of the district court (or the county judge, in counties wherein the county judge is ex-officio clerk of the district court) shall personally, or by his deputy designated by him, act as secretary of the debt adjustment board. The expenses incurred by the clerk of the district court (or county judge in counties wherein the county judge is ex-officio clerk of the district court) in sending out notices and performing other acts prescribed by this act shall be defrayed out of funds available for payment of expenses in official business carried on by him as clerk of the district court.

§ 6. EMERGENCY.] Whereas, the lack of county debt adjustment boards interferes with and delays the refinancing activities of Federal Credit agencies, and, hence, it is highly desirable that such boards should be appointed and begin to function as soon as possible, therefore this act is declared to be an emergency measure, and shall be in full force and effect immediately upon its passage and approval.

§ 7. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1935.

## CHAPTER 115

H. B. No. 276—(Erickson and Holey)

### SPECIAL ELECTION REMOVAL COUNTY SEATS IN CERTAIN COUNTIES

An Act relating to special election for removal of county seats in certain counties, and petition therefor, providing for preliminary resolutions by the board of county commissioners and publication thereof, notice of election, election—how conducted and county seat designated, repealing all acts in conflict therewith, and declaring an emergency.

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

§ 1. Whenever the board of county commissioners of any county in this state where the county seat is not located on a railroad or interstate river and having no court house, or having a court house that is inadequate for the county's needs and purposes, shall, by resolution, declare the necessity of a new court house and stating their reasons therefor, and shall also, by resolution, declare that it is inadvisable to build such new court house at the present county seat and stating the reasons therefor, and if such resolution shall also contain a feasible general plan for financing the building of a new court house without bonding the county for such purpose, and stating the approximate cost, then a copy of such resolutions and plans shall be published in the official newspaper in the county for two successive weeks. If, within six months from the date of such resolutions, not less than thirty per cent of the electors of the county, as determined by the vote cast for Governor at the last general election, shall petition the county commissioners to submit to the electors the question of removing the county seat, then said board of county commissioners shall, if the petition is regular, call a special election for such purpose, to be held not more than sixty (60) days and not less than forty (40) days from the date of approval and allowance of such petition; provided, however, if a primary or general election will be held within six (6) months of the filing of such petition, then such special election shall be held at the same time. Any town, village, or city, including the present county seat town, may be a candidate at such election by filing a petition to that effect with the county auditor not less than thirty (30) days before the election. The town, village or city then receiving the highest number of votes cast for the county seat location at such special election shall be designated the county seat of such county, and the county seat located thereat, and the question of county seat removal must not again be

voted on for two (2) years in any county where the county seat is so located.

The provisions as to petition, notice, ballot, etc., provided by law for election for the removal of county seats, so far as applicable, shall govern such special election.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] Whereas an emergency exists in that the National Recovery Act provides for certain grants and liberal loans to counties for the purpose of constructing court houses, which offer of assistance may continue for only a limited time, and, Whereas such construction would give immediate employment to many persons in need, Therefore, this act is hereby declared an emergency and shall be in force and effect from and after its passage and approval.

Approved March 13, 1935.

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## CHAPTER 116

H. B. No. 176—(Parkinson and Blaisdell)

### EX-SERVICE MEN'S ROOM IN COURTHOUSES

An Act authorizing the board of county commissioners to provide room or rooms in the courthouse for the exclusive use of ex-service men who served in any war in which the United States has been engaged.

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

§ 1. In county seat cities having a population of over ten thousand (10,000) inhabitants and where no memorial building has been erected at such county seat, under the provisions of Chapter 32B, Supplement to the Compiled Laws of North Dakota for 1913, and acts amendatory thereto, the county commissioners are authorized and directed to equip and maintain room or rooms in the court house adequate for the exclusive use of ex-service men who served in any war in which the United States has been engaged.

Approved March 13, 1935.

## CHAPTER 117

H. B. No. 330—(Fedje and Borstad, by request)

COUNTY PARK COMMISSIONERS, REGULATION COUNTY  
PARKS, ETC.

An Act to provide for the creation of county parks and for the organization of a board of county park commissioners and for the regulation and control of said county parks and lands adjacent thereto.

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

§ 1. The members of the board of county commissioners, together with the states attorney and county superintendent of schools of each county, shall constitute the board of county park commissioners who shall serve as such without additional compensation. Regular meetings of such board shall be held at the time of the regular meetings of the board of county commissioners, and special meetings may be held at any time upon the call of the chairman.

§ 2. At the first regular meeting of the board of county commissioners in each county in the state after the taking effect of this act, the county board of park commissioners shall organize by electing a chairman who may or may not be the chairman of the board of county commissioners. The county auditor shall act as secretary of the board of county park commissioners without additional compensation and the county treasurer shall act as treasurer therefor without additional compensation and shall keep in his custody, subject to all laws with reference to the care, custody and disbursement of county funds, all funds belonging to and/or held by said county for park and recreational purposes. Such funds shall be placed in a special fund and shall not be diverted to any other use or purpose whatever.

§ 3. The board of county park commissioners shall have the power and it shall be its duty:

(1) To accept, on behalf of the county, any and all lands and waters and any and all interests, easements or rights therein, and any gifts, grants, donations, or trusts in money or property, real or personal, for park and recreational purposes or objects, and to accept and assume the supervision and control of any privately owned property which may be tendered for public use as a park or recreational center, when the conditions of the offer for its public use are such as in the judgment of the board will be conducive to the best interests of the people of the county.

(2) To regulate, control and supervise all such areas of land or water as may be owned or held by the county or as may be placed by private individuals under the supervision and control of the board for park and/or recreational purposes, and to promulgate and impose such rules and regulations concerning the uses to which the same may be put as may be deemed necessary and proper, including

the regulation and/or prohibition of the construction or maintenance therein or within one-half mile thereof of concessions, dance parlors, soft drink parlors, and any and all establishments of any name, nature or description which may, in the judgment of the board, be unsightly, improper or detrimental to the best social usages of the areas for park and recreational purposes.

(3) To exercise supervision over any and all lakes, streams and artificial bodies of water in the county which may have resulted or may hereafter result from water development and water conservation projects of the County, State or Federal Government, and to exercise full police supervision over such bodies of water and the adjacent land within one-half mile thereof, and by regulations duly promulgated and imposed, to regulate and/or prohibit the establishment or maintenance within one-half mile of any such body of water of any dance hall, soft drink parlor, or similar establishment which, in the judgment of the board, may be detrimental to the best social usages of the body of water so created. This sub-section is intended to be exercised for the protection of the health, safety and good morals of the people of the state to the fullest extent permissible under the police power of the state.

§ 4. All rules and regulations governing the conduct of county parks and other areas hereinbefore described shall be published at the expense of the county in the same manner as the proceedings of the board of county commissioners are published. Notice of all other proceedings of the board of county park commissioners shall be given by posting a copy of the minutes of such proceedings at such place in the county court house as is provided for the posting of legal notices.

§ 5. Violation of any rule or regulation of the board of county park commissioners shall be a misdemeanor and shall be punishable by a fine of not to exceed \$25.00, or by imprisonment in the county jail for not to exceed ten days, or both such fine and imprisonment, and in addition, the board of county park commissioners shall have remedy by injunction to enjoin the operation or maintenance of any establishment prohibited by the rules and regulations of the board.

§ 6. The states attorney of the county shall act as legal advisor to the board of county park commissioners and shall, without additional compensation, prosecute and defend any and all actions brought by or against said board.

§ 7. It shall be the duty of all police, constables, sheriffs and other peace officers to enforce the provisions of this act and of the rules and regulations of the board of county park commissioners within their respective jurisdictions.

§ 8. It is the purpose of this act, among other things, to insure

to the people of the state that the bodies of water created by public agencies and/or with public funds within the state for the use and enjoyment of the people shall not be made the source of private gain through means inconsistent with the best social uses of the same, and to that end this act shall be liberally construed. The provisions of this act relating to the manner in which these objects are to be accomplished do not form an inducement for its enactment. The powers herein granted to the board over private lands shall extend only so far as not prohibited by the State or Federal Constitution. Should any word, sentence, paragraph or section hereof be held to be unconstitutional, or should the exercise of any of the powers herein granted be in any particular circumstance in violation of either the State or Federal Constitution, the remaining provisions would have been enacted even though such provisions had been eliminated from the act, hence invalidity of any part of this act shall not affect the remainder of this act, but the same shall continue to be in full force and effect as to all other provisions and all other circumstances within the limits of the Constitution.

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

Approved March 13, 1935.

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## CHAPTER 118

S. B. No. 295—(Brostuen, Lind and Wog, by request)

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### AUTHORIZATION COUNTY COMMISSIONERS TO SET ASIDE COUNTY TAX DEED LANDS FOR PARKS, ETC. PURPOSES

An Act to permit boards of county commissioners to set aside and transfer for park and recreational purposes lands acquired by the county through tax deed, and declaring an emergency.

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

§ 1. The board of county commissioners of any county is hereby authorized to set aside and transfer for park and recreational purposes any land within, and held by, the county and acquired through tax sales proceedings and upon which tax deed has been issued to the county and which lands are suitable or fitted for use as a public park or recreation center. All unpaid taxes against such land shall be cancelled and the land so set aside shall be withdrawn from the list of property for sale by the county.

§ 2. Whenever it appears that public interest so requires, the board of county commissioners may convey any of such lands to a city or to a village for park and/or recreational purposes without consideration, or for such consideration as to the board of county com-

missioners shall seem sufficient. The board of county commissioners may also by resolution establish such property as a county park or attach the same to and make it a part of a county park theretofore established.

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

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

Approved March 8, 1935.

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## CHAPTER 119

H. B. No. 289—(McIlraith)

### RESIDENCE REQUIREMENTS COUNTY POOR RELIEF ADMINISTRATION

An Act to amend and re-enact Subdivision 4 of Section 4 and Sections 13 and 14 of Chapter 97 of the Session Laws of 1933, relating to the administration of county poor relief.

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

§ 1. AMENDMENT.] That Subdivision 4 of Section 4 of Chapter 97 of the Session Laws of 1933 be and the same is hereby amended and re-enacted to read as follows:

4. Each male person and each unmarried female over the age of twenty-one years, who shall have resided one year continuously in any county in this state, shall thereby gain a residence in such county. Every person who has resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year. Each minor whose parents and each married woman whose husband has no residence in this state, who shall have resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he has last resided. The time during which a person has been an inmate of a hospital, poor house, jail, prison, or other public institution, and each month during which he has received relief from the poor fund of any county, and/or from funds provided by the State and/or by the Federal Government, or has received Mother's Pension, shall be excluded in determining the time of residence hereunder.

§ 2. AMENDMENT.] That Section 13 of Chapter 97 of the 1933 Session Laws is hereby amended and re-enacted to read as follows:

§ 13. WHEN RESIDENCE UNCERTAIN. ACTION TO DETERMINE.] If any one within the description of the poor persons specified in this act shall be found in any county and the overseer of the poor of such county shall be unable to ascertain and establish the place of legal residence of such person, he shall proceed to provide for such poor person in the same manner as other persons are hereby directed to be provided for. When the question of legal residence of any poor person who is likely to become a public charge or has become a public charge is an issue between the overseers of the poor in two or more counties and when an agreement cannot be effected, the county commissioners of the county in which said person is then residing may bring action in the district court against the county or counties in which legal residence of such poor person is alleged to be to determine the issue. Such poor person shall also be made a party defendant. The summons in such action shall be in the form prescribed for summons in civil actions except that the defendants shall be required to serve an answer to the complaint within fifteen days after the service of the summons upon such defendants. When it appears from the pleadings in said action or is made to appear to the satisfaction of the court during the course of the trial that some county other than the ones named in the title of the action is or may be the legal residence of such poor person, or that some person is legally responsible for the care of such poor person under Section 10 of this act, then the court shall cause such county or persons to be brought into the action and made a party thereto. The court shall have full power in such action to make determination fixing the rights and liability of the counties and of the several persons that may be parties to such action. It may order that such person be allowed to remain where he is upon condition that the county of his legal residence pay for his support; or it may direct the removal of said person to the place of his legal residence. Such action shall be tried to the court without a jury on ten days notice served by either party. When an action is brought for the purposes herein provided, the county commissioners of the county in which the poor person is located shall contribute to the support of such poor person during the pendency of said action, subject to reimbursement by the county where it is finally determined such poor person has legal residence, if such action is decided favorably to the county contributing to the maintenance of such poor person. After the determination of the residence of a poor person, either by the court or by agreement between the overseers of the poor of the counties involved, the county commissioners shall have authority and power to enter into a contract with regard to the abode and keep of said poor person and the time such poor person resides in a place under either a contract of the county commissioners or under an order of the court shall be excluded in determining the time in which such poor person shall gain a new residence hereunder.

§ 3. AMENDMENT.] That Section 14 of Chapter 97 of the

1933 Session Laws is hereby amended and re-enacted to read as follows:

§ 14. POOR PERSONS CONVEYED TO PLACE OF RESIDENCE ON ORDER TO SHOW CAUSE.] Whenever any poor person who is likely to become a public charge or has become a public charge is found in any county other than that of his legal residence, and such poor person refuses to voluntarily remove to the county of his legal residence, it shall be the duty of the overseers of the poor to make investigation and ascertain whether or not the county which is claimed the legal residence of such poor person will concede such legal residence in that county; and if it is found that such county will concede such legal residence, but no agreement regarding the abode and keep of such poor person can be reached, then the overseer of the poor in the county where such poor person is found shall make application to the district court for an order directed to such person and to be executed by the sheriff to cause any such poor person to be sent and conveyed at the expense of the county to the place where such poor person belongs, if the same can be conveniently done; and if such poor person cannot be so removed, such person shall be relieved as herein provided. Such application for an order for removal to the district court shall be made upon written notice and order to show cause served upon such poor person and such poor person shall be entitled to a hearing thereon before an order of removal is issued. Such application shall state that the person either has or is liable to become a public charge and that the county of his legal residence concedes his legal residence therein. Upon said hearing the court shall have the same power as provided for in Section 13. Any person who has been removed to another county pursuant to an order and who returns to such county and any person who knowingly aids and abets such poor person in so returning shall be in contempt of court. If any such poor person shall be a legal resident of another state, the county in which he shall be found may, in like manner, procure an order of the court causing his removal to the state of his legal residence. Provided, however, that if the county of such poor person's claimed legal residence refuses to acknowledge such residence and its liability for poor relief to such person, then the action provided for in Section 13 of this act shall be brought. Provided further that if the overseer of the poor of the county of such poor person's legal residence concedes such residence, then the county commissioners of the two counties shall have the authority and power to make a contract with regard to the abode and keep of said poor person, according to the provisions of Section 13 hereof and without bringing the matter into court.

Approved March 12, 1935.

## CHAPTER 120

H. B. No. 46—(Muus and Scholl)

## POOR RELIEF FUND TRANSFER

An Act to amend and re-enact Section 4 of Chapter 98, Session Laws of 1933, relating to expenditures for poor relief purposes where the regular appropriation is insufficient and where there is not a sufficient unexpended balance in any funds to meet an emergency created by unusual and unanticipated demands for the relief of the poor, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 98, Session Laws of 1933, is hereby amended and re-enacted to read as follows:

§ 4. If the appropriation for poor relief purposes shall not be sufficient to meet the expenditures required by law, the county auditor may, on order of the board of county commissioners, make a transfer to the county poor relief fund from any other fund, except sinking and interest funds, set aside to pay the principal or interest on outstanding bond issues, or funds set aside to retire any other outstanding indebtedness. Provided, however, that if there is not a sufficient unexpended balance in any fund or funds to meet an emergency created by unusual and unanticipated demands for the relief of the poor, then in that case and for that purpose, the board of county commissioners may, by resolution, authorize the expenditure of an amount in excess of budget appropriations, and may by resolution obligate the county in excess of such appropriations for the purpose of replenishing said poor relief fund. For such emergency expenditures so authorized the county auditor shall immediately issue special warrants to be known and designated as "Warrant for Emergency Poor Relief," and that the provisions of Section 2079b3 of the 1925 Supplement to the Compiled Laws of 1913 as amended by Section 2079b3 of Chapter 247 of Session Laws of 1933 shall not apply to such emergency expenditures.

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

Approved February 13, 1935.

## CHAPTER 121

H. B. No. 256—(Wendland)

## RIGHT OF WAY PURCHASE COUNTY COMMISSIONERS

An Act authorizing the County Commissioners to purchase and condemn right of ways.

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

§ 1. PURCHASE OF RIGHT OF WAY BY COUNTY COMMISSION-

ERS.] That the county commissioners of any county of the State of North Dakota, by resolution or order may, as part of the cost of construction, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning or maintaining, may purchase, acquire, take over or condemn, under the right and power of eminent domain, for any county, any and all lands which it shall deem necessary for the present use, either temporary or permanent, to provide adequate drainage in the improvement, constructing, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning or maintaining of any highway in said county, and it may by the same means acquire said lands notwithstanding the fact that the title thereto now or hereafter is vested in the state or any of its subdivisions. Whenever said county commissioners shall determine by resolution or order that the public necessity requires the taking of land as aforesaid, it shall cause said lands to be surveyed and described and a plat thereof prepared and recorded in the office of the Register of Deeds of the county wherein the same is located. The county commissioners or their duly authorized agents and employees are hereby authorized and empowered to enter upon any land or lands for the purpose of making such surveys, examination or test; provided, however, that in case of damages to said premises the county commissioners shall forthwith pay to the owner of said premises the amount of said damages.

§ 2. DAMAGES TO BE ASCERTAINED AND AWARDED.] If the county commissioners are unable to purchase such land or lands at what is deemed to be a reasonable valuation, then the board of county commissioners of the county wherein said land or lands are located shall proceed to ascertain and determine the damages and make awards in the manner hereinafter provided; within fifteen days after the making of said order or passing of said resolution the county auditor, the county treasurer and the register of deeds of the county wherein said land is situated shall fix a time and place not later than thirty days from and after the passage of said order or resolution for hearing all persons or parties interested or aggrieved by such taking, and they shall cause notice of said hearing to be served upon all parties interested either by registered mail or by publication thereof, once each week for two successive weeks prior to the date of hearing, stating the time and place where the hearing shall be held, together with the description of the property to be appraised. Such published notice shall be in lieu of all other notices and if notice is given by registered mail the same shall be served not less than ten days prior to the date of hearing; provided, however, that personal notice by copy of said notice may be made in lieu of publication or service by mail when made at least ten days prior to the date of hearing, said personal service to be made in the same manner as the service of a summons in District Court.

At the time and place fixed for said hearing, said Board as so organized shall proceed to fix the damages to be paid by the county

and any person interested may be heard, and when said damages have been awarded the Board of County Commissioners shall pay or cause to be paid to the Clerk of the District Court, for the benefit of the persons interested, the sums awarded by said board, said amount to be paid in cash.

Every owner entitled to such an award, before receiving the same, shall sign and execute a receipt to be received by the clerk of said district court, which receipt shall contain a description of the premises covered by said award and an acknowledgment of full and complete satisfaction for all damages sustained. In case the owner shall fail or refuse to accept such award and execute such receipt within ten days after being notified of the amount awarded to him, the clerk of the court to whom said amount has been paid shall execute a receipt reciting a deposit of such award and a description of the premises covered thereby.

If no appeal is taken from such award, then at the expiration of thirty days from the date of such deposit, the receipt of the owner of said premises or the clerk of district court shall be recorded in the office of the register of deeds of the county in which said real estate is situated and the title of the land so taken shall thereupon be and become vested in the county so condemning the same.

§ 3. APPEALS.] Any party aggrieved by the award granted as herein provided shall have like remedies now provided by law for appeals from any determination of the board of county commissioners in taking of lands by counties for highway purposes, the service of a written or printed notice of such appeal to be made upon the board of county commissioners. Appeal from such award shall be taken without bond and shall be taken by the service of notice of appeal served in the same manner as a summons in a civil action is now served.

The issues involved in the appeal so taken shall be tried and determined at the next term of the district court. The damages shall be assessed by a jury, unless a trial by jury is waived, and no fees shall be collected by the clerk of the district court for the filing of said appeal.

§ 4. APPEAL DOES NOT STAY PROCEEDINGS.] Notwithstanding any appeal being taken, as herein provided for, the board of county commissioners may proceed with the use of the property so condemned and shall be liable for any additional amount awarded to the appellant upon any such appeal.

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

Approved March 12, 1935.

**CHAPTER 122****S. B. No. 80—(Thatcher)****SHERIFF FEES**

An Act to amend and re-enact Section 2178 of the Compiled Laws of 1913 relating to fees of sheriff or his deputy for making distress and sale of goods and chattels, for the payment of taxes, and repealing all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2178 of the Compiled Laws of North Dakota for 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 2178. FEES OF SHERIFF.] The sheriff or his deputy shall be allowed the same fees for making distress and sale of goods and chattels, for the payment of taxes, as are allowed by law for making levy and sale of property on execution; provided, however, that the traveling fees shall be five cents a mile for each mile actually and necessarily traveled, and that in no case shall the mileage herein provided for be charged more than once under any pretext whatever, which fees shall be added to any tax and collected by the sheriff, and it shall be the duty of the sheriff or his deputy to furnish the county commissioners, together with his bill for such services, a full and complete description of his route traveled, and in no case shall mileage be charged more than once from the county seat of the county in which the services required in this article are performed.

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

Approved February 20, 1935.

**CHAPTER 123****H. B. No. 362—(Committee on Delayed Bills)****COUNTY WELFARE BOARD**

An Act to amend Section 25, Chapter 97 of the Session Laws of North Dakota for 1933 relating to relief for the poor, prescribing the establishment of a county welfare board by the board of county commissioners.

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

§ 1. AMENDMENT.] That Section 25, Chapter 97 of the Session Laws of North Dakota for 1933 is hereby amended and re-enacted to read as follows:

§ 25. The board of county commissioners shall provide for the establishment of a county welfare board. Such board shall

have five, seven or nine members. Not less than one nor more than two of such members shall be a county commissioner as designated by such board of county commissioners. The remaining members of the welfare board shall be appointed by the board of county commissioners by and with the advice and consent of the public welfare board of North Dakota. The members of the county welfare board shall be chosen without regard to political affiliation and upon the basis of their fitness to serve in said capacity by reason of character, experience and training. There shall be persons of both sexes on the board. The terms of the original members shall be as follows: One shall serve for three years; half of the remaining members shall serve for two years and the other half for one year, respectively. Thereafter all members shall serve for three years or until their successors have been duly qualified. Each member shall file an oath of office with the county auditor. The members shall serve without compensation but the board of county commissioners may make provision for payment of the actual expenses incurred by the members of the board in the discharge of their duties. It shall be the duty of such county welfare board to supervise and direct all relief and welfare activities conducted by the county; and, under the direction and supervision of the public welfare board of North Dakota, to supervise and administer such relief and welfare activities in the county as may be financed in whole or in part by or with funds allocated or distributed by the public welfare board of North Dakota. It shall also be the duty of such county welfare board to aid and assist in every possible way to coordinate and bring about an efficient operation of all relief and welfare activities within the county by private as well as public organizations engaged in relief and/or welfare work. A member of the county welfare board may be removed without cause by resolution to that effect adopted by the board of county commissioners and by the state board of public welfare; such resolution may be initiated either by the board of county commissioners or by the public welfare board of North Dakota.

§ 2. REPEAL.] All acts and parts of acts in conflict are hereby repealed.

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

Approved March 13, 1935.

## CHAPTER 124

H. B. No. 202—(Hurd, by request)

## COUNTY WORLD WAR MEMORIALS

An Act amending and re-enacting Chapter 94, Session Laws of the State of North Dakota for the year 1933.

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

§ 1. AMENDMENT.] That Chapter 94, Session Laws of the State of North Dakota for the year 1933, is hereby amended and re-enacted to read as follows:

§ 2071C1. COUNTY COMMISSIONERS AUTHORIZED TO ERECT A MEMORIAL OR MEMORIALS OR OTHER SUITABLE RECOGNITION. TO LEVY TAXES.] The Board of County Commissioners of any county in the State of North Dakota is hereby authorized to erect a memorial or memorials, or other suitable recognition in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during the great World War and may for each purpose use funds out of the general fund of the county if there is sufficient money in said fund, or use funds heretofore raised by tax levy for such memorial or memorials, and may after the taking effect of this act and prior to September 1, A. D. 1937, levy a tax not in excess of one mill on the dollar in any one year upon the assessed valuation of all property in the county, or may use funds for that purpose donated to the county for that purpose, or may use for such purpose funds out of the general fund of such county if there is sufficient money in said fund in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial, or memorials, or other suitable recognition; provided, however, that in no case shall the board expend tax moneys in excess of the maximum levy permitted under this act together with such amount as has been heretofore levied under the provisions of Chapter 181 of the Session Laws for the year 1919, Chapter 117 of the Session Laws for the year 1927, and Chapter 175 of the Session Laws for the year 1929, and Chapter 94 of the Session Laws of 1933. The total levy authorized to be made under the provisions of this act and under the provisions of Section 2071C1 of the Supplement to the Compiled Laws of 1913 and Chapter 117 of the Session Laws of North Dakota of the year 1927, and Chapter 175 of the Session Laws for the year 1929, and Chapter 94 of the Session Laws of 1933, shall in no event exceed four mills upon the taxable property of the county. Provided, further, that where a suitable memorial, or memorials, or other suitable recognition has been made, no further levy is authorized. Provided, however, that nothing therein

contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial, or memorials, or other suitable recognition shall be erected within the county at a place determined upon by such board and such memorial, or memorials, or recognition when erected, shall be properly and permanently maintained by such board by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both of such funds. Provided, further, that where funds have been heretofore raised by tax levy for such memorial or memorials, and the funds so raised are unexpended, the board of county commissioners may at any time after September 1, 1937, by resolution transfer any such unexpended funds to the general fund of the county.

§ 2. The board of county commissioners in any county of this state in which a fund has been or may be created for the erection of a war memorial or memorials, may combine such war memorial fund with other funds of the county for the purpose of erecting a memorial court house.

Approved March 5, 1935.

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## CRIMES AND PUNISHMENTS

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### CHAPTER 125

H. B. No. 133—(Anfinson)

#### ADDITIONAL DUTIES ATTORNEY GENERAL

An Act authorizing judges of the District Court to demand the Attorney General to perform certain duties relating to criminal matters, providing for payment of expenses in connection therewith, and repealing all acts or parts of acts in conflict herewith.

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

§ 1. ADDITIONAL DUTIES OF ATTORNEY GENERAL. PAYMENT OF EXPENSES.] Upon the written demand of a judge of the district court, with or without the consent and approval of the state's attorney of the county wherein such duties are to be performed, the Attorney General, either personally or through his assistants, shall be required to make a full and complete investigation of any criminal matter or complaint referred to in said demand, and to take full charge of and conduct any criminal prosecution in any county within the district of said district judge to the same effect and with like power and authority that the duly elected state's attorney of that county could. All expenses, including mileage as now provided

by law for state officers, and disbursements for subsistence while performing those duties incurred by the Attorney General shall be paid and allowed by the county in which the said duties were performed in the same manner that claims against the county are allowed and paid, after an itemized statement thereof has been approved by the judge who requested that the same be performed.

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

Approved March 14, 1935.

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## CHAPTER 126

S. B. No. 245—(Committee on Judiciary)

**VENUE CRIMES AGAINST AIRCRAFT AND UPON TRAINS, ETC.**  
An Act to fix the venue of crimes committed in or against aircraft in flight, and upon trains or other vehicles.

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

§ 1. VENUE OF OFFENSE IN OR AGAINST AIRCRAFT.] Any person who commits an offense in or against any aircraft while it is in flight over this state may be tried in any county in this state.

§ 2. VENUE OF OFFENSES COMMITTED ON RAILROAD TRAIN OR OTHER VEHICLE.] Where an offense is committed on a railroad train or other public vehicle while in the course of a trip the trial may be in any county through which such train or other public vehicle passed during such trip.

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

Approved March 6, 1935.

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## CHAPTER 127

S. B. No. 110—(Committee on Judiciary)

### DRAINAGE OF MEANDERED LAKE.

An Act declaring the drainage of a meandered lake within the State of North Dakota to be a misdemeanor and providing penalties therefor.

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

§ 1. Every person who shall drain or cause to be drained, or shall attempt to drain in any manner any lake or pond, which shall have been meandered and its metes and bounds established by the government of the United States in the survey of public lands,

shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding ninety days or by a fine not to exceed five hundred dollars (\$500.00) or both such fine and imprisonment in the discretion of the court.

Approved February 27, 1935.

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## CHAPTER 128

S. B. No. 283—(Women's and Children's Welfare Committee)

### PLACING CHILD IN ALMSHOUSE, ETC., UNLAWFUL, WHEN.

An Act to amend and re-enact Section 9606a1 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, declaring it unlawful to place certain children in almshouses or other institutions without the consent of the Board of Administration, with certain exceptions, prohibiting placing of certain children in the State Training School, and repealing all acts in conflict therewith.

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

§ 1. AMENDMENT.] That Section 9606a1 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 be, and the same is, hereby amended and re-enacted to read as follows:

§ 9606a1. UNLAWFULNESS OF.] It shall be unlawful for any person, association, corporation, institution, or agency to place any child in any almshouse in this state, or in any other institution, charitable, penal or reformatory, in which delinquent children, or children charged with delinquency are kept, without the consent of the State Board of Administration; provided, however, that a child may be permitted to remain in an almshouse with his or her parent, or parents, who may be confined therein, if the consent of the State Board of Administration be first obtained, and no child under the age of twelve years shall be committed to the State Training School.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1935.

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## CHAPTER 129

H. B. No. 116—(Bjerke)

### DEFINING RIOT.

An Act to amend and re-enact Section 9807 of the Compiled Laws of North Dakota 1913; defining riot.

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

§ 1. AMENDMENT.] That Section 9807 of the Compiled Laws

of North Dakota 1913 be amended and re-enacted to read as follows:

§ 9807. RIOT DEFINED.] Any use of force or violence, or any threat to use force or violence, if accompanied by immediate power of execution, by six or more persons acting together and without authority of law, is riot.

Approved March 13, 1935.

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## DANCES

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### CHAPTER 130

S. B. No. 12—(Whelan)

#### PROHIBITING MARATHON DANCES, WALKATHONS, SKATATHONS, ETC.

An Act to prohibit Marathon dances, Walkathons, Skatathons, or any endurance contest and providing penalties for any person, firm, or corporation participating in, attending or promoting such contest, and declaring an emergency.

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

§ 1. It shall be unlawful for any person or persons, firm, or corporation, to advertise, operate, maintain, attend, participate in, promote or aid in the advertising, operating, maintaining or promoting any mental or physical endurance contest, exhibition, performance, or show, in the nature of a "marathon," "walkathon," "skatathon," or any other such endurance contest, exhibition, performance or show of a like or similar nature, whether or not an admission is charged and/or a price is or is not to be awarded to one or more participants for participation therein, continuing or intended to continue for a period of more than four (4) consecutive hours in any twenty-four (24) hours.

§ 2. Any person or persons, firm or corporation, participating in, attending, promoting, advertising, operating, maintaining, or aiding any such contest, exhibition, performance or show, and violating any of the provisions of this act, shall be guilty of a misdemeanor and punished by imprisonment in the county jail, for not less than six (6) months or more than twelve (12) months, or by a fine of not more than one thousand dollars (\$1,000.00) or by both.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this bill shall be in full force and effect from and after its passage and approval.

Approved February 6, 1935.

## CHAPTER 131

H. B. No. 231—(Schauss and Kapaun)

## DANCE PERMITS HOW OBTAINED.

An Act to amend and re-enact Section 4 of Chapter 128 of the Session Laws of the State of North Dakota for the year 1925, being Section 3163A(a)4 of the Supplement to the 1913 Compiled Laws of the State of North Dakota relating to dance permits.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 128 of the Session Laws of North Dakota for the year 1925, being Section 3163A(a)4 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 3163A(a)4. MANNER OF OBTAINING PERMIT.] Any person, firm, association or corporation desiring to conduct a public dance or a public dancing place shall make application for a permit to do so to the governing body of the municipality or organized township in which such public dance or public dancing place is to be conducted, when the same is to be conducted within the limits of any city, village or organized township; and in all other cases, to the board of county commissioners of the county in which the same is to be conducted. The application shall set forth the name of the person, firm, association or corporation who is to give, hold or conduct the public dance or public dancing place, the time or period for which the permit is desired, and the place where such public dance is to be conducted or held. The governing body of the municipality, village or organized township to which such application is made shall make such inquiry and investigation as to the propriety of granting or refusing such permit as they may deem necessary. The application may be acted upon at any regular meeting of the board to whom the application is made, or a special meeting called for that purpose. The governing body of the municipality, organized township or county to whom such application is made shall have the power to grant or deny said application and to provide a schedule of fees, rules and regulations not inconsistent with the provisions of this act, under which permits for holding such public dances or public dancing places will be granted. No permit shall be issued to any person who is not of good moral character nor to any person, firm, association or corporation to conduct a public dance or public dancing place at any place where the same is likely to become a public nuisance or detrimental to public morals.

Approved March 4, 1935.

# ELECTIONS

## CHAPTER 132

H. B. No. 148—(Wendland)

### ABSTRACT AND CANVASS OF VOTES.

An Act to amend and re-enact Section 1009 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota relating to abstract of vote; canvass of vote; certificate of election; tie how decided; publication of abstract, and providing for compensation.

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

§ 1. AMENDMENT.] That Section 1009 of the 1925 Supplement to the Compiled Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 1009. ABSTRACT OF VOTES: CANVASS OF VOTES: CERTIFICATES OF ELECTION: TIE HOW DECIDED: PUBLICATION OF ABSTRACT.] On the second Friday after each election, or as soon as the returns are received, the county auditor shall call to his assistance the clerk of the district court, chairman of the board of county commissioners and the chairman of the county committees of the two political parties that cast the highest vote for governor at the preceding general election and none of the persons so called shall be a candidate for office, unless there is not sufficient of such officers who are not candidates, and shall proceed to open such returns and make abstracts of votes in the manner following from the certified statements prepared by the different inspectors of election in the various precincts. The abstract of votes for United States senator, member of Congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent of public instruction and lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct offices, respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor: provided, that when a tie shall exist between two or more persons for the Senate or House of Representatives, if such district is within the boundary of one county, the auditor of such county, and if such district is within the boundaries of more than one county, then the county auditor of the county casting the greater number of votes for the office of governor, shall immediately by registered letter addressed to the respective candidates

at their postoffice address, give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, which shall not be more than twenty days after the tie shall have been declared by such county auditor and they shall then proceed publicly to decide by lot which of the persons so having the highest and equal number of votes shall be declared duly elected and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. It shall be the duty of the county auditor of each county, on receipt of the returns of any election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. Immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in the official newspapers of the county, in tabular form, the vote by precincts for each officer and proposition voted for at said election. Such publishing to be paid for at a rate not exceeding the rate paid for publishing county commissioners' proceedings. If the county auditor is a candidate for office, he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass, shall call to their assistance a justice of the peace, and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

§ 1009A. That the board of county commissioners in each county shall audit, allow and pay the chairmen of the county committees of the two political parties, compensation for the duties herein provided for at the rate of \$5.00 per day.

Approved March 4, 1935.

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## CHAPTER 133

H. B. No. 129—Niewoehner, Goodlaxon and Bieberdorf)

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### DISPOSITION BALLOTS—COMPENSATION ELECTION OFFICERS.

An Act to amend and re-enact Section 1008 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 134 of the 1927 Session Laws relating to the return and disposition of election ballots and compensation of election officers.

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

§ 1. AMENDMENT.] That Section 1008 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 134 of the 1927

Session Laws be, and same is hereby amended and re-enacted to read as follows:

§ 1008. The inspector of election or one of the judges appointed by him shall forthwith deliver to the clerk of the town, city or village, one of such statements and one of such poll lists, together with the stamps inscribed with the words "Official Ballot" to be filed and preserved in his office, and shall with all convenient dispatch and within three days after the election, deliver the other two statements to the county auditor and Secretary of State, respectively, either in person or by registered mail, said statement having been by the Judges carefully sealed up, together with the other poll lists, and with the oaths of inspectors and clerks affixed, under cover, properly directed to the county auditor and Secretary of State, respectively, and the person making such return shall receive as compensation therefor the sum of two dollars (\$2.00) to be paid out of the county treasury on a warrant of the county auditor.

The statement and poll lists aforesaid, having been duly prepared for delivery to the county auditor as aforesaid, the inspector and judges of election shall cause the ballots of each kind cast at such election to be smoothly spread upon a wrapper of strong durable paper of the same width of such ballots and of sufficient strength to permit of its being folded with the said ballots and form a complete wrapper therefore when folded. Such ballots and wrappers shall then be tightly folded together and the said wrapper securely pasted or glued at the outer end so as to completely envelope and firmly hold such roll together.

Provided, that ballots which are void shall be wrapped in a separate wrapper and so marked on said wrapper.

In the folding and sealing of the ballots as aforesaid the various classes of ballots shall be kept separate.

The judges shall fold in two folds and lay in tiers all ballots counted by them except those which are void, and fold same securely in manila wrappers not exceeding two hundred (200) to each wrapper, on which shall be endorsed in writing or print the number of the precinct, date on which election was held, and securely seal such wrappers by sealing them with sealing wax and stamping on said wax the name of the county with a metal stamp provided for that purpose, so that said wrappers cannot be opened without breaking the seal, and return, either in person, by mail or express, said ballots together with those found void, to the county judge. Immediately upon receiving such ballots, the county judge shall give receipt therefor to said judges of election, and shall place them properly arranged in the order of the precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a fire-proof vault and shall be securely kept for four months, not opening or inspecting them nor allowing any one else to do so, except upon order of court, in case of contested election, or when it shall be necessary to produce them at a trial for any offense committed at elec-

tion. At the end of four months after said election, said ballots shall be destroyed; provided that if any contest of the election of any officer voted for at such election or prosecution under this article shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined. In organized townships or in cities or villages, the inspector of election shall deliver, if he is not himself the officer in question, the ballot boxes together with the said metal stamp to the chairman of the Board of Supervisors of the civil township, or mayor of the city or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody such boxes and stamp until the next election or hand them over to his successor in office to be safely kept by him until such time. At the following general or primary election it shall be the duty of these officers to hand the ballot boxes and said stamp over to the inspector of elections. In unorganized townships the inspector of elections shall cause the ballot boxes to be delivered to the county auditor at the same time when the ballots are returned. Any person violating any of the provisions of this section is guilty of a misdemeanor.

It is the purpose of this act (section) to provide a safe place for keeping of the ballots and to make them readily accessible for use in legal proceedings, and such ballots shall be received in evidence without further identification or foundation being laid, and any failure on the part of the election officers to comply with any of the formalities required hereby as to the return of said ballots shall not invalidate any election or cause any ballot otherwise regular to be disregarded and any omission or irregularities in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence. It is hereby further provided that the compensation of \$2.00 hereinbefore mentioned shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official.

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

Approved March 4, 1935.

## CHAPTER 134

H. B. No. 123—(Schauss)

### NOMINATIONS PUBLIC OFFICE PUBLISHED WHEN.

An Act to amend and re-enact Section 975 of the 1913 Compiled Laws of the State of North Dakota, relating to the publication of nominations for office and fixing duty of county auditor with reference thereto and providing for the number of publications thereof.

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

§ 1. AMENDMENT.] That Section 975 of the Compiled Laws of

the State of North Dakota relating to the publication of nominations for public offices and fixing the duty of the county auditor with reference thereto, be and the same is hereby amended and re-enacted to read as follows:

§ 975. NOMINATIONS TO BE PUBLISHED; WHEN.] At least ten days before an election to fill any public office under the provisions of this Chapter the county auditor of each county shall cause to be published in one of the newspapers within the county the nominations certified to him under the provisions of this Chapter; the auditor shall make such publications twice in the official newspaper within his county; provided, that if there is no newspaper published in the county written or printed notices shall be posted in such county.

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

Approved February 21, 1935.

## CHAPTER 135

S. B. No. 29—(Bonzer)

### ELECTION PRESIDENTIAL ELECTORS, PRECINCT COMMITTEEMEN, DELEGATES NATIONAL CONVENTIONS, NATIONAL COMMITTEEMEN AND COMMITTEEWOMEN AND ORGANIZATION COUNTY AND STATE COMMITTEES.

An Act providing for the nomination of candidates for the offices of presidential electors; for the election of party precinct committeemen; delegates to the national party conventions and national party committeemen and national party committeewomen; for the organization of party county and state committees; and to repeal all acts or parts of acts in conflict herewith, including Sections 910-916, inclusive, Compiled Laws 1913 and Chapter 137 of the Session Laws of the year 1927 and Chapter 123 of the Session Laws of the year 1929.

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

§ 1. That at the Party Primary Election now held on the last Wednesday in June of each even numbered year prior to Presidential years and commencing with the year 1938, and each fourth year thereafter, there shall be elected as hereinafter provided by the qualified electors of each political party from each voting precinct, committeemen to represent such political party.

§ 2. Each political party in each voting precinct in this State shall be entitled to elect one precinct committeeman for each 250 votes or major fraction thereof, cast in such precinct at the last preceding Presidential election for the Presidential Elector of such party receiving the highest vote in the State; provided that each

precinct shall be entitled to at least one precinct committeeman for each National party. All precinct committeemen shall be electors of their precinct and shall be elected to serve for a term of four years and until their successor is elected and qualified.

§ 3. Candidates for precinct committeemen may have their names placed on separate party ballots of their respective parties within their respective precincts by filing with the county auditor not more than fifty nor less than twenty-five days prior to the election petitions bearing the signatures of not less than five per cent of the last vote in such precinct for the aforesaid candidate for presidential elector of the party to which the candidate for precinct committeeman belongs. Such nominating petitions shall conform with the now existing requirements of law in all matters not specifically provided for herein. Each name on the petition shall be that of a qualified voter and be subscribed under a party heading. Each signer of a nomination paper shall be entitled to sign the same number of petitions as the number of precinct committeemen entitled to be elected in his precinct; he shall add his residence with the street number, if any, and the date of signing.

§ 4. The names of candidates for election as precinct committeemen shall be printed on separate ballots for each political party. Such ballot shall contain only the names of candidates for party precinct committeemen for whose nomination petitions have been filed with the county auditor as is herein provided. If no nominating petitions have been filed for any candidate the ballot shall contain blank lines and spaces on which names may be written or a sticker pasted. The ballot to be used for the election of candidates for said offices shall be prepared for each voting precinct in the county by the county auditor and distributed by him with other election supplies in the same manner and number for each party as is now provided by law for party primary election ballots. Such ballots shall be in the following form, namely:

Party Precinct Committeeman Ballot

.....Party

(Insert party name)

To vote this ballot mark an (X) in the square after the name of each of the persons for whom you wish to vote.

For Precinct Committeeman

(Vote for.....)

John Doe.....

Richard Roe.....

§ 5. No organization, political or otherwise, shall be entitled to a party ballot in the election herein provided for unless said organization nominated and had printed upon the ballot, at the last preceding presidential election, the names of a set of presidential electors pledged to the election of the candidates of said party for president

and vice-president, and further that such candidates for presidential electors received at least five per cent of the total vote cast for president within the state at said election.

§ 6. The candidate or candidates for precinct committeemen equal to the number to be elected receiving, each for himself, the highest number of votes shall be declared elected. Upon the closing of the polls the election officials in each precinct shall proceed to count and canvass the votes cast for precinct committeemen and ascertain who was elected and shall notify the county auditor. The county auditor shall then forthwith make out and mail to each person elected, upon blanks provided by the county, a certificate of election which shall also notify said precinct committeeman of the time and place of the first meeting of the county committee as hereinafter provided. In case of a tie vote the election officials shall immediately decide the winner by drawing lots.

§ 7. Except as herein otherwise provided, the ballots above provided for, shall be prepared, printed, distributed, voted, canvassed and returned and said election held and conducted in the manner now provided by law for party primary election, respectively; likewise, as to notice of election, disposition of ballots, certifying election, penalties for violation of election laws and all other matters not specifically provided for in this Act.

§ 8. The precinct committeemen elected as herein provided, together with the members of the Legislative Assembly of each party, shall constitute the county committee of each party. They shall meet in the court house at the county seat of each county at two o'clock P. M. on the third Wednesday after such primary election and organize by selecting a chairman, a vice chairman, a secretary and a treasurer, by adopting rules and modes of procedure not in conflict with law, and by selecting an executive committee consisting of from five to eleven persons chosen from the county committee, of which executive committee the chairman and secretary shall be members.

Such county committee shall at the same time select one person who shall be a legal voter to act upon and be a member of the State Central Committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall select a legal voter from their respective legislative district to serve on such state central committee. When two or more counties are embraced in one legislative district, the county committee of each county shall meet as aforesaid and shall elect a committee of three of its members to meet with a similar committee from the other county or counties comprising such legislative district, at the court house at the county seat of the senior county of such district at two o'clock P. M. on the the fourth Wednesday following their election and proceed to elect a member of

such state central committee from such legislative district. Each committee shall be entitled to cast the number of votes equal to the number of precinct committeemen elected in its county in such manner and for such candidate as shall be determined by the majority of such committee acting personally or by proxy. Each member of any committee shall be a legal voter and shall retain such position until his successor is chosen. If any member of such state central committee is unable to attend any meeting of such committee, he shall be authorized to give written proxy to another legal voter of his legislative district or county. Vacancies shall be filled by a majority of the state committee by appointment from the legislative district in which such vacancy exists. Vacancies in the office of precinct committeemen shall be filled by appointment from such precinct made by the county executive committee of such party.

Members so elected as state central committeemen shall meet on the second Wednesday in August following the party primary election and such meeting of said state central committeemen shall be held at the State Capitol and shall convene at 10:00 o'clock A. M. Such meetings shall organize by selecting a chairman, a vice chairman, a secretary and a treasurer and by adopting rules and modes of procedure. The officers so elected need not be members of such committee.

§ 9. The precinct committeemen, at a county meeting held at two o'clock P. M. on the first Wednesday in May in each county at the county seat in each presidential election year shall meet and elect delegates to a State party convention to be held as herein provided. One delegate shall be elected for each 300 votes or major fraction thereof, cast in said county at the last preceding presidential election for the presidential elector of such party receiving the highest vote in the State; provided that every county shall be entitled to at least one delegate. All delegates shall be electors of their county. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate to attend and represent and act for him.

Said state party conventions shall be held in each presidential year prior to the holding of the national party conventions. Such conventions shall be held at such place and at such time as shall be designated by the respective party state central committee.

Such party conventions shall nominate the legal number of candidates for their respective parties for the offices of presidential electors and shall elect a National committeeman and a National committeewoman and the required number of delegates to the National party convention and a like number of alternates. The candidate or candidates for such nomination or election receiving the majority vote of the delegates elected to such convention shall be declared nominated or elected and the chairman and secretary of such convention shall issue certificates of nomination or election. If any delegate to such national convention shall be unable to attend, he shall

designate in writing one of the alternates to attend and represent and act for him. The names of the candidates nominated for presidential electors shall be certified by the chairman and secretary of such convention to the Secretary of State to be placed upon the general election ballot as now provided by law.

§ 10. If a special election shall be called to fill a vacancy in any office requiring a party nomination, the proper party committee shall call a convention to make party nomination for such office and the precinct committeemen of the county or district shall be duly convened and shall elect the required number of delegates to such convention.

§ 11. The provision of Chapter 129, Laws of 1911, and acts amendatory thereof relating to unfair and corrupt election practices are hereby specifically made applicable to all elections and conventions provided for in this act.

§ 12. Should a vacancy occur in any nomination for any nomination for any party office or in the office of national committeeman, or national committeewoman, the proper party committee shall have authority to fill such vacancy.

§ 13. It is not the intention hereof to destroy or impair the organization of any party or principle now existing or hereafter to exist, therefore, each of such parties or principles, and each and all of the state, county, district and other committees thereof shall possess all of the power and authority heretofore established and existing by the usage and customs of such parties not inconsistent with any of the provisions hereof.

§ 14. That the first election held under this act shall be in the year 1938. That the precinct committeemen elected at the party primary in 1934 shall serve until their successors shall be elected and qualified under this act in 1938. Such precinct committeemen so elected in 1934 shall meet at the county seat of each county at 2:00 o'clock P. M. on the first Wednesday in May, 1936, and shall elect delegates to a state party convention as provided in Section 9 hereof. The state central committee of each party shall call in the year 1936 a state convention as provided in Section 9 hereof for the election and nomination of the party officers named in Section 9 of this act.

§ 15. All acts or parts of acts, including Sections 910-916, inclusive, Compiled Laws of 1913, Chapter 137 of the Laws of 1927 and Chapter 123 of the Laws of 1929, and all acts amendatory thereof or in conflict herewith are hereby repealed.

Approved March 13, 1935.

**CHAPTER 136****S. B. No. 72—(Ettestad)****PRIMARY ELECTION NOTICE.**

An Act to amend and re-enact Section 922, Compiled Laws of 1913, relating to posting of notices of primary election.

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

§ 1. AMENDMENT.] That Section 922, Compiled Laws of 1913, be amended and re-enacted to read as follows:

§ 922. POSTING OF NOTICES.] Such auditor shall forthwith mail to each inspector of election of said county, five copies of such notice, and such inspector of election shall, at the same time that he posts the sample ballots and election instructions, post said notices in five conspicuous places in his election precinct, which notice shall also designate the location of the polling place in his election precinct, provided, however, such inspector shall receive no additional compensation for posting such notices.

Approved February 19, 1935.

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**FIREMEN'S ASSOCIATION****CHAPTER 137****H. B. No. 97—(Aljets and Gilbertson)****REGIONAL FIRE SCHOOLS.**

An Act to amend and re-enact Chapter 19 of the Political Code of the Compiled Laws of North Dakota for the year 1913, relating to the North Dakota Firemen's Association and providing an appropriation for the use of such Association in promoting regional fire schools, and other activities of such Association.

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

§ 1. AMENDMENT.] That Section 1839 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 1839. REGIONAL FIRE SCHOOLS.] For the purpose of promoting the efficiency and growth of the different fire departments, members of the North Dakota Firemen's Association, there shall be held annually under the direction of the North Dakota Firemen's Association at such times and in such places, in the State of North Dakota, as may be designated by said Firemen's Association at its annual state convention, not less than four regional fire schools.

§ 2. AMENDMENT.] That Section 1840 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 1840. CONDITIONS TO BE COMPLIED WITH BY THE NORTH DAKOTA FIREMEN'S ASSOCIATION.] If the North Dakota Firemen's Association shall at its next annual convention make provision for the holding of the regional fire schools as provided by Section 1 of this act, such association shall become entitled to receive the appropriations hereinafter provided for, upon the conditions set forth in this act.

§ 3. AMENDMENT.] That Section 1841 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 1841. DUTIES OF OFFICERS.] The State Auditor shall send to the secretary of the North Dakota Firemen's Association the statement required by Section 710a3 of the Supplement to the 1913 Compiled Laws of North Dakota, and it shall be the duty of the secretary of the said North Dakota Firemen's Association to prepare and file such statement and estimates with the State Auditor as is required by said Section 710a3 of officers and state departments, which statement and estimate shall be by the State Auditor submitted to the State Budget Board as other estimates.

The president, secretary and treasurer of the said Firemen's Association shall, on or before the 1st day of July of each year make to the State Auditor a full and complete report, duly verified by the secretary, of the disposition of all moneys received by such association from the state.

The name of the place, with the date of each fire school shall be forwarded at least 30 days prior to the holding of such fire schools to the State Auditor by the secretary of such association. The secretary shall also furnish the said Auditor with the name and address of the treasurer of such association, and it is the duty of said Auditor to pay to such treasurer not later than the first day of August of each year, the sum appropriated for such year but not, however, until such association shall file with the State Auditor a good and sufficient bond in the sum of two thousand dollars (\$2,000.00) conditioned for the faithful disposition of the funds so appropriated.

§ 4. AMENDMENT.] That Section 1842 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted as follows:

§ 1842. FIREMEN EXEMPT FROM POLL TAX.] Every volunteer fireman in any city, town or village having an organized fire department, the same being a member in good standing in the North Dakota Firemen's Association, shall be exempt from the payment of poll tax. It shall be the duty of the secretary of each fire company or department on or before the first Monday in April to file with

the city auditor a report of all members in good standing and doing active fire service, during the past year.

§ 5. STATE BUDGET BOARD TO PREPARE ESTIMATE.] The State Budget Board is hereby required to include with its estimates, as provided for by Section 710a4 of the Supplement to the 1913 Compiled Laws of North Dakota, an estimate of the amounts necessary, and required to be appropriated for the purpose of carrying out the provisions of this act.

§ 6. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of four thousand dollars (\$4,000.00) or so much thereof as may be necessary for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different departments, and for the holding of regional fire schools, according to the rules and regulations of such association, and as provided by this act, for the biennium beginning July 1, 1935, and ending June 30, 1937.

§ 7. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1935.

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## CHAPTER 138

H. B. No. 182—(Hall and Schauss)

### FIREMEN'S SERVICE PENSION.

An Act to amend and re-enact Section 3999, Supplement to the Compiled Laws of 1913.

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

§ 1. That Section 3999, Supplement to the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 3999. PAID FIRE DEPARTMENT AND FIREMEN'S RELIEF ASSOCIATION: SERVICE PENSIONS.] For the payment of service pensions as hereinafter provided in such amounts and in such manner as its articles of incorporation and by-laws shall designate, every such fire department relief association organized under any laws of this state may pay out of any funds received from the state, or other source, a service pension, in such amounts, not exceeding eighty dollars per month, as may be provided by its by-laws to each of its members who has heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty years, and who has done, or hereafter shall do, active duty for twenty years or more as a member of a volunteer, paid or partially paid and partially volunteer fire department in the municipality where such association exists, and

who has been, or shall hereafter be a member of such fire department relief association at least ten years prior to such retirement, and who complies with such additional conditions as to age, service and membership as may be prescribed by the by-laws of such association, provided that any fireman who has actually served in such fire department for the number of years required for retirement and who has paid or who may hereafter pay into the firemen's relief and pension fund assessments with interest equal to the amounts assessed against members in the association during the said time shall be allowed membership in the said fund and shall receive upon retirement the same pension paid to other firemen. It being the intention to prevent discrimination by the by-laws of any firemen's relief association which will prevent firemen who have actually worked as such during the number of years required by the by-laws from being discriminated against or barred in participation from membership in the association or from the benefits from the relief fund. This provision shall be retroactive. Such pension shall be uniform in amount, but all may be decreased or increased, within the amount above specified, whenever the amount of funds on hand renders such action advisable. No such pension shall be paid to any person while he remains a member of said fire department, and no person receiving such pension shall be entitled to other relief from such association.

Approved March 13, 1935.

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## FOODS

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### CHAPTER 139

H. B. No. 168—(Schauss and Keidel)

#### USE OF BUTTER SUBSTITUTES ON POPCORN.

An Act to require the apprising of the use of butter substitutes on popcorn sold or offered for sale and providing penalties for violation.

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

§ 1. Any person, firm or corporation selling or offering for sale popcorn upon which any oil or fat other than butter has been used shall post up conspicuously on the popcorn machine and in the room in which such popcorn is being sold or offered for sale a sign which may be easily seen by the purchasers and in letters not smaller than one-half inch high and one-half inch wide, giving the name of the oil or fat "used on said popcorn."

§ 2. Any person, firm or corporation violating the provisions

of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25.00 nor more than \$100.00.

Approved March 5, 1935.

## CHAPTER 140

H. B. No. 167—(Fedje)

### CONTENTS FLOUR LABELS.

An Act amending and re-enacting Section 3 of Chapter 111 of the 1933 Session Laws known as the "Flour Label Act."

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

§ 1. AMENDMENT.] That Section 3 of Chapter 111 of the 1933 Session Laws be amended and re-enacted to read as follows:

§ 3. LABEL.—CONTENTS. Each and every package, container or barrel of flour manufactured or distributed in whole or in part from wheat, which is sold, offered or exposed for sale or delivery in this state, shall bear on the outside thereof, in a conspicuous place, a legibly and plainly written or printed label or statement giving the approximate or average percentage of each kind of wheat used in the manufacture of said flour, the state or states in which the wheat or wheats were produced and the percentage of protein in the flour, in a form subject to the approval of the State Food Commissioner and Chemist and substantially as follows, to-wit:

Approximate or average percentage of all wheats used in this flour:

Name of State where produced	% Hard Spring Wheat	% Durum Wheat	% Hard Winter Wheat	% Soft Winter Wheat	% Other Variety Wheat
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

Protein, contains not less than.....%

Approved March 5, 1935.

## CHAPTER 141

S. B. No. 76—(Jones)

### PROHIBITING IMPORTATION AND SALE INFECTED FRUIT.

An Act to prevent the importation and sale of infected fruit; providing for the seizure of infected fruit and defining penalties.

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

§ 1. It shall be unlawful for any person to import into this

state, sell or offer for sale or have in one's possession for sale or barter any fruit which has been infected or infested with peach blight, peach mildew, peach-twigg borer, San Jose scale or other scale insects, apple scab, codling moth larva or larvae, and the fact that such fruit bears the mark of any of the above named pests shall be deemed conclusive evidence that such fruit is infected or infested within the meaning of this act.

§ 2. The State Food Commissioner and Chemist and Agents are hereby authorized and empowered to seize and destroy such infected or infested fruit whenever they shall find the same has been imported, sold, shipped or offered for sale or is being held in any warehouse, store, sales room or other place for the purpose of being sold, bartered, shipped or exposed for sale or barter.

§ 3. Any person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor.

Approved February 20, 1935.

## CHAPTER 142

H. B. No. 131—(Frosaker)

### DEFINING IMITATION ICE CREAM.

An Act to amend and re-enact Section 1, Chapter 159, Session Laws for 1931, as amended and re-enacted by Chapter 130, Session Laws for the year 1933, defining imitation ice cream, providing penalty for violation thereof and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1, Chapter 159, Session Laws for the year 1931, as amended and re-enacted by Chapter 130 of the Session Laws of North Dakota for the year 1933, be amended and re-enacted to read as follows:

§ 1. DEFINING IMITATION ICE CREAM.] Imitation ice cream is any frozen substance, mixture or compound regardless of the name under which it is sold or offered for sale, which is made in imitation or semblance of ice cream or is prepared or frozen as ice cream is customarily prepared or frozen and which is not ice cream, milk sherbet or ice in accordance with the definitions in force under the North Dakota Food and Drugs Act or contains less than twelve per centum (12%) of milk fat or weighs less than four and one-half pounds ( $4\frac{1}{2}$ ) avoirdupois per gallon.

§ 2. PENALTY FOR VIOLATION.] The penalty as provided for under Section Six, of Chapter 159, of the Session Laws for the year 1931, in the original act, shall in all ways apply to this act.

§ 3. EMERGENCY CLAUSE.] 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 21, 1935.

## GAME AND FISH

### CHAPTER 143

H. B. No. 64—(Fedje)

#### BAG LIMITS, ETC., GAME BIRDS.

An Act to amend and re-enact Section 35 of Chapter 148 of the 1931 Session Laws, relating to the bag and possession limits on protected game birds, and prescribing a penalty for the violation of the provisions hereof.

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

§ 1. AMENDMENT.] That Section 35 of Chapter 148 of the Session Laws of 1931 be, and the same is, hereby amended and re-enacted to read as follows:

§ 35. BAG LIMITS. POSSESSION LIMITS.] No person shall in any one day, take, catch, kill, or destroy more than five (5) in the aggregate of the following species of upland game birds, namely: Chinese pheasants, Hungarian partridge, pinnated grouse (prairie chicken), sharp-tailed grouse, and ruffed grouse (partridge). Provided, that a mixed bag of five (5) birds, consisting of the above mentioned species, may be taken in any one day; but, in no case shall more than four (4) birds of the grouse species be taken in any one day. For the purpose of this act, all grouse are to be considered as one species. It is further provided that our upland game bird season shall, in all cases, provide for the taking of Chinese ringneck pheasants and/ or Hungarian partridge in conjunction with our open seasons on grouse. No person shall in any one day take, catch, kill, or destroy more than four geese and brant, nor more than four geese and brant combined; nor more than ten ducks; nor more than ten Wilson's snipe (jack snipe); nor more than twelve coot (mud hens).

No person shall at any time have in possession, or under control, ship, transport, store, can or otherwise preserve more than two days' bag limit of any protected bird mentioned in this section.

PENALTY.] Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not less than ten (10) nor more than thirty (30) days, or by both such fine and imprisonment, for each and every bird taken, stored, transported, or possessed contrary to the provisions of this section.

Approved March 11, 1935.

## CHAPTER 144

H. B. No. 323—(Peterson of Bottineau, by request)

HUNTING SEASON, DEER ETC., LICENSE—  
TRESPASSING GAME RESERVES.

An Act to amend and re-enact Sub-section 1 of Section 20, and Section 40 of Chapter 148 of the Session Laws of 1931 relating to Game and Fish.

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

§ 1. AMENDMENT.] That Sub-section 1 of Section 20, Chapter 148 of the Session Laws for 1931, relating to Game and Fish, the propagation and conservation thereof; regulating the hunting, taking and killing thereof, be and the same is hereby amended and re-enacted to read as follows:

§ 20. MOOSE: ELK: ANTELOPE: DEER: SEASON FOR KILLING DEER: LICENSE.]

1. No person shall hunt, pursue, take or attempt to take, transport, ship, or convey by common or private carrier, or sell, or otherwise barter or exchange, any moose, elk, antelope, or deer or any part thereof at any time. Provided that any person, having procured a big game hunting license, may take, kill and transport one antlered deer between the 16th day of November and the 25th day of November following, both days inclusive. Provided, however, that the hunting of deer in the counties hereinafter named shall be prohibited: Bowman, Slope, Billings, Golden Valley, McKenzie south of Township 150, Divide, Burke, Renville, Ward, Bottineau except east of Range 76, McHenry, Pierce, Benson, Ramsey, Towner, Cavalier, Nelson, Grand Forks, Walsh and Pembina. All deer hunters shall wear red caps.

Deer to be taken only in the daytime, with rifle fired from the shoulder, and any other device or instrumentalities used, or held with the intent to use, in the taking of deer, or as an aid or means in the hunting or taking of deer, is hereby specifically prohibited and declared to be unlawful. No dog or dogs, horses, mules or other animal shall be used in any manner in the hunting of deer or antelope. Deer shall not be shot from any artificial platform, scaffold, blind, or other artificial device. No artificial light, including automobile and motorcycle headlights and spotlights, shall be used to entrap or entice deer, or as an aid in the taking or hunting of deer; and the practice commonly known as shining for deer is hereby specifically prohibited, and any person or persons, who shall shine any area, plot or territory, commonly frequented by deer, with or by means of any artificial lights, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section. Provided: That any person or persons found between sunset and sunrise in and about the territory frequented by deer and/ or antelope

or where such deer and/ or antelope are frequently and usually found, in possession of any rifles, shot guns, traps, snares, artificial lights or other implements or equipment usually and commonly used in the illegal taking or hunting of such deer and/ or antelope, shall be presumed to be possessed of said implements or equipment and to be in said territory unlawfully, and for the purpose of hunting or taking deer and/ or antelope contrary to the provisions of this act and upon conviction shall be subject to all the penalties imposed by this act for the unlawful taking, hunting or killing of such deer and/ or antelope.

§ 2. AMENDMENT.] That Section 40 of Chapter 148 of the Session Laws of 1931, relating to Game and Fish, be amended and re-enacted to read as follows:

§ 40. TRESPASSING GAME RESERVES.] All islands that have appeared or may appear in the waters of Devils Lake and the Missouri River are hereby reserved, appropriated and set aside as a bird and/ or game reserve and it shall be unlawful for any person to hunt, shoot, kill, wound, or injure any protected bird and/ or game, or to rob or destroy any protected bird nest or eggs on said reserve at any season of the year. It shall also be unlawful for any person to hunt or trap on the national game reserve in Sully's Hill National Park in Benson County near Devils Lake, or in any other national or state game reserve or game refuge that has been or may hereafter be established within the boundaries of the state.

Approved March 13, 1935.

## CHAPTER 145

H. B. No. 169—(Fitzgerald, by request)

### DISPOSITION MONEY COLLECTED BY GAME AND FISH COMMISSIONER—WATER CONSERVATION AND DAM CONSTRUCTION.

An Act to amend and re-enact Chapter 120, Session Laws of the State of North Dakota for 1933, relating to the disposition of money collected by the Game and Fish Commission; providing for the conservation of water, and the construction of dams within the State, and declaring an emergency.

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

§ 1. That Section 11, Chapter 148, Session Laws of the State of North Dakota, 1933, be amended and re-enacted to read as follows:

§ 11. AMENDMENT.] All monies collected by the State Game and Fish Commissioner, or his deputies, or agents, upon licenses issued, by the sale of game seized and sold, and from all other sources, except fines, shall be paid to the Treasurer of the State of North

Dakota, to be credited to the Game and Fish Fund, to be used for the purpose of enforcing the provisions of this act and for the propagation of game and fish, and the conservation of water, and the construction of dams within the state, and the Commissioner is hereby required to set aside and spend not less than \$10,000.00 out of the appropriation for the maintenance of his department for the year 1935 and every year thereafter to be used in water conservation and the construction of dams within the state, provided that not more than \$1,000.00 shall be expended on any one dam and that the labor employed in construction shall be that of local help not to be employed outside of the county in which the dam is being constructed.

(a) It shall be the duty of the State Game and Fish Commissioner to appoint at least one State Game Warden who is versed in, and has a knowledge of water conservation and dam construction. It shall be the duty of such Game Warden, among other things, to collect and furnish information, data and facts concerning suitable location and sites within the state, to impound water, create lakes and ponds for fish and game and recreation, and for the preserving of the surface water of the state and to arouse public interest in such projects.

(b) The final selection of dam sites and the construction of dams for water conservation shall be under the control and direction of the State Game and Fish Commissioner, and he shall have full power to proceed in the construction of such dams and water conservation and construct such dams within the limitations of the monies herein appropriated for such purposes and he shall have full power to do all things necessary in the construction of such dams for water conservation.

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

Approved March 4, 1935.

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## GASOLINE

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### CHAPTER 146

S. B. No. 276—(Bonzer)

#### COLORING GASOLINE

An Act to amend and re-enact Section 2 of Chapter 177, Laws of North Dakota for 1927 as amended by Chapter 182, Laws of North Dakota for 1931, relating to the coloring of gasoline by the use of a harmless dye.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 177, Laws of

North Dakota for 1927, as amended by Chapter 182, Laws of North Dakota for 1931, is hereby amended and re-enacted to read as follows:

§ 2. Any gasoline that shows anti-knock characteristics of not less than Octane Number 68 of the knock rating system adopted by the United States Bureau of Standards, may be colored by the use of any harmless dye except red; provided, however, that any gasoline that shows anti-knock characteristics of not less than Octane Number 76 of the same system may be colored by the use of any harmless dye. Any gasoline showing an anti-knock standard of less than Octane Number 68 as specified above must be sold without the addition of any foreign coloring matter.

Approved March 12, 1935.

## CHAPTER 147

H. B. No. 353—(Committee on Delayed Bills)

### LABELING GASOLINE AND KEROSENE

An Act to amend and re-enact Section 3080a4 of the Supplement to the Compiled Laws of the State of North Dakota for 1913, relating to the labeling of gasoline and kerosene.

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

§ 1. AMENDMENT.] Section 3080a4 of the Supplement to the Compiled Laws of the State of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3080a4. LABELING GASOLINE: KEROSENE.] Every package, barrel, filling station pump and every tank wagon, truck or car containing gasoline for sale or consignment or held with intent to sell or consign within this state or being transported into this state, shall be clearly and distinctly stamped, labeled or tagged with the word "Gasoline" and said stamp, label or tag must show that the gasoline therein contained falls within the specifications for North Dakota Class One or Two, as the case may be: Every oil station pipe line for gasoline must be painted red, provided that fittings may be painted other colors to designate grades: Pipe lines for gasoline shall be entirely separate from lines for kerosene or any other high flash product: Every can, bucket, barrel or other container of less than sixty gallons capacity used for storage or delivery of gasoline shall, unless made of glass, be painted bright red and such containers shall not be used for the storage or delivery of kerosene; provided that in the case of glass containers it shall be deemed sufficient if the contents are so designated by a red label securely pasted or attached thereto bearing the name of the product. Every package, barrel, filling station pump and every tank wagon, truck or car containing kerosene for sale or consignment when held within

this state or being transported into this state, shall be clearly and distinctly stamped, labeled or tagged with the word "Kerosene": Every oil station pipe line for kerosene shall be painted aluminum and shall be entirely separate from lines for gasoline or other low flash products.

Approved March 12, 1935.

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## HIGHWAYS

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### CHAPTER 148

S. B. No. 260—(Bonzer, Watt and Eastgate)

#### STATE HIGHWAY PATROL

An Act creating a State Highway Patrol for the State of North Dakota; authorizing the Highway Department to appoint a State Highway Patrol Superintendent, an Assistant State Highway Patrol Superintendent, and Highway Police; designating powers and qualifications of such police; fixing compensation and providing for disposition of fines collected.

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

§ 1. ESTABLISHMENT OF POLICE PATROL.] There is hereby created a State Highway Patrol, and the Highway Commissioner with the consent of the Governor, is authorized and empowered to appoint a State Highway Patrol Superintendent and an Assistant Highway Patrol Superintendent, who shall also be a motor patrolman; said superintendent and assistant superintendent shall hold office during the pleasure of the Highway Commissioner, and it shall be their duty to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the public highways in this state, and the operation of motor and other vehicles upon said highways.

§ 2. APPOINTMENT OF POLICE.] The State Highway Patrol Superintendent is hereby authorized and empowered to appoint not more than ten persons, who shall constitute such State Highway Patrol, and who shall be known as "Highway Police" who shall hold office during the pleasure of the superintendent and whose duty it shall be to enforce the provisions of the laws of the State of North Dakota relating to the protection and use of the public highways in the state, and the operation of motor and other vehicles upon said highways; said persons so appointed shall be invested with all the powers and perform all the duties now held and performed by peace officers in the State of North Dakota; the jurisdiction of said officers shall extend throughout the state.

§ 3. OATH AND BOND.] Every person appointed as State Highway Patrol Superintendent, or Assistant State Highway Patrol Superintendent, or as a Highway Police, shall, before entering upon his duties, subscribe to an oath, and sign and file a bond with the Highway Department, the bond to run to the State of North Dakota; said oath and bond to be in such form and in such amounts as shall be prescribed by the Highway Department.

§ 4. PAYMENT OF EXPENSES.] All salaries, wages and other expenses of this department shall be paid by the State Auditor and State Treasurer out of the "Police Patrol Fund" hereinafter provided, upon vouchers as now required by law for the payment of all state expenses, duly approved by the Highway Commissioner and the Superintendent, and audited and allowed by the State Auditing Board.

§ 5. SALARIES.] The salary of the State Highway Patrol Superintendent appointed under the provisions of this act shall not exceed \$2,200 per annum, and the salary of the Assistant State Highway Patrol Superintendent appointed under the provisions of this act, shall not exceed \$1,800 per annum; the salary of each Highway Police Superintendent appointed under the provisions of this act shall be fixed by the State Highway Patrol Superintendent at not to exceed \$135 per month to each of said highway police, and shall be paid monthly out of any funds in the State Highway Patrol Fund, provided total expenditures of the department shall not exceed \$45,000 per annum.

§ 6. SPECIAL DUTIES.] The State Highway Police appointed under the provisions of this act, are particularly required to check and discover all violations of state highway laws and regulations and to make a special effort to see that all laws and regulations relating to highways in this state are complied with.

§ 7. MEMBERS OF POLICE PATROL.] All members of the Police Patrol shall be not less than twenty-five nor more than forty-five years old on the date of their appointment. They shall, before being qualified to appointment, be required to pass such physical examination and such other qualification test as may be determined by the superintendent, be of good moral character and of temperate habits, have been citizens of the United States and of the State of North Dakota for not less than two years prior to their appointment. For appointment, preference shall be given at all times to honorably discharged soldiers of the World War, and all appointments shall be made without regard to any political party affiliation of the applicant. All appointments shall be made by the Highway Commissioner from the list of qualified applicants certified to him by the Superintendent.

§ 8. POLICE PATROL FUND. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not other-

wise appropriated, the sum of five thousand and no/100 dollars (\$5,000.00), to be deposited in the fund to be hereafter designated as the "Police Patrol Fund," and said appropriation shall be, if possible, reimbursed and refunded to the General Fund of this state in the manner hereinafter provided. All moneys collected from the collections of drivers' license fees as now provided by law shall be deposited in the "Police Patrol Fund," and the moneys accumulated in that fund shall be expended to meet the salaries and expenses of this department and shall be paid out as hereinbefore directed. The moneys so deposited in that fund from the proceeds of collections of drivers' license fees and all moneys that may rightfully become a part of that fund under the provisions of this act are hereby appropriated for the purpose and for the payment of the expenses of this department. When sufficient moneys have accumulated in that fund that the Highway Department is of the opinion that the five thousand dollar appropriation hereby made out of the general revenue of this state may be reimbursed and refunded to the state, leaving enough therein to carry out the purpose of this act, the Highway Department may withdraw therefrom the said sum of five thousand dollars so hereby appropriated, or so much thereof as may have been used, and revert the same to the General Fund of the state as a reimbursement of said special appropriation. The balance in the "Police Patrol Fund" herein mentioned which may remain unexpended at the end of any biennium period shall not be at that time converted into the General Fund of the state but shall remain in said "Police Patrol Fund" to be later expended as a part thereof until otherwise directed by the Legislature.

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

Approved March 12, 1935.

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## CHAPTER 149

S. B. No. 315—(McGillic)

### OVERHEAD AND UNDERGROUND RAILROAD CROSSINGS

An Act to amend and re-enact Section 4688a11 of the Supplement to the Compiled Laws of North Dakota, of 1913, relating to abolition of railroad crossings, the construction and maintenance of overhead and underground crossings and separate grades and providing for the apportionment of the costs thereof.

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

§ 1. AMENDMENT.] That Section 4688a11 of the Supplement to the Compiled Laws of 1913, be and the same is hereby amended to read as follows:

§ 4688a11. The Board of Railroad Commissioners may require

any railroad to construct and maintain overhead or underground crossings and separate grades when in its opinion the interest and safety of the public require, and may apportion the costs therefor in such manner as the Commission deem proper, and no overhead or underground crossing, nor separation of grades shall be made except upon petition therefor to the Board of Railroad Commissioners and with such board's approval.

§ 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 13, 1935.

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## INSURANCE

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### CHAPTER 150

H. B. No. 217—(Fedje)

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#### APPOINTMENT, LICENSE, ETC., INSURANCE AGENTS, RECIPROCAL EXCHANGES

An Act to amend and re-enact Section 6548a11 of the Supplement to the Compiled Laws of the State of North Dakota, 1913, relating to exchange of reciprocal or inter-insurance contracts; providing for appointment of resident agents; license fees and tax; publication of abstract of annual statement.

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

§ AMENDMENT.] That Section 6548a11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§6548a11. APPOINTMENTS OF AGENTS: LICENSE FEES: TAX: PUBLICATION OF ANNUAL STATEMENT.] Such attorney shall designate and appoint only resident agents who shall before writing or soliciting any of the insurance provided for under this chapter secure a certificate of authority from the Commissioner of Insurance. The fee for such agent's license shall be two dollars (\$2.00). Such attorney shall further in lieu of all other taxes and fees, state, county or municipal of whatever character in this state, except as herein provided, pay annually to the state on account of the transaction of such business in this state, a license fee of \$15.00 and a tax of 2½% of the gross premiums or deposits collected from subscribers in this state after deducting therefrom all sums returned to such subscribers or credited to their accounts, other than for losses. Such attorney shall in addition be required to publish the abstract of Annual Statement as provided for in Section 4915 of the 1913 Compiled Laws.

Approved March 12, 1935.

**CHAPTER 151****S. B. No. 159—(Whelan)****RECIPROCAL FIRE UNDERWRITERS' LICENSES****An Act to provide for Reciprocal Fire Underwriters' Licenses.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. A non-resident insurance agent or solicitor placing insurance other than life, health or accident insurance through a resident insurance agent of this state shall be permitted to do so only where he shall have first made written application for and procured from the Commissioner of Insurance a license therefor upon a form prescribed by the said Commissioner of Insurance and upon the payment of a fee of ten dollars. Such license shall expire one year from its date and shall in no case be granted to a resident of any state which does not permit the licensing of an agent of this state under like circumstances.

Approved March 4, 1935.

**CHAPTER 152****S. B. No. 138—(Thatcher, Drew and Cain)****LICENSED RESIDENT AGENTS SURETY AND  
INSURANCE COMPANIES**

**An Act providing that surety and insurance companies other than life insurance companies, shall do business in this state only through duly licensed resident agents, regulating the practice of such resident agents, providing that the Commissioner of Insurance shall have the power to refuse, suspend or revoke licenses of such resident agents, authorizing the Commissioner of Insurance to examine the records of surety or insurance companies, to collect premium taxes on surety or insurance companies that have transacted business within the state without authority, providing penalties for the violations thereof, and repealing Sections 4961, 4962, 4963 and 4964 of the Compiled Laws of North Dakota for 1913 and Chapter 133, of the Session Laws of North Dakota for 1933, and declaring an emergency.**

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

§ 1. No surety company, or insurance company, or association, except life insurance companies, not incorporated under the laws of this state, shall issue any surety bond, or policy of insurance of any kind on persons, firms or corporations, or property in this state, except through a local agent, who is a resident of this state, regularly commissioned and licensed to transact insurance business therein, who shall countersign all surety bonds and contracts of insurance so issued and make a record of the same in books provided for that purpose, and who shall receive the usual and customary

commission thereon when the premium is paid; provided, however, that nothing herein shall be construed to prevent any such surety company, or insurance company or association, authorized to transact business in this state, from issuing bonds, or contracts of insurance at its principal or department offices, covering persons, firms or corporations, or property in this state, provided that such bonds, or contracts of insurance, when issued, shall be countersigned by a local agent who is a resident of this state. On any bonds or contracts of insurance, except life insurance policies, so written, the local agent shall be paid the usual brokerage commission. No provision of this act shall apply to direct insurance covering the rolling stock of railroad corporations, or property in transit, while in possession and custody of railroad corporations or other common carriers, nor to movable property of such common carriers used or employed by them in their business as common carriers, nor to insurance written or carried by the State of North Dakota nor to any policy or bond of any mutual company on which no commission shall be paid to any local agent. All surety bonds, or contracts of insurance not written in accordance with the provisions hereof shall be a violation of this act.

§ 2. The Commissioner of Insurance is hereby prohibited from issuing any license of authority to write or countersign surety bonds, or contracts of insurance, other than life insurance, or to solicit, negotiate and effect such bonds, or contracts of insurance, to any person who is not a legal resident of this state at the time such license of authority is issued except as otherwise provided by law. To the end that the Commissioner of Insurance may satisfy himself that an applicant for a license of authority to write or solicit surety bonds, or contracts of insurance, other than life insurance, is legally eligible to receive such license, he may submit to any person applying for such license, any interrogatories on forms such as he may prepare, to which the applicant shall first make answer in writing and under oath.

§ 3. The Commissioner of Insurance shall have power to refuse to issue a license to any agent, or to suspend or revoke a license issued to any agent upon proof that such agent has violated any of the provisions of this act, provided that such Commissioner shall first give such agent not less than ten (10) days written notice of a hearing thereon, containing a statement of any alleged violations, and affording such agent a reasonable opportunity to offer a defense thereto before the Commissioner; and provided further that within thirty (30) days after any order of refusal, suspension or revocation of license is made by the Commissioner of Insurance, the person aggrieved may petition the District Court of Burleigh County for a review of such proceeding, and the Court shall thereupon issue an order to the Commissioner to show cause why such license should not be issued, or re-instated, and upon a hearing thereon, shall make

such decision as the facts and the law shall warrant. In any case where a license has been suspended or revoked hereunder, the Commissioner may, in his discretion, refuse to issue a new license to such offending agent for a period of not exceeding one year thereafter.

§ 4. No surety, or insurance company shall insure, or assume as a re-insurance company, or otherwise in any manner or form whatever, the whole or any part of any risk or liability covering property located in this state of any insurance company or association not authorized to transact business in this state.

§ 5. Whenever the Commissioner of Insurance shall have cause to believe that any provision of this act has been violated, he is authorized, at the expense of such company, or association, to examine at the offices of such company, or association, located within or without the State of North Dakota, all books, records and papers of such company, or association, and also any books, records and papers of any assured within this state, and may examine under oath, the officers, managers and agents of such company, association or assured, as to such violation or violations

§ 6. Before any surety company, or insurance company, other than the life insurance companies, shall be authorized to transact business in this state, it shall file a sworn statement with the Insurance Commissioner, if required, and furnish proof that said company has not at any time prior to filing application for authority to transact business in this state, written, or caused to be written any surety bond, or insurance contracts on property in this state while not authorized; and if it shall appear that said company has written insurance on property in this state while not authorized, said company shall file a statement of all such surety bonds, or insurance contracts written, and such surety company, or insurance company shall thereupon be required to pay the premium tax due thereon before a license of authority shall be granted to such company.

§ 7. Any surety company, or insurance company, violating, or failing to comply with any of the provisions of this act shall be liable to a penalty equal to double the amount of the tax now provided by law, which sum shall be collected by the Commissioner of Insurance, and may be recovered in an action brought in the name of the state. Any agent who shall write any surety bonds, or insurance business in any company not authorized to transact business in this state, or as otherwise provided by law, shall be personally liable to the state for the legal tax on any bonds or insurance business so written.

§ 8. The term "local agent" as used herein, shall be construed to mean a resident of this state licensed to countersign policies. This act shall not apply to any general agent, insurance broker, state agent, special agent, traveling representative or salaried employe of any insurance company; provided, however, that the company shall pay

the usual brokerage commission to "local agent" as heretofore specified.

§ 9. REPEAL.] That Sections Numbers 4961, 4962, 4963 and 4964 of the Compiled Laws of North Dakota for 1913 and Chapter 133 of the Session Laws of 1933 be and the same are hereby repealed.

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

Approved March 12, 1935.

## CHAPTER 153

H. B. No. 165—(Fedje and Aljets)

### FIRE AND TORNADO INSURANCE PUBLIC BUILDINGS.

An Act to amend and re-enact Sections 189c1, 189c2, 189c3, 189c5, 189c6, 189c7, 189c8, 189c9, 189c13, 189c14 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota as amended and re-enacted by Chapters 173 and 174 of the 1929 [1927] Session Laws and Chapters 162, 163, and 164 of the 1931 Session Laws, and Chapter 135 of the 1933 Session Laws, and Sections 189c4 and 189c11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota relating to Fire and Tornado Insurance on Public Buildings and fixing rates of premiums to be charged and providing for deposit on investments of State Fire and Tornado Fund; repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 189c1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 1 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c1. STATE BUILDINGS INSURED.] On and after August 1st, 1935, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state including state industries shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning, tornado, hail or inherent explosion or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the public buildings, furniture or fixtures or property of any kind whatever belonging to the state, except in the manner hereinafter provided

Provided, however, that none of the provisions of this act shall apply to farm buildings situated on lands owned by the State of North Dakota, nor shall the provisions of this act apply to any property of the Bank of North Dakota except only its banking house,

furniture and fixtures located in the City of Bismarck, North Dakota.

§ 2. AMENDMENT.] That Section 189c2 of the 1925 Supplement of the 1913 Compiled Laws of North Dakota as amended by Section 2 of Chapter 135 of the 1933 Session Laws of the State of North Dakota, be and is hereby amended and re-enacted to read as follows:

§ 189c2. REPORT ON STATE BUILDINGS.] On August 1st, of each odd numbered year, each officer, Board of Administration, or agent of this state of any kind having in charge any public buildings or property of any kind whatsoever belonging to the state, shall report to the Commissioner of Insurance of the state the sound depreciated value of each building or risk and the contents therein, and such other information as may be required by the Commissioner of Insurance on forms provided by him, and it shall be the duty of the Commissioner of Insurance to determine the value thereof subject to the approval of the board or officer in charge of the property to be insured.

§ 3. AMENDMENT.] That Section 189c3 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 3 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c3. INSURANCE PROVIDED—RATE OF PREMIUM.] On or between July 1st and August 1st, 1935, and each odd numbered year thereafter the Commissioner of Insurance shall provide for the insurance in the State Fire and Tornado Fund and in some reliable fire and tornado insurance company or companies doing business in the State of North Dakota as hereinafter provided, on all state property subject to destruction by fire, lightning, tornado, hail or inherent explosion for an amount not to exceed 90% of the actual value of the property as such value is determined by the Commissioner of Insurance and approved by the officer or board having control of such property, and for such purpose the Commissioner of Insurance is hereby designated and constituted the custodian of such property. The commissioner shall first determine the insurable value of each article of property and then fix the rate and amount of premiums to be paid by the insured, said rates to be based upon the rates as promulgated and published by the Fire Underwriters Inspection Bureau. Provided, however, that the excess insurance, as hereinafter provided, shall be placed by the Commissioner of Insurance with some reliable fire and tornado insurance company or companies doing business in the State of North Dakota.

§ 4. AMENDMENT.] That Section 189c4 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c4. PREMIUMS TO BE PAID.] The Commissioner of Insurance shall as soon thereafter as possible certify to the State Auditor the amount of insurance placed upon such property with a statement showing the amount of premium, also the name, location of, and description of the property insured, and it shall be the duty of the State Auditor to issue a state warrant on the State Treasurer for the payment of premiums so certified to the Commissioner of Insurance for the benefit of and to the credit of the State Fire and Tornado Fund and it shall be used only for the purposes provided for in this act.

§ 5. AMENDMENT.] That Section 189c5 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 4 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c5. REPORT ON OTHER BUILDINGS.] On August 1st of each odd numbered year each county auditor, city auditor, township, village and school district clerk, as the case may be, shall report to the Commissioner of Insurance the sound depreciated value of each building or risk and the contents therein and such other information as may be required by the Commissioner of Insurance on forms provided by him, and it shall be the duty of the Commissioner of Insurance to determine the value thereof subject to the approval of the board or officer in charge of the property to be insured.

§ 6. AMENDMENT.] That Section 189c6 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Section 5 of Chapter 135 of the 1933 Session Laws of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c6. INSURANCE PROVIDED: PREMIUM.] From and after August 1st, 1935, the insurance on all property of any such county, city, township, village, or school district shall be provided for by the Commissioner of Insurance in the manner provided for the insurance of the property of the state except that the amount of insurance and the premiums thereon shall be certified by the Commissioner of Insurance to the clerk or auditor of the township, village, city, county or school district. Upon receipt of such certification, the amount of premium so certified shall on or before 60 days from the date of such certification be remitted by the proper officer to the Commissioner of Insurance to be by him deposited with the State Treasurer to the credit of the State Fire and Tornado fund and it shall be used only for the purposes provided for in this act. The excess insurance, as hereinafter provided, shall be placed by the Commissioner of Insurance with some reliable fire and tornado insurance company or companies doing business in the State of North Dakota. In case of failure to pay the premium so

certified by the Commissioner of Insurance within 60 days from the date of such certification, the township, village, city, county, or school district official or officials, responsible therefor, shall become jointly and severally, as the case may be, personally liable for the same, in an amount equal to double the premium due from such township, village, city, county or school district, and in the case of default it shall be the duty of the Commissioner of Insurance to notify the Attorney General, who shall bring an action in the courts of this state or shall direct the state's attorney of the county in which such delinquency occurs to bring such action to recover the amount hereinbefore provided for.

§ 7. AMENDMENT.] That Section 189c7 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Section 6 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c7. RE-PLACEMENT OF POLICIES.] No policies of insurance in force on the first day of August, 1935, and covering the risks not heretofore required by law to be insured with the State Fire and Tornado Fund, shall be cancelled by the Commissioner of Insurance; but all such risks as and when the policies covering the same shall lapse, expire, or otherwise be cancelled, shall be insured with the State Fire and Tornado Fund as herein provided, and the amount of such insurance in the State Fire and Tornado Fund shall be from time to time increased or decreased so as to maintain at all times on the property covered thereby, the amount of insurance required by the provisions of this act.

§ 8. AMENDMENT.] That Section 189c8 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 173 of the 1927 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c8. LOSSES: HOW PAID.] All losses by fire, lightning, tornado, hail or inherent explosion shall be paid out of the State Fire and Tornado Fund, and by other reliable insurance companies in which such property shall be insured, as provided by law, in amount not exceeding the amount of the insurance upon the particular risk. The losses upon any building or property insured in the State Fire and Tornado Fund, and in reliable fire and tornado insurance companies, whether totally destroyed or partially damaged by fire, lightning, tornado, hail or inherent explosion shall be adjusted by the Commissioner of Insurance, or his duly authorized representative, and by the duly authorized representative of the private insurance companies interested. Immediately upon the happening or occasion, agents or agency having charge or control of the property destroyed or damaged, shall by telegram or in writing, notify the Commissioner of Insurance, giving the description of the property, the amount of insurance carried, the probable amount of

loss or damage and the probable cause of loss or damage, and such information shall be immediately transmitted to the private insurance companies interested by the Commissioner of Insurance. The persons or agency having control of such damaged property shall not disturb the same, except as provided in the policy until the Commissioner of Insurance or his agent, and the duly authorized agent or representative of the interested private insurance companies, shall have appeared and adjusted the loss or shall have notified them that the information on which adjustment is to be made has been secured. Adjustments and allowances for loss and damage to insured property shall be paid out of the State Fire and Tornado Fund upon warrants drawn by the Commissioner of Insurance upon the State Treasurer against the State Fire and Tornado Fund in proportion to the amount covered by said State Fire and Tornado Fund.

However, if at any time sufficient funds are not available in the State Fire and Tornado Fund to cover its proportion of any loss or damage sustained by fire, lightning, tornado, hail or inherent explosion, the person or board under whose supervision or charge such building or property might be, shall submit to the Commissioner of Insurance a claim for the amount of its proportion of the adjustment of loss or damage, made by him, which claim, when approved by the Commissioner of Insurance shall be by him submitted to the State Auditing Board, and if the State Auditing Board shall approve the same it shall make it payable ninety days after the end of the next session of the legislature, it shall bear interest at five percent per annum, and the State Auditor shall on the ninetyeth day succeeding the last day of the next session of the legislature draw a warrant upon the State Treasurer against any fund appropriated by such legislature for that purpose, payable to such person or board, as trustee for the State or political subdivision which they represent, in the amount of such claim with interest. Thereafter, whenever the State Fire and Tornado Fund shall have acquired a surplus sufficient to pay any and all of the claims paid out of such special funds of the state, the Commissioner of Insurance shall draw his warrants upon the State Treasurer against the State Fire and Tornado Fund, payable to the State Treasurer, and deliver the same to the State Treasurer, and the amount of said warrants shall be credited to the General Fund of the State.

§ 9. AMENDMENT.] That Section 189c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 164 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c9. FREE INSURANCE: ASSESSMENTS.] When the State Fire and Tornado Fund shall equal the sum of one million five hundred thousand dollars the insurance retained net by the State Fire and Tornado Fund shall be provided without cost to the state,

county, city, township, village, or school district until and unless losses and expenses reduce the aggregate liquid assets of the fund below one million five hundred thousand dollars, in which event an annual assessment shall be made against all the policy holders of the fund in an amount which will as nearly as may be re-establish the fund to the amount of one million five hundred thousand dollars of liquid assets, but such assessment shall in no event exceed the policy premium for one year at the rate provided for under the provisions of Section 189c3 of this act. Provided, however, before any property or risk shall be entitled to the benefits of the free insurance as herein provided for, the said property or risk shall have been insured in the Fire and Tornado Fund for at least five consecutive years at the rates provided for under Section 189c3.

§ 10. AMENDMENT.] That Section 189c11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c11. EXPENDITURES.] The Commissioner of Insurance may employ the State Fire Marshall and any of the employees in the Department of Insurance and such other assistance, and incur such expense as may be necessary to carry out the provisions of this act, but all the expenditures made hereunder for such purposes shall be paid out of the State Fire and Tornado Fund, upon the warrant of the Commissioner of Insurance drawn upon the State Treasurer against the State Fire and Tornado Fund.

§ 11. AMENDMENT.] That Section 189c13 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 162 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c13. CLASSIFICATION AND LIMIT OF RISK.] It shall be the duty of the Commissioner of Insurance to classify all property reported to him under the provisions of Sections 1, 2, 3, 4, 5, and 6 of this act, into six distinct classifications as hereinafter set forth, and to provide insurance thereon in the State Fire and Tornado Fund and with some reliable fire and tornado insurance company or companies authorized to transact such business in this state, in accordance with the limitations shown by this classification. Provided, further, that the insurance upon that portion of the valuation above the net retention carried by the State Fund, shall by the Commissioner be placed with reliable mutual or old line insurance companies authorized to do business in the state.

CLASS 1. All of the following described property shall be designated as Class 1, and no single risk thereon in an amount greater than four hundred thousand dollars (\$400,000.00) shall be carried by the State Fire and Tornado Fund.

"A" and "AX." Fire-proof buildings in protected areas.

CLASS II. All of the following-described property shall be designated as Class II, and no single risk thereon in an amount greater than two hundred thousand dollars (\$200,000.00) shall be carried by the State Fire and Tornado Fund.

"A" and "AX." Fireproof buildings in unprotected areas.

CLASS III. All of the following described property shall be designated as Class III, and no single risk thereon in an amount greater than fifty thousand dollars (\$50,000.00) shall be carried by the State Fire and Tornado Fund.

"B." Brick, stone or concrete buildings, with gravel, slag, metal, slate, tile composition, or other approved roof in protected areas.

"BX." Brick, stone or concrete buildings, with shingle, board or unapproved composition roof, in protected areas.

"E." Hollow concrete block, concrete block, or hollow tile building, (with nor without 4-inch facing, with gravel, slag, metal, slate, tile or approved composition, or other approved roof in protected areas.

"EX." Hollow concrete block, concrete block, or hollow tile building, (with or without 4-inch facing), with shingle, board, or other unapproved composition roof in protected areas.

CLASS IV. All of the following described property shall be designated as Class IV, and no single risk thereon in an amount greater than twenty-five thousand dollars (\$25,000.00) shall be carried by the State Fire and Tornado Fund.

"B." Brick, stone or concrete buildings, with gravel, slag, metal, slate, tile composition, or other approved roof in unprotected areas.

"BX." Brick, stone or concrete buildings, with shingle, board or unapproved composition roof in unprotected areas.

"E." Hollow concrete block, concrete block or hollow tile buildings, (with or without 4-inch facing), with gravel, slag, metal, slate, tile or approved composition, or other approved roof in unprotected areas.

"EX." Hollow concrete block, concrete block or hollow tile building (with or without 4-inch facing), with shingle, board or other unapproved composition roof in unprotected areas.

CLASS V. All of the following described property is hereby designated as Class V, and no single risk thereon in an amount greater than twenty-five thousand dollars (\$25,000.00) shall be carried by the State Fire and Tornado Fund.

"D." Frame building, with gravel, slag, metal, slate, tile or approved composition or other approved roof in protected areas.

"DX." Frame building, with shingle, board or unapproved composition roof in protected areas.

"IC." Frame, wood-sheathed, iron-covered building

with gravel, slag, metal, slate, tile or approved composition, or other approved roof in protected areas.

"ICX." Frame, wood-sheathed, iron-covered building, with shingle, board or unapproved composition roof, in protected areas.

"SIC." Skeleton wood frame, without wood sheathing, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in protected areas.

"BV." Brick, stone or hollow-block veneered building, with shingle, board or metal slate, tile or approved composition or other approved roof, in protected areas.

"BVX." Brick, stone, or hollow-block veneered building, with shingle, board or unapproved composition roof, in protected areas.

"P." Frame, plaster or stucco covered building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in protected areas.

"PX." Frame, plaster or stucco covered building, with shingle, board or unapproved composition roof, in protected areas.

"S." Skeleton steel (incombustible) construction with incombustible roof, in protected areas.

"SS." Skeleton steel construction with combustible roof covered with gravel, slag, metal, slate, tile or approved composition or other approved roof covering, in protected areas.

"SSX." Skeleton steel construction with combustible roof covered with shingle, board or unapproved roof covering, in protected areas.

CLASS VI. All of the following described property is hereby designated as Class VI, and no single risk thereon in an amount greater than fifteen thousand dollars (\$15,000.00) shall be carried by the State Fire and Tornado Fund.

"D." Frame building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in unprotected areas.

"DX." Frame building, with shingle, board or unapproved roof, in unprotected areas.

"IC." Frame, wood-sheathed, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in unprotected areas.

"ICX." Frame, wood-sheathed, iron-covered building, with shingle, board or unapproved composition roof, in unprotected areas.

"SIC." Skeleton wood frame, without wood sheathing, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in unprotected areas.

"BV." Brick, stone or hollow-block veneered building, with shingle, board or metal slate, tile or approved composition or other approved roof, in unprotected areas.

"BVX." Brick, stone, or hollow-block veneered building, with

shingle, board or unapproved composition roof, in unprotected areas.

"P." Frame, plaster or stucco covered building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in unprotected areas.

"PX." Frame, plaster or stucco covered building, with shingle, board or unapproved composition roof, in unprotected areas.

"S." Skeleton steel (incombustible) construction with incombustible roof, in unprotected areas.

"SS." Skeleton steel construction with combustible roof covered with gravel, slag, metal, slate, tile or approved composition or other approved roof covering, in unprotected areas.

"SSX." Skeleton steel construction with combustible roof covered with shingle, board or unapproved roof covering, in unprotected areas.

§ 12.AMENDMENT.] That Section 189C14 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Chapter 163 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189C14. COLLECTION OF PREMIUM: INVESTMENT BY STATE TREASURER.] The Commissioner of Insurance shall collect from the state or the political subdivisions thereof, the entire premium for all the excess insurance and for such assessment as may be made as hereinbefore provided and deposit it in the State Fire and Tornado Fund, as herein provided, and shall draw his warrant upon the State Treasurer against the State Fire and Tornado Fund for the amount of premium due for the excess insurance placed with such reliable fire and tornado insurance company or companies.

The State Treasurer shall deposit with the State Fire and Tornado Fund in the Bank of North Dakota at the usual rate of interest paid on other funds of the state, subject to check, but whenever there is in such checking account more than \$50,000.00, the State Treasurer shall deposit the same upon time certificates of deposit drawing the same rate of interest as other state funds deposited upon time certificates, or such funds may be invested upon the recommendation of the Commissioner of Insurance in bonds of any state or of the United States. Provided, further, such funds may be invested in bonds of political subdivisions of the State of North Dakota, but investment in bonds of political subdivisions shall at no time exceed 25% of the amount of the fund and must be in bonds of political subdivisions with an assessed valuation in excess of two million dollars (\$2,000,000.00). In addition to the investments hereinbefore provided for, such funds may be invested in legally issued and registered warrants of any school district in this state issued in payment of teachers' salaries. Such warrants shall be bought at par value and only from the payee named in such war-

rant. The Attorney General shall approve such bonds and warrants as to form and legality.

§ 13. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

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

Approved March 14, 1935.

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## CHAPTER 154

H. B. No. 170—(Cosgriff)

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### STANDARD POLICY FIRE INSURANCE

An Act to amend and re-enact Section 6625 of the Compiled Laws of 1913, with regard to a standard fire insurance policy.

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

§ 1. That section 6625 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 6625. STANDARD POLICY.] No fire insurance company, corporation or association, their officers or agents, shall make, issue, use or deliver for use any fire insurance policy or renewal of any fire policy on property in this state other than such as shall conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with the printed form of contract or policy heretofore filed in the office of the commissioner of insurance as a standard policy for this state and no other or different provisions, agreement, condition or clause shall in any manner be made a part of such contract or policy or be indorsed thereon or delivered therewith, except as follows, to wit:

1. The name of the company, its location and place of business, the date of its incorporation or organization, and the state or county under which the same is organized, the amount of paid up capital stock, whether it is a stock or mutual company, the names of its officers, the number and the date of the policy; and if it is issued through a manager or agent of the company, the words, "this policy shall not be valid until countersigned by the duly authorized manager or agent of the company, at....." may be printed on policies issued on property in this state.

2. Printed or written forms of description and specifications or schedules of the property covered by any particular policy and any of the matter necessary to express clearly all the facts and conditions of insurance on any particular risk, which facts or conditions shall in no case be inconsistent with or a waiver of any of

the provisions or conditions of the standard policy herein provided for may be written upon or attached or appended to any policy issued on property in this state.

3. A company, corporation or association organized or incorporated under and in pursuance of the laws of this state or elsewhere, if entitled to do business in this state, may with the approval of the commissioner of insurance, if the same is not already included in the standard form as filed in the office of the commissioner of insurance, print on its policies, any provision which it is required by law to insert therein, if said provision is not in conflict with the laws of this state or the United States, or of the provisions of the standard form provided for herein, but said provision shall be printed apart from the other provisions, agreements or conditions of the policy and in type not smaller than the body of the policy and a separate title, as follows: "Provisions required by law to be stated in this policy" and be a part of said policy.

4. There may be indorsed on the outside of any policy herein provided for the name, with the word "Agent or agents" and place of business, of any insurance agent or agents, either by writing, printing, stamping or otherwise.

5. When two or more companies, each having previously complied with the laws of this state, unite to issue a joint policy, there may be expressed in the head line of such policy the fact of the severalty of the contract; also the proportion of premiums to be paid to each company and the proportion of liability which each company agrees to assume. And in the printed conditions of such policy the necessary change may be made from the singular to the plural number, when reference is had to the companies issuing such policy.

6. Provided, however, that this section shall not apply to automobile insurance, and provided also that by and with the approval of the Insurance Commissioner, a combined farm policy may be used, the fire portion of which shall be substantially in accord with the fire insurance policy herein provided.

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

Approved March 13, 1935.

## CHAPTER 155

H. B. No. 339—(Traynor, Odegard and Hill)

**LIMITATION HAIL INSURANCE PERMANENT SURPLUS FUND.**

An Act reducing, defining and limiting the permanent surplus fund of the State Hail Insurance Department to three million (\$3,000,000) dollars; declaring the reasons for such limitations thereon; providing the manner of disbursement and refunding of moneys in excess of said sum; repealing all acts or parts of acts in conflict therewith; declaring an emergency.

WHEREAS, under the statutes of the State of North Dakota enacted pursuant to constitutional authority there has been created a State Hail Insurance Department of this state and a Permanent Surplus Fund for the prompt payment of hail losses, and

WHEREAS, there is contained in said Permanent Surplus Fund, first created by Chapter 77, Session Laws of North Dakota for 1921, as shown by the records of the State Hail Insurance Department, being public records of the State of North Dakota, as of December 31, 1934, the sum of \$4,038,865.41, after setting aside a reserve fund of \$779,000 for uncollected taxes, and

WHEREAS, after more than ten years' experience it has been determined to be an established fact, shown by the records of the State Hail Insurance Department and of the State Treasurer of the State of North Dakota, that the aforesaid Permanent Surplus Fund in the amount now contained therein is substantially in excess of that required or which may be required for the purpose for which it was created, and that such surplus over and above the requirements of said Surplus Fund to carry out the purpose for which said fund was created is not less than \$1,038,865.41, and

WHEREAS, the experience of the State Hail Insurance Department, as shown by its public records and reports over a period of the last ten years discloses and establishes that the highest demand upon the said Permanent Surplus Fund for the prompt payment of hail losses in any one of said years was the sum of \$2,571,000, and that the average year's demand upon said fund for the said ten-year period was the sum of \$1,266,000, and

WHEREAS, an exhaustive study of the prospective future demands upon said Permanent Surplus Fund has been made, taking into consideration the past experience of the said Hail Insurance Department in administering the State Hail Insurance Act, the past demands upon said Permanent Surplus Fund, the insurable acreage of this state, the average hail losses over a long period of years, the average acreage withdrawals, the yearly and average of hail indemnity tax payments, the effect upon said Permanent Surplus Fund of proposed legislative changes in the existing hail insurance law, and all other known pertinent factors affecting or which might effect the said Permanent Surplus Fund, and

WHEREAS, from a careful consideration and study of all of the foregoing facts this Legislative Assembly concludes and finds that the Permanent Surplus Fund aforesaid for the payment of all claims and demands present and future against it exceeds by \$1,038,865.41 the amount needed and necessary to carry out the original purpose for which said fund was created, and that to the extent of \$1,038,865.41 there is a permanent surplus in said Permanent Surplus Fund which is not needed or necessary to carry out the original purpose for which said fund was created, and which said surplus in said fund cannot at this time or in the future be used for such original purpose, and in fact is an unexpended balance over and in excess of any claim or demand, present or future, which may be made against said Permanent Surplus Fund, and

WHEREAS, an emergency exists in this that due to crop failures and a world-wide depression there is insufficient money available through the normal tax statutes of the State of North Dakota to keep open and properly maintain the public school system of this state and that unless immediate and direct help be given, many of the elementary public schools within this state will cease to function, now, therefore,

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

§1. PERMANENT SURPLUS FUND; TRANSFER AND/OR REFUND.] There is hereby created, defined and shall hereafter be maintained a permanent surplus in the sum of three million (\$3,000,000) dollars in the State Hail Insurance Fund, for the purpose of carrying out the provisions of this act, and to enable the State Hail Insurance Department to pay hail losses promptly. All funds in such Permanent Hail Insurance Fund on December 31st, 1934, in excess of three million (\$3,000,000) dollars shall be transferred or refunded by the Commissioner of Insurance in the manner herein provided.

Forthwith after the taking effect of this act it shall be the mandatory duty of the Commissioner of Insurance to pay all of such funds in said permanent surplus fund in excess of three million (\$3,000,000) dollars, as shown by the books of the State Hail Insurance Department as of December 31st, 1934, namely one million, thirty eight thousand, eight hundred sixty-five dollars and forty-one cents (\$1,038,865.41) to the State Treasurer to be by him credited to the State Equalization Fund, created and established by Chapter 229, Session Laws of 1933, and acts amendatory thereof or supplemental thereto, or to any fund which may be established and created to replace such State Equalization Fund; provided, however, that should the aforesaid allocation or distribution of such transfer from said fund be held to contravene the provisions of the Constitution, then and in that event said \$1,038,865.41, after such determination by the Supreme Court of this state, shall be paid to the treasurer of the several counties of the state in the following proportions; such

payment to each of the said county treasurers shall be an amount bearing the same ratio to the total amount paid to all county treasurers as the number of acres of tillable land upon which the one cent per acre flat tax was levied in the year 1927 in such county bears to the total number of acres so taxed in the entire state in the year 1927. Upon receipt of such payment, it shall be the duty of each county treasurer to refund such payments, by crediting upon his tax records each tract of land upon which such flat tax was levied in the year 1927, its pro-rata share of the sum so paid to the county treasurer, which credit shall be applied in payment of any outstanding school taxes due on said land in the reverse order of the years in which such taxes were levied, to the extent of the amount of such credit; provided that if there are no outstanding school taxes upon any part of such land, such credit shall be applied as a credit against any school taxes subsequently levied thereon; provided further, that if there are any unpaid flat hail taxes due on any part of such land, such credit shall first be applied in its entirety against such unpaid outstanding flat hail taxes and the overage, if any, shall be credited against outstanding school taxes; provided, however, that should the allocation or distribution of such refund of taxes be held to contravene the provisions of the Constitution, then and in that event, such refunded hail taxes, after any such holding by the Supreme Court, shall be paid to the then record owner of the land, or his legally qualified agent, against which such flat tax was levied; upon such owner, or his so qualified agent, presenting written application therefor with proof of such ownership, to the treasurer of the county within which such land is located; within thirty days after any such decision; provided, however, that if such record owner or his so qualified agent, fail to make such application or present such proof within such time, then and in that event, such refunded hail tax shall be credited to flat hail taxes and school taxes as hereinbefore provided;

Provided, however, that in the case of any land owner other than the original owner of the land, who acquired title to such land subsequent to the first day of January, 1928, such payments, as provided for herein, shall be made directly into the General Fund of the School District in which said land or lands is or are located, and in such event no credit shall be given on the unpaid or subsequent school taxes on such land or lands.

Provided, further, that in cases where the said refund payment accrues to land, the title of which is in the state or in any board or agency thereof, or in the county, the refund accruing to such land shall be paid into the general fund of the school district in which such land is located.

Provided further, that in cases where lands have been sold for taxes to individuals, that the refund shall not be applied to such taxes so sold but shall be applied to the payment of the unpaid taxes

subsequent thereto, in the reverse order of their becoming due and delinquent.

§ 2. SAVING CLAUSE.] It is hereby declared that if any of the provisions of this act in any manner contravene the provision of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provision had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

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

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

Approved March 2, 1935.

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## CHAPTER 156

S. B. No. 151—(E. E. Green of Stutsman)

### HAIL TAX REFUND, ASSIGNMENT, CANCELLATION

An Act to amend and re-enact Section 2 of Chapter 138 of the 1933 Session Laws of the State of North Dakota relating to hail tax refund.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 138 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 2. REFUND. ASSIGNMENT. CANCELLATION.] The holder of the certificate must make application for the refund to the Commissioner of Insurance, tendering his certificate and an assignment thereof to the Hail Insurance Department, and making proof satisfactory to the Commissioner of Insurance that the title of the land has been lost under a paramount lien and that he has not been compensated in any way for the money paid for the certificate. Upon being so satisfied, the Commissioner of Insurance shall refund to the holder, such amount with interest. Upon making any such refund, the Commissioner shall take an assignment of the certificate in trust for the benefit of the Hail Insurance Department, and in case the tax debtor becomes the owner of the land affected, the hail indemnity tax represented by such certificate shall again attach as a lien upon his interest. Provided, further, that at any time after the expiration of three years from the time the title of the land has been lost under a paramount lien, and the

land affected has not reverted back to the original owner within such three year period, the Commissioner of Insurance shall upon satisfactory proof cancel the said hail indemnity tax certificate and the assignment thereof so held in trust and surrender same to the county auditor; but in no event shall such tax sale certificate be cancelled prior to the expiration of ten years from the date of the tax sale certificate or where there has been a subsequent hail indemnity tax paid, then ten years from the payment of the last subsequent hail indemnity tax paid, or in case of sales heretofore made, under the six year limitation, then prior to the expiration of six years from the date of such tax sale certificate or last subsequent hail tax paid.

Approved February 27, 1935.

## INTEREST

### CHAPTER 157

H. B. No. 3—(Parkinson)

#### LEGAL RATE OF INTEREST

An Act to amend and re-enact Section 6072 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. AMENDMENT.] That Section 6072 of the Supplement to the 1913 Compiled Laws of North Dakota be, and the same is hereby amended and re-enacted to read as follows:

§ 6072. LEGAL INTEREST.] Interest for any legal indebtedness shall be at the rate of four per cent per annum, unless a different rate not to exceed the maximum rate allowed by law, is contracted for in writing and all contracts shall bear the same rate of interest after they become due as before.

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

Approved March 11, 1935.

### CHAPTER 158

H. B. No. 100—(Noben)

#### INTEREST RATE ON JUDGMENTS

An Act amending and re-enacting Section 6077 of the 1913 Compiled Laws of the State of North Dakota relating to the rate of interest on judgments.

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

§ 1. AMENDMENT.] That Section 6077 of the 1913 Compiled

Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 6077. JUDGMENTS BEAR 4% INTEREST.] Interest is payable on judgments recovered in the courts of this state at the rate of 4% per annum, and no greater rate, and such interest must not be compounded in any manner or form.

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

Approved March 13, 1935.

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## CHAPTER 159

H. B. No. 107—(Wolf)

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### DEFINING USURY

An Act to amend and re-enact Section 6073 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 140, Session Laws 1933, defining usury.

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

§ 1. AMENDMENT.] That Section 6073 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 274, Session Laws 1927, be and the same is hereby amended and re-enacted to read as follows:

§ 6073. USURY DEFINED.] No person, co-partnership, association, or corporation, shall directly or indirectly take or receive, or agree to take or receive, in money, goods or things in action, or in any other way, any greater sum or any greater value for the loan or forbearance of money, goods, or things in action, than seven per cent per annum, and in the computation of interest, the same shall not be compounded. Any violation of this section shall be deemed usury; provided, that any contract hereafter made, to pay interest on interest overdue shall be deemed usury.

Approved March 13, 1935.

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## IRRIGATION

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### CHAPTER 160

S. B. No. 226—(Committee on Irrigation and Drainage)

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#### COMPUTATION, ETC., COSTS FLOOD IRRIGATION PROJECTS

An Act to amend and re-enact Section 8320a13, 8320a14, 8320a19, 8320a20 and 8320a22 of the Supplement to the Compiled Laws of 1913 relating to flood irrigation projects, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 8320a13 of the Supplement

to the Compiled Laws 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8320a13. COMPUTATION, APPORTIONMENT AND TAXATION OF COSTS.] After the letting of such contracts such board shall make a computation of the cost of the projects which shall include all the expenses of locating and establishing the same, including the cost of right-of-way, the damages paid to land owners for any cause, the fees of the board, legal and other necessary expenses incurred under the authorization of the board, the costs of surveys, plans and specifications, interest on all warrants issued or to be issued by the board of flood irrigation on account of such project, accumulated or to accumulate prior to the time when the tax levied or to be levied to pay therefor is collectible by law, and all other expenses, together with the amount of all contracts let for the construction of same. The sum of all the costs and expenses thus incurred or to be incurred shall be the cost of the construction of such project.

After fixing the cost as hereinbefore set out the board of flood irrigation shall carry out upon the assessment list the specific amount which each lot or tract of land, benefited by the project for which the tax is levied, is liable to pay on account of procuring the same according to the per cent which by Section 9 hereof it is required to fix and determine.

Such list shall thereupon be filed in the office of the county auditor of the county in which the lands benefited are situated, and the auditor shall thereupon extend upon the tax list as a special tax as provided by law the several amounts shown by such list, specifying in such tax list the particular flood irrigation project for the construction or procurement of which the special tax is assessed, which special tax shall be collected and enforced in the same manner as other taxes.

§ 2. AMENDMENT.] That Section 8320a14 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8320a14. COLLECTION OF FLOOD IRRIGATION TAXES: PAYMENT OF EXPENSES.] The flood irrigation taxes shall be collected by the county treasurer, and all moneys so collected shall be credited to the flood irrigation fund to which they belong, and the county treasurer shall be the treasurer of such funds. Payment of all expenses and costs of locating and constructing any such project shall be made by the board of flood irrigation who shall issue warrants in such amounts and to such persons as by such board may be found due, which warrants shall be signed by the chairman and secretary. All such warrants, after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by the county treasurer, and shall thereafter bear interest at the rate of not to exceed six per cent per annum.

§ 3. AMENDMENT.] That Section 8320a19 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8320a19. LIABILITY OF MEMBERS OF FLOOD IRRIGATION BOARD.] Each board of flood irrigation shall make a report to the county commissioners of all projects begun, in process of construction or finished and shall also render a full account of all moneys which shall come into its hands; and every member of the board of flood irrigation shall be liable on his bond for any misapplication of money coming into his hands as such member of such board. The report required by this section shall include an itemized statement of all expenses and warrants drawn on account of each and every project.

§ 4. AMENDMENT.] That Section 8320a20 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8320a20. COMPENSATION OF MEMBERS OF THE BOARD.] The members of the board of flood irrigation shall receive for their services three dollars (\$3.00) per day for the time actually spent by them in the performance of the duties of their office. Any member or officer of the board may receive additional compensation for special services rendered to the board and under the authority of said board.

§ 5. AMENDMENT.] That Section 8320a22 of the Supplement to the Compiled Laws of 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 8320a22. BONDS: WHEN AND HOW AUTHORIZED.] The Board of County Commissioners of any county in which any such project is proposed to be located and constructed is hereby authorized and required to issue bonds upon the written request of the board of flood irrigation and which bonds shall be known as flood irrigation bonds, in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in obtaining the right-of-way or in locating or constructing any such project, said word "expenses" to be construed to mean and to cover every item of cost of said project from its inception to its completion as hereinbefore provided, which bonds shall be paid out of the revenues to be derived from taxes levied, or to be levied, and collected from that portion of the county found by the board of flood irrigation to be benefited thereby. Such bonds shall bear interest at a rate not exceeding seven per cent and interest and principal may be payable under the amortization plan for a period of not to exceed twenty years, or the principal may be divided in such amounts and payable at such periods, not exceeding twenty years, as the county commissioners may determine; provided, that any land owner who may desire to pay the entire amount assessed against his land for the entire

costs of such project, including warrants and interest thereon, may, prior to the sale of such bonds pay into the county treasury the amount of said assessments for which the treasurer shall give his receipt in full, and such lands shall not be included in the list of lands assessed. The county auditor shall give notice of the determination of the board of county commissioners to issue bonds by publishing a notice in the official newspaper of the county at least fifteen days before the date of selling said bonds. Said notice shall designate the project proposed to be bonded, and in general terms notify all persons interested of their right to pay their total assessment prior to the date of the sale of said bonds, as provided in this section. The money paid in shall be used to take up warrants, and the bonds issued shall be for such an amount as will pay the remainder of the cost of construction; and the said board shall provide sinking funds for the payment at maturity of each series of bonds issued and for the payment of the annual interest on the same if serial bonds are issued. If bonds on the amortization plan are issued, the board shall provide funds for the payment of each annual amortization maturity, both for the payment of interest and for the principal portion of said maturity.

The bonds issued under the provisions of this chapter shall be signed by the chairman of the board of county commissioners of such county and countersigned by the county auditor, who shall keep a record of the bonds issued under the provisions of this chapter. Such board shall have the power to negotiate such bonds at not less than the par value thereof as it may deem for the best interest of all persons interested in such project. Such bonds shall contain a recital that the same are issued in accordance with the provisions and pursuant to the authority of this chapter and that they are to be paid out of the sinking funds to be created as in this chapter provided, if issued serially. Whenever such bonds shall be issued the tax hereinbefore provided for shall not be collected all in one year, but shall be divided into parts corresponding with the amounts and maturities of the bonds and such parts shall be extended year by year upon the tax lists by the county auditor against the proper parcels of land and property liable to taxation for that purpose and collected in such year, and such fund shall constitute the sinking fund provided by this section. Should the bonds be issued and payable under the amortization plan of payment the tax hereinbefore provided for shall be divided into parts corresponding with the principal payment required to be made each year under the said amortization plan, and such parts shall be extended year to year upon the tax lists in the same manner and form as provided herein for the retirement of bonds issued with serial maturities.

§ 6. EMERGENCY.] Whereas it is highly necessary and expedient that this act shall go into immediate operation, this act is hereby declared to be necessary for the immediate preservation of the public peace, health and safety, and is an emergency measure

which shall be in full force and effect from and after the date of its passage and approval.

Approved March 13, 1935.

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## LABOR

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### CHAPTER 161

H. B. No. 196—(Solberg, Cunningham and Godwin)

#### LABOR DIVISION, DEPARTMENT OF AGRICULTURE AND LABOR

An Act providing for the creation and establishment of a Labor Division within the Department of Agriculture and Labor, and providing for the qualification and making provision for the appointment of a deputy within the Department of Agriculture and Labor, to represent Labor; establishing a State Employment Service in co-operation with the Federal Government under the provisions of the Wagner-Peyser Act. Providing payment of salaries and expenses and making an appropriation, and declaring an emergency.

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

§ 1. The Commissioner of Agriculture and Labor is hereby authorized and directed to create and establish a Labor Division within the Department of Agriculture and Labor. Administration and enforcement of all labor laws, rules and regulations under the direction of the Commissioner of Agriculture and Labor shall be placed in and with the Labor Division.

§ 2. The Commissioner of Agriculture and Labor is hereby authorized to set aside to the credit and use of the said Labor Division, from appropriations made by the Legislature for the operation of said Department of Labor, such funds as may be appropriated for the efficient maintenance and operation of said Labor Division.

§ 3. The regularly appointed Deputy Commissioner of Agriculture and Labor, as now provided by statute and for the payment of whose salary an appropriation has been made by the Legislature, shall be the official head of the Labor Division, but shall receive no additional fee or compensation for his services as such official head of the Labor Division hereby created.

§ 4. The Labor Deputy so appointed shall have been at least five years immediately preceding his appointment actively identified with labor in the State of North Dakota, shall be not less than thirty years of age, and shall have a practical knowledge of and experience in labor matters and labor relations.

§ 5. The State of North Dakota accepts the provisions of the

Wagner-Peyser Act, approved June 6, 1933 (48 Stat. 113, United States Code Title 29, Section 49), "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes," in conformity with Section 4 thereof, and will observe and comply with the requirements of said act.

§ 6. The Department of Agriculture and Labor of the State of North Dakota is hereby designated and constituted the agency of the State of North Dakota for the purposes of such act. The Commissioner of Agriculture and Labor is hereby given full power and authority to co-operate with all the authorities of the United States having powers or duties under such act all things necessary to secure to and for the State of North Dakota the benefits of such act in the promotion of a system of public employment office, and in conformity with the provision of Chapter 117 of the 1921 Session Laws being Sections 572a1 to 572a6 inclusive of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

§ 7. The Commissioner of Agriculture and Labor, in accordance with the regulations prescribed by the Director of the United States Employment Service, shall appoint the officers and other employees of the North Dakota State Employment Service. He shall fix the salaries or compensation and determine the period during which such employment office shall be in operation.

§ 8. All Federal funds made available to this state under said Act of Congress shall be paid into the General Treasury of this state, and said funds are hereby appropriated and made available to the Department of Agriculture and Labor to be expended as provided by said Act of Congress and this act. The compensation and expense of the officers and the employees of the North Dakota Employment Service shall be paid by the State Treasurer out of the State Employment Service fund upon vouchers approved by the Commissioner of Agriculture and Labor and the State Auditing Board.

§ 9. The sum of \$5,000.00 is hereby appropriated out of any moneys in the General Treasury not otherwise appropriated for the purpose of maintaining the public employment offices created under this act and for the purpose of co-operating with the United States Employment Service. Such appropriation together with the Federal funds made available to this state under the provisions of the Wagner-Peyser Act of Congress shall be set aside and designated by the State Treasurer as the "State Employment Service Fund."

§ 10. EMERGENCY.] This act is hereby declared an emergency and shall be enforced and in exact form after its passage and approval.

Approved March 12, 1935.

## CHAPTER 162

H. B. No. 286—(Godwin and Cunningham)

## MINIMUM WAGE AND HOURS FOR WOMEN WORKERS, TRANSFERRING ENFORCEMENT TO DEPARTMENT OF AGRICULTURE AND LABOR

An Act to amend and re-enact Sections 396b1, 396b2, 396b4, 396b5 and 396b10 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota, relating to the minimum wage and hours for women workers; transferring the duties for the enforcement of the said law from the Workmen's Compensation bureau to the Department of Agriculture and Labor; repealing all acts and parts of acts in conflict with this act and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 396b1 of the 1925 Supplement to the 1913 Compiled Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 396b1. DEFINITION.] The term "Commissioner" means the Commissioner of Agriculture and Labor. The term "minor" means a person of either sex under the age of eighteen years. The term "women" includes only women eighteen years of age or over. The term "occupation" includes a business, industry, trade or branch thereof, but shall not include agriculture or domestic service.

§ 2. AMENDMENT.] That Section 396b2 of the 1925 Supplement to the 1913 Compiled Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 396b2. POWERS OF DEPARTMENT.] The Commissioner of Agriculture and Labor is hereby authorized and empowered to ascertain and declare in the manner hereinafter provided the following things:

(a) Standards of hours of employment for women or minors and what are unreasonably long hours for women or for minors in any occupation within the state of North Dakota;

(b) Standards of conditions of labor for women or for minors in any occupation within the state and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of women or of minors in any such occupation;

(c) Standards of minimum wages for women in any occupation in the state and what wages are inadequate to supply the necessary cost of living to any such women workers and to maintain them in good health;

(d) Standards of minimum wages for minors in any occupation within the state of North Dakota and what wages are unreasonably low for any such minor workers;

(e) To prepare, adopt and promulgate rules and regulations for the carrying into effect of the foregoing provisions of this act, including rules and regulations for the selection of members and the mode of procedure of conferences;

(f) To employ any and all necessary help and assistance for the purpose of carrying out the provisions of this act and to fix their compensation and bonds, providing that the total amount of such compensation shall not exceed the amount appropriated therefor by the legislative assembly;

(g) To investigate and ascertain the wages and the hours of labor and the conditions of labor of women and minors in different occupations in which they are employed in the state of North Dakota.

(h) Either through any authorized representative or the Commissioner, to inspect and examine any and all books and payrolls and other records of any employer of women or minors that in any way appertain to or have a bearing upon the questions of labor or hours of labor or conditions of labor of any such women workers or minor workers in any of such occupations;

(i) To require from any such employer full and true statements of the wages paid to and the hours of labor and conditions of labor, of all women and minors in such employment.

§ 3. AMENDMENT.] That Section 396b4 of the 1925 Supplement to the 1913 Compiled Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 396b4. REGISTER OF NAMES.] Every employer of women or minors shall keep a register of the names of all women and all minors employed by him, and shall, on request, permit the Commissioner of Agriculture and Labor or any authorized representative of the Department of Agriculture and Labor to inspect and examine such register.

§ 4. AMENDMENT. That Section 396b5 of the 1925 Supplement to the 1913 Compiled Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 396b5. INVESTIGATIONS; WITNESSES; PROCURING ATTENDANCE; OATHS; FEES.] The Commissioner of Agriculture and Labor may hold public hearings at such times and places as he deems fit and proper for the purpose of investigating any of the matters as authorized to investigate by this act. At any public hearing any person interested in the matter being investigated may appear and testify. The Commissioner or his representative shall have power to subpoena and compel the attendance of any witness at any such public hearing or at any session of any conference called and held as hereinafter provided; the Commissioner or his duly authorized representative shall have power to administer an oath to any witness who testifies at any such public hearing or at any such session of any conference. All witnesses subpoenaed by said Commissioner, or duly authorized representative, shall be paid the same mileage and per diem as are allowed by law to witnesses in civil cases before the District Court.

§ 5. AMENDMENT.] That Section 396b10 of the 1925 Supple-

ment to the 1913 Compiled Laws be, and the same is, hereby amended and re-enacted to read as follows:

§ 396b10. QUESTIONS OF FACT; CONCLUSIVENESS OF COMMISSIONER'S DECISIONS; APPEAL.] All questions of fact arising under the foregoing provisions of this act shall except as otherwise herein provided, be determined by the Commissioner, and there shall be no appeal from the decision of the Commissioner on any question of fact; but there shall be a right of appeal from said Commissioner to the district court of Burleigh county, from any ruling or holding on the question of law included in or embodied in any decision or order of the said Commissioner, and, on the same question of law, from said district court to the supreme court of the state. In all such appeals the Attorney General shall appear for and represent said Commissioner.

§ 6. INTENT OF THIS ACT.] Wherever the word "Bureau" is used in Article 11b, Chapter 5, Political Code of the 1925 Supplement to the 1913 Compiled Laws being Sections 396b1 to 396b18 inclusive, it shall be construed and held to mean the Department of Agriculture and Labor and wherever the word "Commissioner" is used in the said chapter, it shall be construed and held to mean the Commissioner of Agriculture and Labor. It is the intention of this act to transfer all the powers and duties provided for in said Article 11b, Chapter 5, of the Political Code of the 1925 Supplement, from the Workmen's Compensation Bureau to the Department of Agriculture and Labor and the Commissioner of Agriculture and Labor is hereby vested with all the power and authority heretofore vested in the Workmen's Compensation Bureau and the Commissioner of Agriculture and Labor shall perform all the duties heretofore performed by said Workmen's Compensation Bureau in respect to the provisions of said Article 11b Chapter 5 of the Political Code of the 1925 Supplement.

§ 7. REPEAL.] All acts and parts of acts in conflict with the provisions of this act is [are] hereby expressly repealed.

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

Approved March 13, 1935.

# LIENS

## CHAPTER 163

S. B. No. 75—(Jones and Stucke)

### HOSPITAL AND CHARITABLE INSTITUTION LIENS

An Act to provide for liens in favor of hospitals and other charitable institutions furnishing care, treatment and maintenance of persons injured in accidents, not subject to the provisions of the Workmen's Compensation Act of North Dakota, for the reasonable value of the service so rendered, upon the rights of action, claims or demands of such injured persons, or judgments recovered thereon, against other persons, or corporations, liable in tort for damages, on account of negligence causing the injuries, and upon the proceeds of the settlements of any such claims or demands; and upon and against the insurer of such tort feisor or tort feors; and upon insurance held by the injured person, and providing for constructive notice upon such insurers, tort feors and their insurers, if any, by a filing of a lien statement with the Clerk of the District Court of the county in which such services are rendered.

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

§ 1. Every charitable association, corporation or other institution, maintaining a hospital in the state of North Dakota, shall, for hospitalization services rendered, be entitled to a lien upon any and all rights of action, claims or demands of such injured persons, or judgments recovered thereon against other persons or corporations, liable in tort for damages, on account of negligence causing the injuries, and upon the proceeds of the settlements of any such claims or demands and upon the insurer of such tort feisor or tort feors, for the reasonable value of the services so rendered to such injured person, and by serving notice of intention to file such lien upon the person or corporation liable for such damages, such notice to be served by registered mail or by personal service in the manner now provided for service of a summons, and upon filing at any time after the rendering of such services has commenced, or from time to time, as to services already rendered, as such institution may deem best, and at least within thirty days after such services have been rendered and completed, in the office of the Clerk of the District Court of the county in which such services were rendered, a lien statement, containing the name of the injured person to whom such services were rendered, and his address as shown upon the hospital records, the date of his admission, and if released at the time of the filing of such lien, the date of his release from the hospital, the name of the person or persons, corporation or corporations alleged or claimed to have been guilty of the negligence causing such injuries, and their addresses, if known, or ascertainable from the hospital records, the name of any person or corporation and their address if known or ascertainable from the hospital records, insuring such tort feisor or

tort feasons against liability on account of negligence, the name of any insurer covering the injured person, if known; an itemized statement of the hospital's charges, and the total sum claimed to be due, which said lien statement shall be signed in the name of the hospital or institution claiming such lien and verified on behalf of such institution by some person authorized so to do and possessing knowledge of the facts above required, such affidavit showing that the facts therein set forth are true to the best of the knowledge, information and belief of the person making such verification, and that the charges for services made are the reasonable and usual charges of such hospital or institution for such services, and that the sum claimed therein is due and unpaid, together with proof of service of the notice of intention to file a lien.

§ 2. The Clerk of the District Court wherein such lien with proof of service is filed shall endorse thereon the date and hour of filing, and make an abstract thereof in a book kept for that purpose, to be known as "The Hospital Lien Book," which book shall be properly indexed and shall contain the name of the hospital or institution filing such lien, the date and hour filed, the amount claimed, and the name of the person or persons, corporation or corporations against whom it is filed, and the name of the person to whom such services are rendered, and of any insurer of such injured person, and the number of the file or files where such original lien is kept. The hospital filing such lien shall pay to the Clerk of the District Court in which the lien claim is filed, the sum of fifty cents (50c) as the fee for filing and indexing each lien.

§ 3. Filing of such lien from the time thereof shall be constructive notice to all persons of the claim of said hospital and of its right to a lien upon any claim or demand or cause of action against such tort feasons and the insurer or insurers of such tort feasons, or an insurer of the injured person, and no release of any judgment, claim or demand by such injured person, shall be valid or effective as against such lien, and the person or persons, firm or corporation making any payment to such injured person, or his legal representative, as compensation for injuries sustained, as in settlement of a cause of action claimed to exist for negligence causing such injuries, or out of insurance carried by such tort feasons by the person or corporation furnishing such insurance, shall remain liable to such hospital for the amount of the reasonable charges due at the time of such payment to the extent of the full and true consideration paid or given to the injured person, and any such hospital or institution may enforce its lien by an action at law, against such person or persons, firm or corporation, tort feason or its insurer, by a civil action, provided that judgment obtained against such tort feason or insurer shall not prevent such hospital or institution from collecting the amount of its account against the person for whom said services were rendered, or his insurer, unless payment shall have been made by the

tortfeasor, or the insurer, to such hospital, and then only to the extent that such payment shall have been made.

§ 4. Upon the trial of any action for damages for personal injuries wherein it appears at the trial that services were rendered in hospitalization of the injured person, the court before whom such action is tried, shall require the Clerk of the District Court to search the records, for information as to whether a lien has been filed, and if such lien has been filed, mention of that fact shall be made in the judgment together with the amount claimed and in the event of the collection of such judgment under execution, upon the return of such execution, a sum equal to the amount claimed in said lien, shall be deposited with the Clerk of the District Court for payment of said lien, if the parties involved admit the facts set forth in said lien, provided that if such lien is contested, then such sum to abide the final event of an action to enforce the same, which action must be brought by such hospital or institution upon demand, following such deposit, of any of the parties interested, within sixty days after such demand.

§ 5. In the event that such injured person receiving hospitalization shall have a contract providing for indemnity or compensation for the sum incurred for hospitalization received by such injured person, such hospital shall have a lien upon the amount payable under said contract and the party obligated to make reimbursement for such hospitalization under such contract may pay the sum due thereunder directly to such hospital and such payment shall constitute a full release of the party making such payment under such contract to the amount of such payment; provided, however, that if the amount of the claim is contested, payment shall be made to the Clerk of the District Court and shall be subject to all of the terms and conditions stated in Section 4 hereof.

§ 6. Any person or persons, firm or corporation legally liable under this act and against whom a claim shall be asserted for compensation for such injuries, shall be permitted to examine the records of any such hospital which has filed such a claim in reference to such treatment, care and maintenance of such injured person.

§ 7. The provisions of this act shall not apply to any money becoming due under the Workmen's Compensation Act of the State of North Dakota.

§ 8. Action to enforce said lien shall be commenced within one year after the filing of such lien; except that in cases where the cause of action against tortfeasor or insurers shall not have become barred, or actions shall pend, involving the question of liability, then such lien shall continue effective until the final termination of such action or actions, and for a period of one year thereafter.

Approved March 6, 1935.

## CHAPTER 164

H. B. No. 313—(Bauer, Bettenhausen and Ritter)

### DESTRUCTION OUTLAWED LIENS BY REGISTER OF DEEDS

An Act authorizing and directing the register of deeds in the various counties to remove from their files and destroy outlawed seed liens, labor liens, stallion liens, chattel mortgages and threshing liens filed prior to January 1, 1920, and by reason of failure of renewal as by statute provided have become outlawed; requiring records to be kept.

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

§ 1. REGISTER OF DEEDS TO REMOVE WHAT.] That the register of deeds in the various counties in the State of North Dakota are hereby directed to remove from the files in their offices, and to destroy all seed liens, labor liens, stallion liens, chattel mortgages and threshing liens filed prior to January 1, 1920 and which by reason of the failure to renew the same by affidavit, or otherwise, have become outlawed and no longer constitute liens upon the property mentioned or described therein; such removal and destruction to be made on or before August 1, 1935, or as soon thereafter as conveniently possible.

§ 2. RECORD TO BE MADE.] At the time of destroying said files the register of deeds shall note on the margin of the index opposite the record of each instrument so removed and destroyed, the date when the same was destroyed.

Approved March 13, 1935.

## CHAPTER 165

H. B. No. 287—(Erickson of McKenzie)

### SUGAR BEET PRODUCTION LIEN

An Act creating and establishing a lien in connection with the planting, cultivation and harvesting of sugar beets, to be known as Sugar Beet Crop Production Lien, providing the manner in which such lien shall be perfected, the priority thereof, repealing all acts in conflict herewith, and declaring an emergency.

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

§ 1. SUGAR BEET PRODUCTION LIEN, WHO MAY HAVE.] Any person, association, co-partnership or corporation, who shall enter into a contract to furnish to another sugar beet seed to be planted, insecticide, fertilizer to be used upon the land so planted, labor in connection with the cultivation, harvesting and hauling thereof, as well as any cash advances made, or material or services rendered, or any part or portion thereof necessary in the production and harvest-

ing of sugar beet crops, shall be entitled to a lien upon the crop so raised for the full amount to become due under and in accordance with the terms and conditions of said contract.

§ 2. PROCEDURE TO OBTAIN LIEN.] Any person, association, co-partnership or corporation, entitled to a lien under this act shall, within sixty days from the date of entering into such contract file in the office of the register of deeds of the county in which such crop is to be grown a verified copy of such contract containing, among other things, the name and postoffice address of all parties to the contract and a description of the land upon which such crop is to be grown. Unless such contract shall be filed within the time aforesaid such person, association, co-partnership or corporation shall be deemed to have waived the right to such lien.

§ 3. PRIORITY.] The lien given by this act shall, as to the crops covered thereby, have priority over all other liens and encumbrances thereon.

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

§ 5. Whereas an emergency exists in that the Government Agencies hold that the present law affords no protection for loans therefore this act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 13, 1935.

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## MINING

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### CHAPTER 166

S. B. No. 122—(McDonald and Cain)

#### STATE COAL MINE INSPECTOR

An Act to amend and re-enact Sections 3084a2, 3084a3, 3084a7 and 3084a9, Supplement to the Compiled Laws of 1913, providing for the appointment of the State Coal Mine Inspector by the Workmen's Compensation Bureau, defining eligibility to that office, providing for assistance and instruments to be furnished to the inspector and for payment therefor and providing for the filling of temporary vacancies in the office, and declaring an emergency.

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

§ 1. Section 3084a2 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3084a2. OFFICE OF STATE COAL MINE INSPECTOR CREATED.] The Workmen's Compensation Bureau shall appoint one State Coal

Mine Inspector, qualified as hereinafter provided, who shall hold office at the will of such bureau.

§ 2. Section 3084a3 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3084a3. ELIGIBILITY TO OFFICE.] No person shall be eligible to the office of State Coal Mine Inspector unless he shall possess the following qualifications. He shall be a citizen of the United States and a resident of North Dakota for five years and shall have been actually employed at underground coal mining for a period of eight years prior to his appointment, shall have the qualifications of a mine foreman or pit boss, and shall possess a competent knowledge of all the different systems of coal mining and working and properly ventilating coal mines and the nature and constituent parts of noxious and explosive gases of coal mines and the various ways of expelling the same from the said mines.

§ 3. Section 3084a7 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3084a7. ASSISTANCE AND INSTRUMENTS TO BE FURNISHED TO INSPECTOR. EXPENSE.] For the more efficient discharge of the duties herein imposed upon him, the State Coal Mine Inspector, shall have the authority, with the approval of the Workmen's Compensation Bureau, to hire any and all necessary technical assistants and advisors to determine the condition, fitness and suitability of boilers and any and all other machinery or equipment of coal mines in the state which may affect the safety of the miners therein, such assistants and advisors to be paid from the coal mining safety fund.

State coal mine inspectors shall also be furnished, at the expense of the state, with an anemometer and whatever other instruments or appliances may be necessary in order to carry into effect the provisions of the acts regulating coal mines.

§ 4. Section 3084a9 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3084a9. TEMPORARY VACANCY IN OFFICE. HOW FILLED.] In case the State Coal Mine Inspector becomes incapacitated and cannot perform the duties of his office for a longer period than two weeks, it shall be the duty of the Workmen's Compensation Bureau to deputize some competent person having the qualifications provided in this act to fulfill the duties of the said inspector until the said inspector shall return to the performance of his official duties, and the person so deputized shall be paid by the state out of any moneys in the general fund of the state not otherwise appropriated, for the services rendered at the same rate as received by the State Coal Mine Inspector.

In case of the death, resignation, or removal from office of the State Coal Mine Inspector before the expiration of the term of office,

the Workmen's Compensation Bureau shall appoint a duly qualified person as provided in this act, to fill the vacancy for the unexpired term.

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

Approved February 21, 1935.

## CHAPTER 167

S. B. No. 123—(McDonald and Cain)

### COAL MINE LICENSE, SAFETY FUND, STATISTICS, ETC.

An Act providing for the procuring of coal mine licenses from the State Coal Mine Inspector, the establishment of the State Coal Mining Safety Fund from such fees and for the disbursement thereof, providing for the keeping and furnishing by coal mine operators of such records and statistics and reporting thereof to the State Coal Mine Inspector and Commissioner of Agriculture and Labor, giving the State Coal Mine Inspector power to revoke licenses and enjoin the operation of unlicensed mines, providing for an appeal to the District Court from such Order of Revocation, providing a penalty for failure to comply with the law, repealing Sections 3081, 3082, 3083 and 3084 of the Compiled Laws of the State of North Dakota for the year 1913 and all acts or parts of acts in conflict herewith and declaring an emergency.

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

§ 1. COAL MINE LICENSE, HOW PROCURED.] The operator of each and every coal mine operated in the state of North Dakota, and selling, bartering or exchanging coal with any other person, shall annually, on or before the 10th day of July, after the passage and approval of this act, procure a license from the State Coal Mine Inspector for which he shall pay a fee of \$5.00 for any mine producing less than 100 tons, and \$10.00 for any mine producing more than 100 tons, and less than two thousand (2,000) tons annually and \$20.00 for any mine producing two thousand (2,000) tons or more annually. The license period shall be from July 1st of one year to June 30th of the next, both dates inclusive. Provided, however, that no coal mine operator who is or will be an employer under the terms of the Workmen's Compensation Act, shall receive such license unless and until he shall have applied for Workmen's Compensation Insurance and such insurance is in effect.

§ 2. COAL MINE SAFETY FUND. SOURCE AND DISBURSEMENT.] The fees for coal mine licenses as required in Section 1 hereof shall be paid monthly by the State Coal Mine Inspector to the Treasurer of the State of North Dakota by whom they shall be deposited in a fund to be known as the Coal Mining Safety Fund. The mileage and

traveling expenses for safety work of the State Coal Mine Inspector and the expense of all assistance procured by him for the enforcement of this provision and of the coal mining code safety work shall be paid out of the said fund in the manner in which other funds of the state of North Dakota are disbursed upon vouchers approved by the State Coal Mine Inspector, providing that not more than three thousand dollars (\$3,000.00) in any one fiscal year may be expended out of the said fund for the said purposes. Any funds remaining in said Coal Mine Safety Fund over and above the three thousand dollars (\$3,000.00) which may be expended yearly under the provisions of this law shall on June 30 of each year immediately be transferred to the general fund.

§ 3. STATISTICS TO BE FURNISHED.] There shall be kept in a book, to be provided for that purpose at each mine operated as provided in Section 1, the following information: Name of the mine; its location; when it began business; by whom owned; by whom operated; number of tons of coal mined; number of men employed; wages paid by the day, week, month and year; the total cost of operating the mine; the total amount of coal sold and the price received therefor.

§ 4. REPORT TO STATE COAL MINE INSPECTOR AND COMMISSIONER OF AGRICULTURE AND LABOR.] It shall be the duty of all persons operating a mine within this state, as provided in Sections 1 and 3, to make a verified report to the State Coal Mine Inspector and a duplicate report to the Commissioner of Agriculture and Labor containing all the information to be kept by said mine operator, as provided in Section 3.

§ 5. POWER TO REVOKE LICENSE.] That [The] State Coal Mine Inspector shall have the right to revoke the license of any operator of a coal mine in this state for failure to comply with the reasonable requirements of the inspector relative to the coal mine of such operator or for being in default in premiums of Workmen's Compensation Insurance.

The said inspector may also enjoin, by proper legal proceedings, the operation of any coal mine without license.

§ 6. APPEAL FROM ORDER OF STATE COAL MINE INSPECTOR. REVOKING LICENSES.] Any operator of a coal mine whose license has been revoked by the State Coal Mine Inspector, under the provisions of this chapter, may appeal to the district court of any county in this state in which the mine for which the license has been revoked or any portion thereof is located, from the order revoking such license by serving notice of appeal and specifications of error upon the Coal Mine Inspector and filing such notice and specifications in the said district court within 10 days after the service upon the operator of the order of revocation, and upon perfecting such appeal by filing in such court a bond in a sum to be fixed by the judge thereof

the security thereof to be approved by the clerk of such court, for the payment of all costs on appeal, but no mine shall be operated during the pendency of such an appeal, unless otherwise ordered by said district court after notice given to said inspector.

§ 7. PENALTY FOR FAILURE TO COMPLY WITH LAW.] Every mine owner and operator who shall operate any coal mine without having a license as herein provided in full force and effect, or who shall wilfully fail, neglect or refuse to comply with the provisions of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of one hundred dollars (\$100.00), or imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment, as the court may determine.

§ 8. REPEAL.] Sections 3081, 3082, 3083 and 3084 of the Compiled Laws of the State of North Dakota for the year 1913 and all other acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 12. 1935

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## MORTGAGES

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### CHAPTER 168

S. B. No. 233—(Kolpin, Lemke and Green of Stutsman)

#### RENEWAL AND LIMITATION CHATTEL MORTGAGES

An Act to amend and re-enact Section 6762 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 175, Session Laws of 1927, relating to filing, renewal and limitations of chattel mortgages, and providing for the cancellation and satisfaction of same; and further providing for the repeal of all acts or parts of acts in conflict herewith and making the same an emergency measure.

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

§ 1. AMENDMENT.] Section 6762 Compiled Laws of North Dakota for the year 1913, as amended by Chapter 175, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

Section 6762. RENEWAL AND LIMITATION OF CHATTEL MORTGAGES.] Cancellation and Satisfaction. A mortgage of personal property ceases to be valid as against creditors of the mortgagor and subsequent purchasers and incumbrancers in good faith after the expiration of three years from the filing date thereof; provided, that

any such mortgage may be renewed for an additional period of three years from the expiration of said period, by filing anew in the office of the register of deeds in the county in which the mortgage was originally filed, an exact copy of the original mortgage together with a statement and affidavit of the exact amount of the then existing debt for which mortgagee, his agent or attorney or his assignees, claims a lien, sworn to and subscribed by him, his agent or attorney, within ninety days next preceding the expiration date of such term, or it ceases to be valid as against the parties above mentioned. Provided, further, however, that any chattel mortgage filed under the provisions of this act and any renewal thereof shall become void and cancelled of record as against all persons at the end of six years from the date of the filing of the original mortgage. All chattel mortgages or instruments of like nature shall be kept on file in the office of the register of deeds for a period of three years after the same have expired, and thereafter may be removed from the files and stored for safe-keeping.

Provided, further, that mortgages of personal property belonging to street car companies, telephone companies and telegraph companies need not be renewed; and provided, further, that trust deeds or other trust conveyances or instruments executed to secure bonds of corporations need not be renewed.

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

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval. This measure is declared to be an emergency measure for the reason that the law, as it stands, now relating to chattel mortgages as to the expiration and renewal thereof, and the filing and disposition thereof is too indefinite and uncertain as to what is intended, and has created a condition of confusion; and that an act is needed providing that all chattel mortgages shall expire after six years from the date of filing thereof.

Approved March 5, 1935.

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## CHAPTER 169

S. B. No. 297—(Brostuen)

### CANCELLATION CROP MORTGAGES AND BILLS OF SALE— ASSIGNMENT

An Act providing for the cancellation of record of certain chattel mortgages and certain written agreements relating to personal property, by the register of deeds, for cancelling certain bills of sale, requiring assignments of chattel mortgages to be filed before the filing

of affidavit of renewal or satisfaction, and repealing all acts in conflict therewith.

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

§ 1. It shall be the duty of the register of deeds of each county to cancel any and all crop mortgages appearing upon the records in such office that have been filed therein more than three years, except where the mortgage is given for the purchase price, in whole or in part, on sale of land.

§ 2. The register of deeds of any county in this state shall cancel and discharge upon the records in his office any bill of sale upon the filing of a release executed by both parties to the instrument.

§ 3. It is hereby provided that before the assignee of a mortgage, or any subsequent assignee or assignees, can file an affidavit of renewal or satisfaction of any chattel mortgage that has been filed in the office of the register of deeds, he shall first file such assignment or assignments of the mortgage to show full record title or ownership of the mortgage.

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

Approved March 7, 1935.

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## CHAPTER 170

S. B. No. 269—(Miklethun)

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### RELEASE, ETC., REAL ESTATE MORTGAGE, COMPANY G, 1st REGIMENT, NORTH DAKOTA NATIONAL GUARD TRAINING SCHOOL

An Act authorizing, directing and empowering the proper officials of the State of North Dakota to release, discharge and satisfy that certain real estate mortgage executed by "Company G," 1st Regiment, North Dakota National Guard Training School, a corporation, as mortgagor, to the State of North Dakota, dated January 25th, 1909, filed for record in the office of the Register of Deeds of Barnes County, North Dakota, on April 9th, 1909, at two o'clock P. M. and recorded in Book 43 of Mortgages on page 3, and covering Lot Sixteen (16) and the North Half (N½) of Lot Seventeen (17) in Block Seventeen (17) of the Original Plat of Valley City, North Dakota.

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

WHEREAS, the Company "G," 1st Infantry, North Dakota National Guard Training School was, on and prior to the 25th day of January, 1909, a corporation, organized and existing under the laws of North Dakota for the purposes and with the powers set forth in Chapter 35 of the Political Code (being Sections 2347 et seq., Com-

piled Laws for 1913) and was the owner of Lot Sixteen (16) and the North Half ( $N\frac{1}{2}$ ) of Lot Seventeen (17) of Block Seventeen (17) of the Original Plat of Valley City, North Dakota, upon which there was erected an armory building belonging to said corporation, and

WHEREAS, said corporation duly executed and delivered to the State of North Dakota, pursuant to Section 2416, Compiled Laws of 1913, its real estate mortgage dated January 25th, 1909, and filed for record in the office of the register of deeds of Barnes county, North Dakota, on the 9th day of April, 1909, at 2 o'clock p. m., and recorded in Book "43" of Mortgages, on page 3, and which said mortgage covered and was a lien upon the whole of the said premises, and

WHEREAS, the said armory building was destroyed by fire in the early spring of 1919, and it is now desired to obtain federal aid in the matter of the erection of a new armory upon the said premises, the said Company "G" 164th Infantry, being without armory facilities, and that to secure such a grant it is necessary that the said mortgage be discharged and released of record, therefore, be it enacted

§ 1. That the proper officials of the State of North Dakota be and they are hereby directed, authorized and empowered to release, satisfy and discharge that certain real estate mortgage executed by Company "G" 1st Regiment, North Dakota National Guard Training school, a corporation, as mortgagor to the State of North Dakota as mortgagee, dated January 25th, 1909, and filed for record in the office of the register of deeds of Barnes county, North Dakota, on April 9th, 1909, at 2 o'clock p. m., and recorded in Book "43" of Mortgages, on page 3 and covering upon Lots Sixteen (16) and the North Half ( $N\frac{1}{2}$ ) of Lot Seventeen (17) in Block Seventeen (17) of the Original Plat of the City of Valley City, North Dakota, insofar as said mortgage is a lien upon and affects said real estate therein described. Provided, however, that such mortgage shall only be discharged as provided herein, in the event there shall have been procured through federal aid a sufficient amount to insure financing the construction of a new armory upon these lots.

Approved March 12, 1935.

## CHAPTER 171

S. B. No. 40—(Bonzer)

RELEASE, ETC., WAHPETON MILITARY TRAINING SCHOOL  
REAL ESTATE MORTGAGE

An Act authorizing, directing and empowering the proper officials of the State of North Dakota to release, discharge and satisfy that certain real estate mortgage executed by the Wahpeton Military Training School as mortgagor to the State of North Dakota as mortgagee, dated October 4, 1910, filed for record in the office of the register of deeds of Richland county, North Dakota, on October 12, 1910 at 11:30 A. M. and recorded in Book 69 of Mortgages, at page 176, and covering Lots numbered Sixteen (16) and Seventeen (17) in Block Thirty-seven (37) of the Original Townsite of the City of Wahpeton, Richland county, North Dakota, insofar as said mortgage is a lien upon and affects said Lot Sixteen (16) but not otherwise and declaring an emergency.

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

WHEREAS, the Wahpeton Military Training School was, on and prior to the 4th day of October, 1910, a corporation, organized and existing under the laws of North Dakota for the purposes and with the powers set forth in Chapter 35 of the Political Code (being Sections 2347 et seq., Compiled Laws for 1913) and was the owner of Lots Sixteen (16) and Seventeen (17) of Block Thirty-seven (37), Original Townsite of City of Wahpeton, North Dakota, upon which said Lot Seventeen (17) there was erected an armory building belonging to said corporation, and said Lot Sixteen (16) was then vacant and unoccupied, and

WHEREAS, said corporation duly executed and delivered to the State of North Dakota, pursuant to Section 2416, Compiled Laws of 1913, its real estate mortgage dated October 4th, 1910, and filed for record in the office of the register of deeds of Richland county, North Dakota, on October 12th, 1910, at 11:30 o'clock a. m., and recorded in Book sixty-nine (69) of Mortgages, on page one hundred seventy-six (176) and which said mortgage covered and was a lien upon both said Lots Sixteen and Seventeen, and

WHEREAS, said corporation was unable to keep up the cost of operation and maintenance of said armory and the payment of special assessments upon both of said Lots Sixteen (16) and Seventeen (17) and therefore sold and disposed of said Lot Sixteen (16), and the purchaser erected a building thereon and has ever since been the owner and occupant of said Lot Sixteen (16), and has paid all the taxes thereon but said mortgage, to the State of North Dakota, has never been satisfied, released and discharged so far as said Lot Sixteen (16) is concerned, therefore,

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

§ 1. That the proper officials of the State of North Dakota be

and they are hereby directed, authorized and empowered to release, satisfy and discharge that certain real estate mortgage executed by Wahpeton Military Training School, a domestic corporation, as mortgagor to the State of North Dakota as mortgagee, dated October 4th, 1910, and filed for record in the office of the register of deeds of Richland county, North Dakota, on October 12th, 1910, at 11:30 o'clock a. m. and recorded in Book sixty-nine (69) of Mortgages, at page one hundred seventy-six (176) and covering Lots Sixteen (16) and Seventeen (17) in Block Thirty-seven (37), Original Townsite of Wahpeton, North Dakota, insofar as said mortgage is a lien upon and affects said Lot Sixteen (16), but not otherwise.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this bill shall be in full force and effect from and after its passage and approval.

Approved February 6, 1935.

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## MOTOR VEHICLES

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### CHAPTER 172

S. B. No. 164—(Thorson and Marshall)

#### MOTOR VEHICLE FUEL—DEALER'S LICENSE—TAX REFUND

An Act to amend and re-enact Section 4 (a) of Chapter 166 of the Session Laws of North Dakota for the year 1929, and to amend and re-enact Section 6 of Chapter 189 of the Session Laws of North Dakota for the year 1931, being an act to impose a tax upon the sale of motor vehicle fuels; providing for the collection of said tax, for reports of sales of such motor fuels, and for the disposition of the revenue derived therefrom; providing for the licensing and bonding of dealers in motor vehicle fuels and the revocation of such license; regulating the sale of such fuels and fixing penalties for the violation of this act. Repealing all acts or parts of acts in conflict with the provisions of this act.

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

§ 1. AMENDMENT.] That Section 4 (a) of Chapter 166 of the Session Laws of North Dakota for the year 1929 be and the same is hereby amended and re-enacted to read as follows:

Section 4 (a). It shall be unlawful for any dealer, as herein defined, to engage in business in this state as a dealer, unless such dealer is the holder of an unrevoked license issued by the State Auditor to engage in such business. To procure such license such dealer shall file with the State Auditor a sworn application upon a form prescribed and to be furnished by the State Auditor. Such application shall contain the name under which the applicant intends

to transact business; the names and addresses of the several persons constituting the firm or partnership; and if a corporation, the corporate name, the state where and time when incorporated, the name of its officers and directors; and if a foreign corporation, the name of its resident agent, the location of its place or places of business, the date such business was established; and any other information the State Auditor may require. Such application shall be signed and sworn to by the owner or owners of such business, if an individual, partnership or unincorporated association, and if a corporation, by the president and secretary thereof. At the time of applying for such license every applicant shall pay to the State Auditor as a license fee, the sum of two dollars; which fee shall be transferred to the State Treasury and there be credited to the general fund. The State Auditor may require any dealer as a condition precedent to the issuance of such license to furnish a bond guaranteeing the payment of the gasoline tax collected by such dealer, in an amount not less than \$1,000, if in the opinion of the State Auditor such bond is necessary to guarantee the payment of the tax collected by the dealer. Such bond shall be subject to the approval of the State Auditor as to sufficiency and form.

§ 2. AMENDMENT.] That Section 6 of Chapter 189 of the Session Laws of North Dakota for the year 1931 be and the same is hereby amended and re-enacted to read as follows:

Section 6. That any person or persons, firm or corporation who shall buy or use any motor vehicle fuel as defined in this act, for the purpose of operating and propelling stationary gas engines, tractors used for agricultural purposes, motor boats, airplanes or aircraft, or who shall purchase or use any of such fuel for lighting, heating, cleaning or dyeing or other commercial use of the same, except motor vehicles operated or intended to be operated, in whole or in part, upon any of the public highways in the State of North Dakota, on which motor fuel tax imposed by this act has been paid; shall be reimbursed and repaid the amount of such tax paid by him, on presentation to the State Tax Commissioner, on a form prescribed by the State Tax Commissioner, of a sworn statement setting forth the total amount of such fuel purchased and used by such consumer, other than in motor vehicles operated or intended to be operated upon any of the public highways in the State of North Dakota, and the purpose for which said motor fuel upon which he claims exemption from said tax was used, and such other information as the State Tax Commissioner shall require, and the State Tax Commissioner, upon the presentation of such sworn statement, together with the invoice or ticket hereinbefore provided for and marked paid, shall audit such claims for refunds and prepare, in duplicate, an abstract showing the claim number, the name, address and amount due each claimant, and shall certify to the State Auditor within fifteen days all claims entitled to approval; and the auditor shall pay the same immediately. Upon such certification the State Auditor shall issue his

check, payable to each consumer as shown by such certified abstract, from the taxes collected on motor fuels, the said taxes on fuels purchased or used for other than motor vehicles as aforesaid, and shall deliver, for mailing, said checks to the State Tax Commissioner; provided that no refund or repayment shall be made unless such claimant thereof shall make application therefor within twelve months from and after the purchase of such motor vehicle fuel; provided, further, that no refund of the tax shall be made when such motor fuel has been used for construction, reconstruction, or the maintenance of state or county highways. Applications for refunds or repayments shall not be made oftener than at the beginning of the quarter of each calendar year. The State Auditor shall furnish the Tax Commissioner with the information relating to the collection of the motor vehicle fuel tax and the Tax Commissioner shall withhold approval of any refund or repayment until the tax upon such motor vehicle fuel, on which refund or repayment is claimed, shall have been paid.

The Tax Commissioner shall have the power to formulate rules and regulations for the administration of this provision and shall require the assistance of the tax supervisors in the enforcement thereof.

Approved March 12, 1935.

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## CHAPTER 173

### S. B. No. 154—(Committee on Highways)

#### NON-RESIDENT MOTOR VEHICLES LICENSE

An Act to amend and re-enact Subsection (b) of Section 19 of Chapter 179 of the Session Laws of 1927 relating to taxation and licensing of motor vehicles, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subsection (b) of Section 19 of Chapter 179 of the Session Laws of 1927 be, and the same is hereby amended and re-enacted to read as follows:

Subsection (b) Except a non-resident owner of a foreign vehicle operated within this state for the transportation of persons for compensation shall register such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this state.

A non-resident owner of a foreign vehicle operated within this state for the transportation of property or merchandise for compensation shall register such vehicle and pay the \$5.00 interstate identification license plate and the truck mile tax as provided in Chapter 162 of the Session Laws of North Dakota for 1933. Providing, that upon said vehicle the regular and prescribed license fees for a ve-

hicle engaged in commercial hauling, has been duly paid in the place of residence of the owner of such vehicle and that plates for same are displayed on said vehicle, if under the law of the state of the residence of such owner like exemptions and privileges are granted to vehicles duly registered under the laws and owned by residents of this state.

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

Approved March 1, 1935.

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## CHAPTER 174

S. B. No. 85—(Miklethun)

### SERVICE UPON NON-RESIDENT MOTOR VEHICLE OPERATOR

An Act providing for means and method of obtaining service upon a non-resident using the highways of the State of North Dakota, and providing the time within which such defendant may answer.  
*Dakota:*

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

§ 1. SERVICE UPON NON-RESIDENT.] The use and operation by a non-resident or his agent of a motor vehicle upon and over the highways of the State of North Dakota, shall be deemed an appointment by such non-resident of the Commissioner of Insurance of the State of North Dakota, to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him growing out of such use or operation of a motor vehicle over the highways of this state, resulting in damages or loss to person or property, and said use or operation shall be a signification of his agreement that any such process in any action against him which is so served, shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by serving a copy thereof upon the Commissioner of Insurance or by filing such copy in his office, together with payment of a fee of \$2.00 and such service shall be sufficient service upon the said non-resident; provided, that notice of such service and a copy of the process are within ten days thereafter sent by registered mail by the plaintiff to the defendant at his last known address and return card requested and that the plaintiff's affidavit of compliance with the provisions of this act are attached to the summons.

§ 2. TIME TO ANSWER.] The Court in which the action is pending shall order such continuance as may be necessary to afford the defendant reasonable opportunity to defend any such action. The fee of two dollars paid by the plaintiff to the Commissioner of

Insurance at the time of service of such proceedings shall be taxed in his cost if he prevails in the suit. The said Commissioner shall keep a record of all such processes so served which shall show the day and hour of such service.

Approved March 5, 1935.

## CHAPTER 175

S. B. No. 264—(Bonzer, Watt and Eastgate)

### UNIFORM MOTOR VEHICLE OPERATOR'S AND CHAUFFEUR'S LICENSE

An Act relating to licensing of Motor Vehicle Operators and Chauffeurs and to the liability of certain persons for negligence in the operation thereof on public highways; fixing fee to be paid; providing for examination of applicant; providing for suspension or revocation of license; making disposition of fees collected; providing for penalty for violating act; repealing all acts in conflict herewith, and declaring an emergency; appropriation.

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

§ 1. DEFINITIONS.] The following words: "Motor Vehicle," "Farm Tractor," "Owner," "Operator," "Non-resident," "Public Highway," as used in this act shall be interpreted to have the meanings usually ascribed to them, except in those instances where the context clearly indicates a different meaning.

§ 2. DRIVER'S LICENSES.] Except as provided by Section 3 of this act, no person 16 years of age or over shall on and after this measure shall be in force and effect, operate any motor vehicle upon the public highways of this state unless such person shall have made application for and secured a driver's license from the State Highway Commissioner for which he shall pay to the Commissioner the sum of 25 cents, payable at the time of making such application. Provided, however, that when the license fee of 25 cents is paid by the head of a family, or household, licenses may be issued, upon application therefor, to each of the members of the immediate family of the head of said family, or household, on the payment of an additional fee of 10 cents for each such license. For the purpose of this act, the term "immediate family" is hereby defined to mean all persons bound together by the ties of relationship and parents and children living together as members of one household under one head. Such application shall be made upon a form approved by the Commissioner.

Provided, that no driver's license shall be issued to a resident of North Dakota who has purchased a Motor Vehicle after the taking effect of Senate Bill No. 313 of the 24th Legislative Assembly of the State of North Dakota (the sales tax act), unless such applicant shall produce satisfactory proof to the Commissioner that the North

Dakota sales tax has been paid upon the purchase of such motor vehicle owned and operated by such North Dakota resident. In the event such tax has not been paid by such applicant, the license may be issued by the Commissioner only upon such applicant paying in addition to the license fee hereinbefore required the sales tax in such amount as is provided in the sales tax law of the State of North Dakota. The Commissioner shall remit such sales tax payment to the proper officer of the state who is charged with the duty of collecting the sales tax and such officer shall credit such sum in the same manner as are other collections of sales tax under the laws of the State of North Dakota.

Every applicant shall state his name, age, sex, and resident address, and what experience he has had in operating a motor vehicle; that he is competent to operate a motor vehicle upon the public highways of the state; that he knows of no physical impairment or defect or any other act which would render him an improper and unsafe person to operate a motor vehicle. Every applicant shall also state whether or not he has been heretofore licensed, and if so, by what state, and whether or not the license has ever been suspended or revoked, and if so, the date and reason for such suspension or revocation, together with such other facts pertaining to the qualifications of the applicant and his ability to operate a motor vehicle with safety, as may be required by the Commissioner. Thereupon license shall issue as of course.

To every person granted a license the Commissioner shall issue a certificate of license which shall bear thereon the distinguishing number assigned to the license and shall contain the name, age, sex and residence address, and a space where such person shall write his usual signature with pen and ink.

§ 3. EXEMPTIONS.] Every person driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn or moved upon the highways, and every person in the service of the Army, Navy, or Marine Corps of the United States when furnished a driver's permit and operating an official motor vehicle in such service, shall be exempted from license under this act.

§ 4. STATE HIGHWAY COMMISSIONER TO ADMINISTER ACT.] The State Highway Commissioner shall be charged with the responsibility for the administration and execution of this act.

§ 5. CLERK OF COURT MAY RECEIVE APPLICATIONS.] Any applicant for a license may file his application with the Clerk of the District Court or the sheriff of the county in which he resides and such clerk or sheriff is hereby authorized to receive and accept the same upon the payment by the applicant to such clerk or sheriff of an additional fee of ten cents for such service. The clerk or sheriff shall then immediately forward such application to the Commissioner, together with the fee of 25 cents.

§ 6. PERSONS UNDER SIXTEEN YEARS OF AGE NOT TO BE LICENSED.] No operator's license shall be granted to any person under the age of sixteen years except that upon a written request of a parent or guardian a minor's license may be issued to any person between the ages of 14 and 16 years. But only upon the recommendation of the official to whom the application for license shall be made.

§ 7. NON-RESIDENTS NEED NOT HAVE LICENSES.] During the period within which a motor vehicle of a non-resident may be operated in this state in accordance with law, such motor vehicle may be operated by its owner or a member of his family without a license, provided such owner and members of his family have fully complied with the laws of the state of their residence regarding the operation of motor vehicles. Such motor vehicles shall at all times display the license number plates issued therefor at the home state or county of the owner.

§ 8. MUST CARRY CERTIFICATE.] The licensee shall have his certificate of license in his possession while operating a motor vehicle upon the public highways of this state. Said certificate of license shall be subject to examination upon demand by any peace officer or by any officer authorized by law to enforce the laws relating to the operation of motor vehicles on the highways, and the licensee shall, upon request of any such officer, write his name in the presence of such officer in order that the identity of the licensee may be determined. It shall be a complete defense to any charge under this section that the person so charged produce in court an operator's certificate of license theretofore issued to such person and valid, or produce evidence that he had made application therefor; that he had not received his certificate; but same had not been denied, at the time of his arrest. If a certificate of license issued under the provisions of this act shall be lost or destroyed, the person to whom the same was issued may obtain a duplicate or substitute therefor upon furnishing satisfactory proof that such license has been lost or destroyed, and upon the payment of a fee of 25 cents.

§ 9. COURTS TO CERTIFY CONVICTIONS TO COMMISSIONER.] Every court having jurisdiction of offenses committed under this act or any law of this state regulating the operation of motor vehicles on public highways shall certify to the Commissioner a record of the conviction of any person in said court for a violation of any of said laws, and may recommend the suspension of the license of any person so convicted. The Commissioner acting upon such recommendation may suspend such license, but such suspension shall not be for a period of more than one year. Upon suspending the license the Commissioner shall require that the certificate of license be surrendered to him. At the end of the period of suspension the certificate of license shall be returned to the licensee.

§ 10. COMMISSIONER TO REVOKE LICENSE.] (a) The Com-

missioner shall forthwith revoke the license of any person and require that the certificate of license be returned to him, upon receiving a record of the conviction of such person of any of the following offenses:

(1) Manslaughter resulting from the operation of a motor vehicle.

(2) Driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug.

(3) Any crime punishable as a felony under the motor vehicle laws of this state or any other felony, in the commission of which a motor vehicle is used.

(4) Conviction of forfeiture of bail upon two charges of reckless driving all within the preceding twelve months.

(5) A conviction of a driver of a motor vehicle, involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of the accident.

(6) The Commissioner upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of such person is suspended, shall immediately extend the period of such first suspension for an additional like period.

§ 11. COMMISSIONER MAY SUSPEND LICENSE.] (a) The Commissioner may immediately suspend the license of any person for a period of ninety days without hearing and without receiving a record of conviction of such person of crime, whenever he has reasons to believe:

(1) That such person has committed any offense for which mandatory revocation of license is provided in Section 10.

(2) That such person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(3) That such person is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive a motor vehicle upon the highways. Provided, that deafness in itself shall not be deemed to be physical infirmity or disability in a driver.

(4) That such person is an habitual reckless or negligent driver of a motor vehicle or has committed a violation of the laws of this state relating to the operation of motor vehicles.

§ 12. MUST NOTIFY LICENSEE.] (a) Whenever the Commissioner suspends the license pursuant to the provisions of Section 11 hereof, he shall immediately notify the licensee and afford him an opportunity of a hearing in the county wherein the licensee resides, or in the case of a non-resident, in the county in which such non-resident may be temporarily residing, and upon such hearing the Commissioner shall either rescind his temporary order of suspension

or, good cause appearing therefor, may continue such suspension in effect for a period not exceeding 90 days.

(b) The Commissioner is hereby authorized to suspend or revoke the license of any resident of this state upon receiving a record of the conviction of such person in another state of an offense therein committed which, if committed in this state, would be grounds for the suspension or revocation of the license of the operator. The Commissioner is further authorized upon receiving a record of the conviction in this state of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(c) The Commissioner shall not suspend a license for a period of more than one year and upon suspending or revoking any license shall require that such license, so suspended or revoked, shall be surrendered except that at the end of the period of suspension, such license shall be returned to the licensee.

§ 13. SUSPENDED LICENSEE MAY APPEAL TO COURT.] Any person whose license has been suspended by the Commissioner, may file a petition within thirty days thereafter for a hearing in the matter in the District Court in the county wherein such person shall reside, and in the case of a non-resident, in the District Court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon ten days' written notice to the Commissioner and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to suspension of license under the provisions of this act and shall render judgment accordingly.

§ 14. MAY APPLY FOR NEW LICENSE AFTER ONE YEAR.] Any person whose license has been revoked under the provisions of Section 10 hereof may, after one year from the date of such revocation, petition the District Court of the County wherein he resides, or, in case of a non-resident, the District Court of any county, for an order directing the Commissioner to issue a certificate of license to him. The district court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon 10 days' written notice to the Commissioner. At the hearing the court shall take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license and shall make its order, granting or denying the petition. If the petition is granted, the Commissioner, upon receipt of a certified copy of the order of the court, shall issue such license. If the petition is denied, no renewal thereof shall be made during the period of one year from the date of the order of the court.

§ 15. MISDEMEANOR TO OPERATE MOTOR VEHICLE AFTER SUS-

PENSION OF LICENSE.] Any person whose operator's license has been suspended or revoked as provided by this act, and who shall drive any motor vehicle upon the highways of this state while such license is suspended or revoked or who shall violate any of the other provisions of this act shall be guilty of a misdemeanor.

§ 16. FEES TO BE PAID INTO THE STATE TREASURY: HOW APPROPRIATED AND DISTRIBUTED.] All moneys received under the provisions of this act shall be monthly paid by the State Highway Commissioner into the State Treasury and the same is hereby appropriated out of the State Treasury to the following purposes: the first ten thousand (\$10,000.00) dollars collected annually, is hereby appropriated into a fund to be known as the "Special Drivers' License Fund" to be used by the State Highway Commissioner in carrying out the provisions of this act. The next five thousand (\$5,000.00) dollars collected annually, is hereby appropriated into a special fund to be used by the Superintendent of Criminal Identification, as a special fund, hereby created as the "Criminal Identification Fund" for use in paying salaries and operating expense of the work of Criminal Identification, as provided by Chapter 116 of the Session Laws of 1929, and acts amendatory thereof; the balance of such moneys so received or so much thereof as is necessary shall be and is hereby appropriated to the Police Patrol Fund of the state.

§ 17. STATE HIGHWAY COMMISSIONER MAY APPOINT AGENT.] Any duties required of, or powers conferred on the State Highway Commissioner under the provisions of this act may be done and performed or exercised by any of his duly authorized agents.

§ 18. PROVISIONS SEPARABLE.] If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act.

§ 19. INCONSISTENT ACTS REPEALED.] All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

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

Approved March 13, 1935.

## CHAPTER 176

H. B. No. 174—(House State Affairs Committee)

## MOTOR VEHICLE REGISTRATION

An Act to amend and re-enact Sections 9, 11 and 36 of Chapter 179 of the Session Laws of North Dakota for the year 1927 as amended by Sections 4, 5 and 12 of Chapter 160 of the Session Laws of North Dakota of 1933; having to do with the application for registration of motor vehicles, duties of registrar, registration cards and certificate of application for license made.

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

§ 1. AMENDMENT.] That Section 9 of Chapter 179 of the Session Laws of North Dakota for 1927 as amended and re-enacted by Section 4 of Chapter 160 of the Session Laws of 1933, be and the same is hereby amended and re-enacted to read as follows:

§ 9. APPLICATION FOR REGISTRATION; DUTIES OF REGISTRAR.]

(a) Application for the registration of a vehicle required to be registered hereunder shall be made by the owner thereof upon the appropriate forms approved or furnished by the Registrar and every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the engine and serial number whether new or used and the last license number if known, and the state in which issued and, upon the registration of a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain such other information as may be required by the Registrar.

(b) In the event that the vehicle, for which registration is applied, is a specially constructed, reconstructed or foreign vehicle, such fact shall be stated in the application, and with reference to every foreign vehicle which has been registered theretofore outside of this state, the owner shall exhibit to the Registrar the certificate of title and registration card or other evidence of such former registration as may be in the applicant's possession or control or such other evidence as will satisfy the Registrar that the applicant is the lawful owner or possessor of the vehicle.

(c) LOST CERTIFICATES OR NUMBER PLATES—DUPLICATES TO BE OBTAINED.] In the event that any number plate or registration card issued hereunder shall be lost, mutilated or shall have become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the department and upon payment of the required fees.

§ 2. AMENDMENT.] That Section 11 of Chapter 179 of the Session Laws of 1927 as amended and re-enacted by Section 5 of Chapter 160 of the Session Laws of 1933 be and the same is hereby amended and re-enacted to read as follows:

§ 11. REGISTRATION CARDS.] (a) The Registrar, upon registering a vehicle, shall issue to the owner a registration card which shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner, also a description of the registered vehicle, including engine number thereof, and with reference to every new vehicle hereafter sold in this state, the date of sale by the manufacturer or dealer to the person first operating such vehicle; and such other statement of facts as may be determined by the Registrar.

(b) The registration card shall contain upon the reverse side a form for endorsement of notice to the Registrar upon transfer of the vehicle.

(c) The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon the face of such card.

§ 3. AMENDMENT.] That Section 36 of Chapter 179 of the Session Laws of 1927 as amended by Section 12 of Chapter 160 of the Session Laws of 1933 be and the same is hereby amended and re-enacted to read as follows:

§ 36. The possession of a certificate made out by the notary public who took acknowledgment of the original application where such certificate shows date of application, make and model of car, and the manufacturer's number of the motor vehicle which such application describes and that he personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with the motor vehicle law with reference to the motor vehicle therein described for a period of fifteen days from the date of such application.

Approved March 7, 1935.

## CHAPTER 177

H. B. No. 325—(Marks, by request)

### DISTRIBUTION MOTOR VEHICLE REGISTRATION FUND

An Act relating to the distribution of the Motor Vehicle Registration Fund.

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

§ 1. AMENDMENT.] That Section 30, Chapter 160, Session Laws of North Dakota for 1933, be amended and re-enacted to read as follows:

§ 30. Any monies in the Registration Fund accruing after January 1st, 1936, from license fees issued during the year 1936,

or from other like sources, in excess of the amount required to pay salaries and other necessary expenses of said fund, shall be quarterly transferred and credited by the State Treasurer as follows: 50 per cent to the State Highway Department and 50 per cent to the counties of the State of North Dakota; provided, that prior to said January 1st, 1936, all such net monies shall be paid over as provided in said Section 30, Chapter 160, Session Laws of North Dakota for 1933.

Approved March 13, 1935.

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## CHAPTER 178

H. B. No. 298—(Treffry)

### SAFETY SHATTER PROOF GLASS FOR TAXIS, ETC.

An Act requiring safety shatter proof glass in taxis, passenger and automotive busses.

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

§ 1. No tax, passenger or automotive school bus, manufactured or assembled subsequent to the 1st day of July, 1935, not equipped with safety shatter proof glass, shall be used, sold, purchased or leased for the use of transporting persons for hire, or otherwise, within the State of North Dakota.

§ 2. PENALTY.] Any person, firm or corporation, including school boards and boards of education, who shall violate any of the terms or provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars or more than one hundred dollars.

Approved March 5, 1935.

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## CHAPTER 179

S. B. No. 156—(Committee on Highways)

### DEFINING AUTO TRANSPORTATION COMPANY

An Act to amend and re-enact Subdivision (d) of Section 1 of Chapter 188 of the Session Laws of 1931, relating to regulations of motor vehicle transportation, and declaring an emergency.

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

§ 1. AMENDMENT.] That subdivision (d) of Section 1 of Chapter 188 of the Session Laws of 1931 be, and the same is hereby amended and re-enacted to read as follows:

Subdivision (d) The term "auto transportation company" when used in this act means every corporation or person, their lessees,

trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails, used in the business of transporting persons and/ or property for compensation over any public highway in this state as a common carrier, including any individual, co-partnership, company or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating over the highways of the state in transporting goods, from one point to another for themselves or others where the price of said merchandise at its point of destination includes the costs of transportation or when a separate charge is made for said transportation. This act shall not apply to retailers engaged in delivering only gas and gas products from the bulk station directly to the farmer. Provided, that the term "auto transportation company" as used in this act shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever insofar as they own, control, operate or manage busses, taxicabs, or transfer trucks operated exclusively within two miles of incorporated limits of any city, town or village, school busses wherever operated, motor propelled vehicles operated exclusively in transporting agricultural, horticultural, livestock or dairy or other farm products from the point of production to or from the market; or incidental hauling of products other than agricultural, where no charge is made therefor; nor shall this include hauling farm products to or from a railway station in his farming territory, or rural mail carriers employed by the United States Government, nor to anyone not licensed as an auto transportation company hauling native or lignite coal from the mine to the consumer, provided that he does not haul to exceed 15 miles from the point of production; nor to farmers hauling lignite coal regardless of the distance hauled, provided such hauling is done for other farmers and in exchange for work and not for cash.

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

Approved March 22, 1935.

## CHAPTER 180

S. B. No. 177—(Bonzer)

## ADDITIONAL FEES COMMERCIAL MOTOR VEHICLES

An Act to amend and re-enact Subdivision (c) of Section 25 of Chapter 186, Session Laws of 1931, as amended by Chapter 160 of the Session Laws of 1933, relating to taxation and licensing of motor vehicles and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision (c) of Section 25 of Chapter 186, Session Laws of 1931, as amended by Chapter 160 of the Session Laws of 1933 be, and the same is hereby amended and re-enacted to read as follows:

Subdivision (c). For motor trucks used for commerce freighting in addition to the factors mentioned in paragraph (b) of this act an additional fee of \$25.00 per vehicle shall be charged and the funds collected from said additional fee of \$25.00 shall be paid into the auto transportation fund as provided by Chapter 188 of the Session Laws of 1931 and shall be expended as so provided.

Provided, that any passenger motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon actual weight as determined by the Registrar from satisfactory proofs submitted to him and that any truck not having a manufacturer's advertised load capacity, shall pay a license fee in accordance with the schedules herein provided and applicable thereto upon its load capacity, as determined by the Registrar upon satisfactory proofs submitted to him, and that any truck, however constructed, having a manufacturer's advertised load capacity of ten tons or over, if permitted to operate on the highways of this state, shall pay a license fee of fifteen hundred dollars (\$1,500.00); provided, further, that there shall be paid as a license fee for any vehicle used as a motor bus in the transportation of persons for hire over the highways of this state with a seating capacity of more than seven passengers, in addition to the regular weight fee as charged for passenger cars, except motor passenger busses operating exclusively within the corporate limits of any town or city, an annual additional license fee of eight and no/100ths dollars for each passenger capacity in excess of seven, and for this class of motor vehicles the Registrar shall designate a distinctive number and plate; but, if upon a satisfactory showing made to the Registrar that the operation of such motor bus is seasonal only, requiring the use of the equipment for less than six months in any year, notice of which seasonal use shall be given the Registrar when the original license fee last hereinbefore provided is paid, shall be, upon order of said Registrar, one-half of the annual additional license fee provided for herein, and one-half of the regular weight fee, and the license plate

issued for such motor bus shall be by the owner of such vehicle returned to the Registrar at the end of said season.

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

Approved March 7, 1935.

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## CHAPTER 181

S. B. No. 88—(Bonzer)

### DEFINING COMMERCIAL FREIGHTING

An Act to amend and re-enact Subdivision (e) of Section 1 of Chapter 161, Session Laws of 1933 relating to taxation and licensing of motor vehicles, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision (e) of Section 1 of Chapter 161, Session Laws of 1933 be, and the same is hereby amended and re-enacted to read as follows:

Subdivision (e). COMMERCIAL FREIGHTING DEFINED.] Commercial freighting shall mean the carriage of things other than passengers, for hire, except within the limits of the same city, village or town; providing that local dray lines carrying baggage or goods to or from a railroad station from or to places in said city, village or town or in the immediate vicinity thereof, in this state and not to exceed two miles from the corporate or recognized limits of said city, village or town, shall not be construed to be engaged in commercial freighting hereunder. Provided, further, that commercial freighting, as defined in this act, shall not include hauling done for farmers in transporting agricultural products to or from market, nor shall this include anyone hauling farm products to or from a railroad station in his farming territory; or incidental hauling of products other than agricultural where no charge is made therefor. Provided further that commercial freighting as defined in this act shall include any individual, co-partnership, company or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating over the highways of the state in transporting goods, from one point to another for themselves or others where the price of said merchandise at its point of destination includes the cost of transportation or when a separate charge is made for said transportation. This act shall not apply to retailers engaged in delivering only gas and gas products from the bulk station directly to the farmer, nor to anyone not licensed as a commercial freighter hauling native or lignite coal from the mine to the consumer, provided that he does not haul to exceed 15 miles from the point of production, nor to farmers hauling lignite coal regardless

of the distance hauled, provided such hauling is done for other farmers and in exchange for work and not for cash.

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

Approved March 12, 1935.

## CHAPTER 182

S. B. No. 119—(Bonzer)

### MOTOR CARRIER INSURANCE LIABILITY, ETC.

An Act to amend and re-enact Sections 26, 27, 31, 32, and 33 of Chapter 164, of the Session Laws for 1933, relating to regulation of motor vehicle transportation, repealing all acts or parts of acts in conflict herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Sections 26, 27, 31, 32, and 33 of Chapter 164 of the Session Laws of 1933 be amended and re-enacted to read as follows:

§ 26. INSURANCE OR BONDS REQUIRED: LIABILITY OF INSURER AND SURETY: TRIAL.] The commission shall in granting a certificate to any common motor carrier and in granting a permit to any contract carrier, require the owner or operator to first procure either liability and property damage insurance or a surety bond, to be approved by the commission as to the form, sufficiency, and surety thereof, and written by a company authorized to write such insurance in the State of North Dakota, in an amount to be designated by the commission. The conditions of this liability insurance or surety bond shall be such as to guarantee the payment of any loss or damage to property, or death or injury to persons, resulting from the negligence of such carrier. In any action for damages resulting from the negligence of such carrier, the insurer or surety shall not be joined as a party defendant, nor shall the fact of the ultimate liability of such insurer or surety be disclosed, or commented on to the jury; but upon final judgment the insurer or surety shall become directly liable to the owner of such judgment for the full amount thereof, but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each insurance policy, or bond so required, shall be filed with the commission and kept in full force and effect, and upon the failure to do so the certificate or permit shall be revoked and cancelled. The commission shall also require the owner or operator to first procure a surety bond, written by a company authorized to write such bond in the State of North Dakota, in an amount to be designated by the commission, to guarantee the payment by the carrier to the shipper or its agent, of all cash (or

collect) on delivery charges collected by said carrier in connection with the operation or conduct of his or its business as such common motor carrier or contract carrier.

§ 27. It shall be unlawful for any common or contract carrier, its officers or agents, subject to this act, transporting either intrastate or interstate commerce, to require or permit any driver or his helper to drive or operate a motor vehicle or remain on duty for a longer period than ten consecutive hours and whenever any such operator or driver of such a carrier shall have been continuously on duty for ten hours he shall be relieved and not be required or permitted again to go on duty until he has had at least ten consecutive hours off duty, and no such operator or driver who has been on duty ten hours in the aggregate in any 24-hour period, shall be required or permitted to continue or again go on duty without having had at least ten consecutive hours off duty; provided, that the provisions of this section shall not apply in any case of casualty or unavoidable accident or the Act of God, nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of such operator or driver at the time said operator or driver left a terminal and which could not have been foreseen.

It shall be unlawful for any common or contract motor carrier, its officers or agents subject to this act, transporting either intrastate or interstate commerce, to employ any driver or helper to operate its motor vehicles who is not of the age of 21 years or over, and who has not normal vision and hearing. No person shall be employed as such driver or helper by any common carrier or contract motor carrier who has any physical defects or disease which will in any way affect his ability to operate a motor propelled vehicle upon the public highways without danger to the public use of said highways.

The commission, for the purpose of enforcing this section, shall require all such carriers to make quarterly reports which shall show the names and ages of its drivers, and/or helpers, the routes over which they drove, the length of time each such employee was on duty and off duty, and such other information as the commission may need for the enforcement of this section.

Every applicant for the position of driver of a motor vehicle licensed under this act shall submit to a medical examination and procure a certificate from some reputable medical doctor showing that he has examined such applicant and that he is in good health and good physical condition, and said certificate shall especially show that said applicant has good eyesight and is qualified and capable of driving and operating a motor vehicle on the highways of North Dakota in the transportation business, so far as physical condition is concerned. Such physical examination shall be renewed annually thereafter and a certificate as to condition of the driver issued thereon. No driver shall be permitted to operate a motor vehicle on the highways of this state for a common or contract carrier without sub-

mitting to the foregoing examination and without the doctor's certificate as provided for herein, showing that he is in fit physical condition to operate such motor vehicle. Such certificate shall at all times be kept in a conspicuous place in the vehicle while being operated by such driver.

§ 31. CERTIFICATES AND PERMITS ISSUED.] Certificates and permits issued to carriers by the commission under this act shall remain in force and effect subject to the regulatory and annual fee provisions of said act, and subject to all limitations and requirements thereof. Such certificate and/ or permit shall be transferable only upon approval by the Board of Railroad Commissioners, upon due hearing, giving notice to all interested parties of sufficient length to enable them to attend such meeting.

§ 32. VIOLATION OF PROVISIONS.] Every officer, agent and employee of any corporation, person or co-partnerships and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of this act, or who fails to obey, observe or comply with any of the rules or regulations, or of any part or provision hereof, shall be guilty of misdemeanor and upon conviction shall be punished by a fine of not to exceed \$100.00, or by imprisonment in the county jail not to exceed 30 days, or both such fine and imprisonment.

§ 33. It shall be the duty of all peace officers of the state to make arrests, and the duty of all state's attorneys, to prosecute all violations of this act; an inspector or inspectors shall be appointed by the commission with all the powers of peace officers to enforce the provisions of this act in any part of the state, said inspectors to be paid as part of the expense of operating the commission. Upon written request of the commission it shall be the duty of the attorney general to prosecute or assist in the prosecution of any person or persons alleged to have violated any provision of this act, or any rule laid down by the commission under the act, and it shall be the duty of the Board of Railroad Commissioners, together with its officers and employees, to assist in the enforcement of this act and to institute or cause to be instituted, prosecutions for the violation of any of the provisions hereof.

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

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

Approved March 4, 1935.

## CHAPTER 183

H. B. No. 328—(Gilbertson)

### TRANSFER LICENSE TAGS COMMERCIAL FREIGHTING TRUCKS

An Act for the transfer of license tags required for trucks engaged in commercial freighting, as provided by sub-division C of Section 5 of Chapter 186 of the Session Laws of 1931, to another truck owned by the same license holder, upon the sale or destruction of such commercial freighting truck, so licensed; prohibiting automobile dealers from permitting the use of a dealers license by another dealer and providing penalty therefor.

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

§ 1. TRANSFER COMMERCIAL FREIGHTING TRUCK LICENSE TAGS, WHEN PERMITTED.] Any owner of a truck licensed for commercial freighting and who has paid the additional annual fee of twenty-five (\$25.00) dollars upon such commercial freighting truck, as provided by sub-division C of Section 5 of Chapter 186 of the Session Laws of 1931, shall have the right to use the commercial freighting truck license tags procured through such payment, upon the sale or destruction of such truck so licensed, upon another truck owned by such licensee, during the balance of the year covered by such commercial trucking license.

§ 2. USE OF AUTOMOBILE DEALERS LICENSE. WHEN.] Any automobile dealer who permits any other automobile dealer to use his dealers license, or permits the use of such license for the benefit of any other dealer, shall have his dealers license revoked and shall be subject to a fine of not less than fifty (\$50.00) dollars or more than two hundred (\$200.00) dollars.

Approved March 12, 1935.

## CHAPTER 184

S. B. No. 91—(Bonzer)

### POSTING INTERSTATE CARRIER ROAD TAX RECEIPT

An Act requiring issuance of receipt for road tax paid interstate carriers, and requiring posting of receipts, and providing a penalty for violation thereof, and declaring an emergency.

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

§ 1. RECEIPTS ISSUED: TO BE POSTED.] Upon payment of the road tax by operators engaged in interstate commerce within the meaning of Chapter 162 of the Session Laws of 1933, there shall be issued to said operator a receipt for said tax by the Registrar of Motor Vehicles and said receipt shall be delivered or mailed to the person, firm or corporation making such payment; immediately upon

receipt of such evidence of payment, the same shall be posted in a conspicuous place in the motor vehicle operated upon the highways of North Dakota by reason of said payment and shall be kept so posted until the time for which said tax has been paid shall have expired. Said operator shall likewise receive and post each successive receipt as above provided, and it shall be unlawful to operate any motor vehicle upon which a tax is imposed under the provisions of the Chapter 162 of the Laws of 1933, without said receipt being so posted.

§ 2. PENALTY.] Any person operating a vehicle in violation of this act shall be guilty of misdemeanor and upon conviction, shall be subject to a fine of not less than \$25.00 and not more than \$100.00, or be imprisoned in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment.

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

Approved March 1, 1935.

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## CHAPTER 185

S. B. No. 90—(Bonzer)

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### SIZE AND LOADS—MOTOR VEHICLES

An Act to amend and re-enact Section 36 of Chapter 162 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931, and as amended by Chapter 163 of the Session Laws of North Dakota for the year 1933, prescribing and relating to the size of motor vehicles and loads of motor vehicles, that may be driven or moved upon the highways of the State of North Dakota, and prescribing penalty for violation thereof.

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

§ 1. AMENDMENT.] That Section 36 of Chapter 162 of the Session Laws of North Dakota for the year 1927 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931, and as amended by Chapter 163 of the Session Laws of the State of North Dakota for the year 1933 be amended and re-enacted to read as follows:

(a) VEHICLES SIZE, LOADS.] No vehicle shall exceed a total outside width, including any load thereon, of eight (8) feet, except that this limitation shall not apply to contractor's equipment, nor to implements of husbandry, temporarily propelled or moved upon the highways of this state between sunrise and sunset.

(b) No vehicle, unladen or with load, shall exceed the height of twelve feet, six inches.

(c) No vehicle or combination of vehicles shall exceed the length of forty (40) feet and no trailer used for the transportation of goods for hire, profit or gain shall be hauled by any motor vehicle on the highways of this state. The provisions hereof shall not apply to carriage of structural material of telephone, power and telegraph companies, which must necessarily be transported on the highways on account of the location of their lines, adjacent to said highways. Other structural material, which otherwise could not be transported over the highways of this state, on account of the provisions of this act, may be so transported upon obtaining a temporary permit from the Commission, or from any employee designated by said Commission or said purpose upon a showing of a reasonable necessity and that the transporting of such structural material will not damage the highways to be used.

(d) No motor vehicle shall carry any load extending more than three (3) feet beyond the front thereof and no passenger vehicle shall carry any load extending beyond the lines of the fender on the left side of such vehicle, nor extending more than six (6) inches beyond the line of fender on the right side thereof.

(e) No vehicles or combination of vehicles shall together with load exceed sixteen thousand pounds in weight per axle properly tired, or six hundred pounds per inch of tire, provided however that the maximum gross weight of any vehicle or any combination of vehicles shall not exceed the weight of thirty-five thousand pounds.

(f) The term "gross weight" used in this act shall mean the unloaded weight of the vehicle and/or the unloaded weight of the tractor and semi-trailer combined, plus the weight of the load.

(g) The provisions of this section shall not apply to vehicles operated exclusively in any city or village, or contiguous to any city or village in this state.

§ 1a. Every peace officer, including the State Highway Police, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, is hereby authorized to weigh said vehicle and load, or have the same done, either by means of portable or stationary scales, and for that purpose may require the vehicle to be driven to the nearest scales. The officer may require the driver of said vehicle to immediately unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by this act.

§ 1b. VIOLATION PENALTY.] Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed one hundred dollars (\$100.00) or be imprisoned in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

§ 1C. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1935.

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## CHAPTER 186

S. B. No. 89—(Bonzer)

### TAXATION COMMERCIAL MOTOR VEHICLES USING HIGHWAYS

An Act to amend and re-enact Section 4 of Chapter 162 of the 1933 Session Laws, providing for taxation of motor vehicles using the highways of the State of North Dakota for commercial purposes, and engaged in transportation for hire in interstate commerce.

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

§ 1. AMENDMENT.] That Section 4 of Chapter 162 of the Laws of 1933 be amended and re-enacted to read as follows:

§ 4. No tax shall be required from any truck, tractor, truck-tractor, semi-trailer or trailer when such vehicle engaged in interstate commerce does not come into the state of North Dakota a distance greater than five miles from the boundary of said state on any given trip, and does not travel on the highways of this state a distance of more than ten miles on said trip, nor shall any tax be required where said vehicle does not leave the incorporated limits of any village or city while in the State of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city, village, or contiguous cities and villages, and five miles distant therefrom. Provided, however, that nothing in this act contained shall be construed as preventing trucks, tractors, truck-tractors, semi-trailers or trailers from coming into the state such distance as shall be necessary to reach the nearest railway shipping station on the most direct travelled route from the state line to said station if under the law of the state of the residence of such owner like exemptions and privileges are granted to vehicles duly registered under the law and owned by residents of this state.

Approved February 27, 1935.

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## CHAPTER 187

S. B. No. 155—(Committee on Highways)

### TAXATION AND LICENSING MOTOR VEHICLES

An Act to amend and re-enact Section 2 of Chapter 162 of the Session Laws of 1933 relating to taxation and licensing of motor vehicles, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 162 of the Ses-

sion Laws of 1933 be, and the same is hereby amended and re-enacted to read as follows:

§ 2. No truck, tractor, truck-tractor, semi-trailer or trailer shall be operated on the highways of this state engaged exclusively in transporting property in interstate commerce or between this state and any province in the Dominion of Canada unless such vehicle has been registered and a license plate of a distinctive color issued therefor by the Registrar of Motor Vehicles. The applicant shall pay therefor a fee of \$5.00 for each such vehicle and in addition thereto truck mile tax as compensation for the use of the highways, which said tax shall be based upon the unloaded weight of the vehicle and the distance that such vehicle travels on the highways of this state. The tax on each motor vehicle or combination of vehicles shall be ascertained by multiplying the number of miles traveled by each of such vehicles on the highways of this state by the rate per mile as provided herein.

Said truck mile tax shall not be required upon a vehicle already registered under an authorized intrastate certificate or permit from the North Dakota Railroad Commission upon which the prescribed fees have been paid and which has already been registered with the North Dakota Motor Vehicle Department wherein the regular vehicle license plates as well as commercial C plates provided by statute have been purchased and displayed on said vehicle, even though said truck is also engaged in interstate commerce.

The tax on a combination of a truck-tractor and semi-trailer and/or a tractor and trailer, shall be determined by adding together the unloaded weight of both the truck-tractor and semi-trailer and/or tractor and trailer. The combined weight of the vehicle so ascertained shall determine the unloaded weight of such combination of vehicles for the purpose of computing such tax. Where a trailer is not attached directly to a tractor it shall be subject to a truck mile tax based on the unloaded weight of such trailer.

The truck mile tax shall be determined as follows:

Vehicle or combination of vehicles having an unloaded weight under 2 ton . . . . .	$\frac{1}{2}$ c per mi.
Vehicle or combination of vehicles having an unloaded weight of 2 ton and not exceeding 3 ton	$\frac{3}{4}$ c per mi.
Vehicle or combination of vehicles having an unloaded weight of 3 ton and not exceeding 4 ton	1c per mi.
Vehicle or combination of vehicles having an unloaded weight of 4 ton and not exceeding 5 ton	$1\frac{3}{4}$ c per mi.
Vehicle or combination of vehicles having an unloaded weight of 5 ton and not exceeding 6 ton	$2\frac{1}{2}$ c per mi.
Vehicle or combination of vehicles having an unloaded weight of 6 ton and not exceeding 7 ton	$3\frac{1}{4}$ c per mi.
Vehicle or combination of vehicles having an unloaded weight of 7 ton and not exceeding 8 ton	4c per mi.

Vehicle or combination of vehicles having an unloaded weight of 8 ton and not exceeding 9 ton	4¾c per mi.
Vehicle or combination of vehicles having an unloaded weight of 9 to 10 ton .....	5½c per mi.
Any vehicle or combination of vehicles having an unloaded weight of more than 10 ton.....	6c per mi.

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

Approved March 1, 1935.

## MUNICIPAL CORPORATIONS

### CHAPTER 188

S. B. No. 310—(Whelan)

#### AUTHORIZING COUNTIES, CITIES, ETC., TO ACCEPT DEVISES, BEQUESTS, LEGACIES AND GIFTS

An Act authorizing counties, cities, villages, school districts and park districts to accept devises, bequests, legacies and gifts, provided that the title thereto shall be held in trust; regulating the handling and use of such property and its income; validating devises, bequests, legacies and gifts heretofore made; and declaring an emergency.

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

§ 1. Devises, legacies, bequests and gifts may lawfully be made to the state or any county, township, city, village, school district or park district of the State of North Dakota; and the title to any property, real, personal or mixed, which shall be devised, bequeathed or given to the state, or any such county, township, city, village, school district or park district for the use and benefit thereof, shall vest in the state or such county, township, city, village, school district or park district, to be by it held in trust, under the terms and conditions provided for in such devise, legacy, bequest or gift; unless otherwise authorized by the will or other instrument providing for such devise, bequest, legacy or gift, no part of such property, or the income therefrom shall be diverted or used for any other purpose.

§ 2. Any board of commissioners, aldermen, trustees or other officers charged with the management of the fiscal affairs of the state, or any such county, township, city, village, school district or park district, to whom any such devise, bequest, legacy or gift is made, shall be authorized to accept, receive and administer the same for and on behalf of the state, or any such county, township, city, village, school district or park district.

§ 3. All devises, bequests, legacies or gifts as above provided for, which have heretofore been made, executed or delivered, whether vested or not, whether executed or executory, accrued or to accrue, are hereby declared to be legal and valid for all purposes and subject to the provisions of this act.

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

Approved March 14, 1935.

## CHAPTER 189

H. B. No. 145—(Schantz and Born)

### PROCEDURE WHEN CITY APPROPRIATION INSUFFICIENT

An Act to amend and re-enact Section 3684a10 of the Supplement to the Compiled Laws of North Dakota for 1913 relating to the City Budget Law.

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

§ 1. AMENDMENT.] Section 3684a10 of the Supplement to the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3684a10. Procedure where appropriation for particular purpose insufficient. If the appropriation for any particular purpose is later found insufficient to meet the necessary expenditures for that purpose, the clerk or auditor of the municipality shall, by the order of the council, make a transfer of the required amount from any other item of appropriation; provided, however, that except as otherwise provided in Section 11 of this act, no transfers shall be made from a fund within group C to funds within groups A and B, or from funds within groups A and B to funds within group C.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 5, 1935.

## CHAPTER 190

S. B. No. 221—(Coffey and Miklethun)

### TERM OF OFFICE ALDERMEN

An Act to amend and re-enact Section 3583 of the Compiled Laws of North Dakota for 1913, as amended by Section 2 of Chapter 167 of the Session Laws of the State of North Dakota for 1933, relating to terms of office of aldermen, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3583 of the Compiled Laws

of North Dakota for 1913, as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for 1933 be amended and re-enacted to read as follows:

§ 3583. TERM OF OFFICE.] Aldermen shall hold their office for four years and until their successors are elected and qualified, provided, however, that the aldermen elected shall alternate in their respective terms of office by electing only one-half the number of aldermen in any one election, and it is further provided, that when a city governed under the commission system of city government adopts the City Council form of city government as provided by Section 3839 of the Compiled Laws of North Dakota for the year 1913, then shall the alternation of such aldermen be perfected as follows: The aldermen receiving the greatest number of votes when elected, shall serve, for four years, and the alderman receiving the lowest number of votes when elected shall serve for two years; and it is further provided that whenever more than one-half of the total number of aldermen in the city are to be elected in any one election, then the number representing one-half of the total number of aldermen of the city and receiving the lowest number of votes at said election when elected, shall serve for only two years and the others elected at said election shall serve for four years.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 7, 1935.

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## CHAPTER 191

S. B. No. 223—(Coffey and Miklethun)

### TIME AND PLACE OF ELECTION, CITIES COUNCIL FORM

An Act to amend and re-enact Section 3666 of the Compiled Laws of North Dakota for 1913, relating to the time, place and manner of holding city elections in cities under the city council form of government, and providing that elective officers serve until their successors are elected and qualify, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 3666 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 3666. TIME AND PLACE OF ELECTION.] A biennial city election for elective officers herein provided shall be held on the first Monday in April of each even numbered year at such place or places

in each ward as the council shall designate; except in cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be kept open continually from eight o'clock in the forenoon until seven o'clock in the afternoon, and no longer, and ten days' previous notice shall be given by the council of the time and place of holding such election, by publication in at least two of the city papers published in said city, if two shall be published therein. All elective officers elected prior to the taking effect of this act shall continue to serve in their respective official capacities until their successors have been elected at a regular city election in accordance with the provisions hereof and until they have qualified for such offices.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 12, 1935.

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## CHAPTER 192

H. B. No. 262—(Bjerke and Bilden)

### PROCEDURE PASSING ORDINANCES CITIES COUNCIL FORM

An Act to amend and re-enact Section 3596 of the Compiled Laws of 1913 relating to procedure in passing ordinances in cities under the mayor council form of government.

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

§ 1. AMENDMENT.] Section 3596, Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3596. PROCEDURE IN PASSING ORDINANCES.] All ordinances shall be read twice and the second reading shall not be had in less than one week after such first reading, and after such first reading, before their final passage such ordinances may be amended and shall then be put upon their second reading and final passage, and if passed by the city council shall before they take effect, be deposited in the office of the city auditor for the approval of the mayor; and if the mayor approves thereof he shall sign the same, and such as he shall not approve he shall return to the council with his objections thereto in writing at the next regular meeting of the council occurring not less than five days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance; and in case the veto only extends to a part of such ordinance the residue

thereof shall take effect and be in force. But in case the mayor shall fail to return any ordinance with his objection thereto by the time aforesaid, he shall be deemed to have approved such ordinance and the same shall take effect accordingly; provided, that upon the return of any ordinance by the mayor, the vote by which the same was passed may be reconsidered by the council; and if after such reconsideration two-thirds of all the members elected to the city council shall agree by yeas and nays to pass the same, it shall go into effect, notwithstanding the mayor may refuse to approve thereof. The vote to pass the same over the mayor's veto shall be taken by yeas and nays and entered in the journal. The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after the passage thereof, be published in one issue of the official paper and proof of such publication by the printer or publisher of such newspaper, made before any officer authorized to administer oaths, and filed with the city auditor or any other competent proof of such publication shall in all courts be conclusive evidence of the legal publication and promulgation of such ordinances.

Ordinances passed by the city council and approved by the mayor or passed over the mayor's veto and requiring publication, shall take effect and be in force from and after publication thereof, unless it be otherwise expressly provided for in such ordinance. Ordinances passed by the city council and approved by the mayor or passed over the mayor's veto and not requiring publication, shall take effect and be in force from and after their passage unless it shall therein otherwise expressly be provided. The city auditor shall record in a book for that purpose, together with the affidavit of the publisher, all ordinances so passed and published; and such book or a certified copy of the ordinances as so recorded shall be received as evidence in all courts and places without further proof; or if printed in book or pamphlet form by the authority of the city council they shall be so received. All ordinances shall be styled, "Be it ordained by the city council."

Approved March 14, 1935.

## CHAPTER 193

H. B. No. 143—(Schantz and Born)

### VACANCIES IN OFFICES HOW FILLED, CITIES COMMISSION FORM

An Act to amend and re-enact Section 3803 Compiled Laws of North Dakota for 1913 relating to Vacancies in the Offices in Cities under the Commission Form of Government.

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

§ 1. AMENDMENT.] Section 3803 Compiled Laws of North

Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3803. VACANCIES.] When any officer shall remove from the city or any such officer shall refuse or neglect for ten days after official notification of his appointment to qualify and enter upon the discharge of the duties of his office the office shall be deemed vacant. If a vacancy occurs in the office of city commissioner or president of the board of city commissioners by death, resignation or otherwise, within six months prior to the next city election, the board of city commissioners shall appoint a person to fill such vacancy; if earlier, then such vacancy shall be filled by election. Whenever a vacancy shall occur in any office to be filled by appointment the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

Approved March 5, 1935.

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## CHAPTER 194

S. B. No. 216—(Committee on State Affairs)

### EXECUTION, REGISTRATION, ETC., MUNICIPAL BONDS

An Act amending and re-enacting Section 16 of Chapter 196 of the Laws of North Dakota for the year 1927 and relating to the execution, registration, certification and delivery of bonds issued by a municipality.

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

§ 1. That Section 16 of Chapter 196 of the Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

#### “EXECUTION, REGISTRATION, CERTIFICATION AND DELIVERY.

Municipal bonds shall be executed in the name of and for the municipality issuing them by their qualified officers, who shall for that purpose sign the same in their official capacities, as follows: For a county: the chairman of the county board and the county auditor; for a city: the mayor or president of the board of city commissioners and the city clerk or city auditor; for a village: the president of the village board of trustees and the village clerk; for any other municipality: the chairman or president of the board and the clerk or secretary of the governing body, or such other officer or officers as the governing body thereof may determine. The interest coupons attached to such bonds may be executed by the lithographed or engraved facsimile signatures of such officers. The validity of every bond so executed shall remain unimpaired by the fact that one or more of the subscribing officers shall have ceased to be such officer or officers before delivery to the purchaser. Every bond issued by a municipality having an official or corporate seal shall be sealed

with such seal. After the bonds have been executed as above provided they shall be delivered to the county auditor, except in cities or school districts or park districts having a population of more than 4,000, in which cities or school districts or park districts they shall be delivered to the auditor, clerk or secretary thereof. When such bonds are delivered to the county auditor there shall be delivered to him a certified copy of the resolution of the governing body showing their sale. The county auditor or auditors, clerk or secretary of cities, school districts or park districts having a population of more than 4,000, upon receipt of such bonds, shall register, in a separate book provided for the purpose, an accurate description of every bond so issued, specifying its number, date, purpose, amount, rate of interest, when and where payable, and the coupons attached. In all cases where the registering officer is not the recording officer of the governing body of the municipality issuing the bonds, there shall also be filed with him a certified copy of all proceedings of the municipality relating to such issue, and when the transaction relating to the sale of said bonds is to be consummated there shall be delivered to the County Auditor a detailed financial statement of the municipality given by the treasurer of the municipality under oath. When such bonds have been fully registered as required by this paragraph, and when he has received such detailed financial statement of the municipality, the registering officer shall sign an endorsement on the back of each bond certifying that such bond is fully registered in his office, and, if such be the truth, that such bond is issued in accordance with law and is within the debt limit of the municipality issuing the same. No bond shall be valid without such certificate endorsed thereon. When the bonds have been so registered and certified such registering and certifying officer shall deliver the same to the purchaser thereof in accordance with the terms of the resolution awarding their sale, and shall forthwith transmit the proceeds thereof to the treasurer of the municipality. All bonds authorized pursuant to this act which are not delivered to the purchaser and paid for within three years of their date shall be cancelled. It shall be the duty of such registering and certifying officer, in the presence of at least two other electors of the municipality which authorized their issuance, to destroy such bonds by the burning thereof, and with such witnesses to make and file in the records of his office an affidavit as to the bonds so destroyed and the time and place of such destruction, and to make a record thereof in a proper book of record in his office. A copy of such affidavit shall be filed with the auditor, clerk or secretary of the municipality which authorized their issuance."

Approved March 13, 1935.

## CHAPTER 195

S. B. No. 114—(Miklethun, Eastgate, Drew and Peterson)

FUNDING AND REFUNDING EXISTING INDEBTEDNESS  
OF MUNICIPALITIES

An Act relating to funding and refunding existing indebtedness of municipalities, and declaring an emergency.

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

§ 1. A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding its existing indebtedness at any time prior to May 1, 1937. The terms "governing body" and "municipality" as used herein shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927. The terms "floating indebtedness" and "bonded indebtedness" shall collectively be deemed to include orders, certificates of indebtedness, bonds, contracts and warrants and other instruments evidencing a general municipal indebtedness, issued and outstanding prior to January 1, 1935.

§ 2. Any municipality may by resolution of the governing body propose or accept and adopt a plan for funding and refunding floating indebtedness and/or bonded indebtedness or any part thereof existing prior to January 1, 1935. Such resolution shall recite the plan in detail and contain such provisions not inconsistent with this act as shall be found to be for the best interests of the municipality, its creditors, and its taxpayers. The plan may contemplate the issuance of bonds to refund any or all of its outstanding bonds, including bonds which are not due or about to become due, may provide that bonds may be exchanged in whole or in part for unmatured bonds with the consent of the holders thereof, and may provide for the execution and sale or exchange and delivery of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment or exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it shall become effective. Any municipality may take any action authorized by any present or future bankruptcy or similar law enacted by the Congress of the United States designed to assist in the compounding or compromising and refinancing of indebtedness, including the payment of fees and expenses necessary to make use of such act and approved by the court having jurisdiction thereof.

§ 3. Such resolution must list, or refer to a document on file in the office of the recording officer of the municipality which lists, all indebtedness to be funded or refunded thereunder with sufficient

details to identify the obligations referred to, and if the governing body so directs the recording officer shall cause to be published in one issue of an official newspaper or other newspaper designated by the governing body a notice of the filing of such plan and list and a statement that notice is given pursuant to this section. The validity and enforceability of any item of indebtedness so listed shall never be questioned in any action or proceeding unless the same shall be commenced prior to a date sixty days after the date of such publication. The failure to correctly describe any valid obligation shall not prevent the refunding of such obligations.

§ 4. Upon any plan becoming effective according to its provisions, the municipality may sell or exchange the bonds described therein. The bonds shall be issued upon authority of a resolution adopted by majority vote of the governing body without submitting the matter to vote of the qualified voters, and such resolution and all proceedings respecting the plan or the bond issue shall not be subject to referendum vote, nor shall it be necessary that the plan be submitted to the board of budget review in the manner required by law for other bond issues. The bonds issued hereunder shall be in such form and shall be executed in such manner as the governing body may determine, shall bear interest at a rate or rates fixed by the governing body, not exceeding the rate of interest on the bonds or other indebtedness refunded thereby, and not to exceed in any case six (6) per cent per annum, and shall recite on their face that the same have been issued pursuant to this act and that a direct, annual, irrepealable tax has been levied by the municipality upon all the taxable property therein sufficient to pay the interest when it falls due and also to pay and discharge the principal of such bonds at maturity. All such bonds shall be general obligations of the municipality, and the full faith, credit, and unlimiting taxing powers shall be pledged to their payment unless the plan and terms of the bonds expressly provide otherwise.

The bonds of any series may mature serially. In such case, the first installment shall become due in not more than five years and the last installment in not more than twenty-five years from the date of issue, one installment shall fall due each year, and the largest installment shall not be more than five times the smallest preceding installment. Serial bonds shall be made redeemable on any interest paying date or dates by appropriate provisions therein.

In the event that the bonds of any series do not mature serially, all such bonds must mature on a single date not more than twenty years after the date of issue, and shall be redeemable on any interest payment date at par and accrued interest, and the municipality shall agree to retire not less than a certain percentage of such bonds each year commencing not later than the fifth year. Said bonds may be retired by purchase or by redemption. At any time there is any money in the special fund for such series in excess of the amount required to pay interest during the next ensuing year, the governing

body may cause published advertisement to be made for offers to surrender bonds, and may use such money to purchase bonds below par by accepting the offers deemed most favorable. Any money not so used prior to thirty days before the next ensuing interest payment date shall be used for redemption. At least thirty days before each interest payment date, the treasurer shall specially deposit in the bank or with the institution at which such bonds are payable any money then remaining in such fund in excess of said interest requirements sufficient to retire one or more bonds, together with a list of the serial numbers and denominations of the bonds of such series then outstanding and a list of the names and addresses of holders thereof insofar as they are known. For such purpose, the recording officer shall keep a register showing the names and addresses of the holders insofar as such information is furnished to him by the holders of any such bonds. Thereupon the paying agents shall determine by lot which of the outstanding bonds shall be redeemed. Notices of call for redemption shall be mailed to the holders thereof, if known, at the last known address. The bonds so called, with interest to the redemption date, shall be paid out of the money so specially deposited on presentation thereof with all unmatured coupons attached. The bonds called for redemption shall cease to bear interest on the redemption date, and the accrued interest thereon shall not be paid unless the bond with unmatured coupons shall be surrendered for payment. If the bonds are payable at the office of the treasurer of the municipality then the treasurer shall determine by lot which of such bonds shall be redeemed and issue call for payment as herein provided.

§ 5. Bonds issued hereunder may be sold for cash or may be exchanged for outstanding bonds or other indebtedness, or part sold and part exchanged, but none shall be sold or exchanged upon such terms that the annual interest cost of the proceeds, computed to maturities of the bonds of the series according to standard tables of bond values now in general nation-wide use by financial institutions and insurance companies, will be more than the interest rate on the bonds or other indebtedness refunded thereby, and not to exceed in any case six (6) per cent per annum. The officers may use the proceeds of bonds sold to purchase the outstanding bonds, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all bonds or other indebtedness surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, an equal par value of outstanding bonds or other indebtedness shall be surrendered and cancelled. Insofar as any exchanges are made, the outstanding obligations shall be taken at not more than face amount with accrued interest and the bonds delivered shall be valued at not less than the face amount with accrued interest.

§ 6. Prior to the issuance of bonds, the governing body shall cause a levy to be made upon all the taxable property in the municipality of a direct, annual, irrepealable tax for each series sufficient to pay the principal and interest of the bonds of such series when due. The levy for each of the years during which the bonds shall be outstanding shall be separately stated. If the bonds are of serial maturities, the levy shall be at least in such amount that if collected before delinquency the proceeds, together with any other money theretofore or thereupon appropriated to such fund, will be sufficient to meet the payment of principal and interest as the same become due. If the bonds are of a single maturity, the levy for the first five years must be sufficient to pay interest, and thereafter each annual levy shall be not less than an amount such that levies in the same amount for each ensuing year would be sufficient to amortize and pay the full principal and interest of the bonds on or before maturity date. A certified copy of the tax levy resolution or ordinance shall be filed with the county auditor of the county in which the municipality is located prior to the delivery of the bonds, and after the issuance of such bonds the tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected. In the event that after a certified copy of the levy is delivered to the county auditor any part of the bonds shall not be issued or a part of the issued bonds shall be cancelled, the governing body may cancel a proportionate amount of the levy, but the amount of taxes remaining uncanceled shall be not less than the amount required to pay principal of and interest on the bonds issued and then remaining outstanding. The governing body shall create a special fund for each series of bonds and shall cause to be placed therein all proceeds of taxes levied on account thereof. The governing body shall also appropriate thereto all of the proceeds of taxes levied for the payment of bonds and ratio of outstanding taxes against the ratio of other indebtedness funded or refunded thereby or anticipated by certificates of indebtedness and/or warrants funded pursuant to this act, and any other money appropriated thereto. The special fund shall be used for no other purpose than to pay principal and interest of the bonds of such series or to purchase the same as herein provided. If upon payment of all of the bonds of any series any money remains in the special fund, the same may be transferred to the general fund. The foregoing provisions shall not be construed as limiting the power of any municipality to levy taxes for the payment of the bonds, and it shall be the duty of the proper officers to levy any and all taxes which may be necessary to pay or discharge the principal and interest of all bonds issued hereunder, regardless of any tax levy limitations.

§ 7. All corporate trustees and savings banks and any other person, board, or body whose investments are regulated or restricted under any law of this state which may have any of the funds under its or their control invested in any obligation of any municipality

proposing a plan hereunder may enter into such plan and accept bonds issued hereunder notwithstanding any provision of law regulating or respecting said investments.

§ 8. This act shall be deemed and construed as complete in and of itself, and the bonds issued in compliance herewith shall be the valid and binding obligations of the municipality according to their terms whether or not such municipality shall have complied with any other law or charter provision authorizing or regulating the issuance of bonds by such municipality. This act is intended to be an additional remedial measure and shall not be deemed to have amended or repealed any existing law.

§ 9. If any section, clause, sentence, or provision of this act or the application of such section, clause, sentence, or provision to any person, party, or circumstance shall be held unconstitutional or otherwise invalid, the remainder of this act or the application of such section, clause, sentence, or provision to parties or circumstances other than those as to which it is held invalid shall not be affected thereby.

§ 10. This act is hereby declared to be an emergency measure, and shall be in force and effect from and after its passage and approval.

Approved March 12, 1935.

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## CHAPTER 196

H. B. No. 111—(Noben, Place and Anderson of Bowman)

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### COMPROMISE MUNICIPAL JUDGMENT LIABILITIES, BOND ISSUE, ETC.

An Act entitled an Act to empower the governing boards of municipalities to compromise and fund judgment liabilities; to issue bonds in satisfaction of judgments reduced in amount by compromise and provide for the form, execution, registration and payment of the same; and to invest municipalities with an interest in uncollected special assessments in certain cases.

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

§ 1. COMPROMISE OF JUDGMENTS.] Whenever final judgment for the payment of money shall be entered against any municipality, which judgment the municipality may be compelled to pay by tax upon all taxable property therein, the governing body of the municipality, by resolution adopted by vote of two-thirds of its members, may enter into an agreement in the name of the municipality with the holder of such judgment for the compromise thereof by payment of a sum less than the amount of such judgment. If the amount so agreed upon to be paid, in compromise of the judgment, shall be at least 25 per cent less than the unpaid amount of such judgment,

the governing body may provide for and levy such tax as shall be necessary to pay the judgment, so reduced, in accordance with the terms of the compromise agreement and limitations otherwise provided upon taxes which may be levied by municipalities for the payment of judgments shall not apply.

§ 2. COMPROMISED JUDGMENTS FUNDED BY BONDS.] The compromised amount of the judgment so agreed upon may be made payable in stated annual installments over a period of years, not exceeding twenty-five, and at a rate of interest not exceeding five per cent per annum. To bring about the immediate satisfaction and discharge of such judgment upon the records and to better gain the benefit of a satisfactory compromise the governing body by resolution, adopted by vote of two-thirds of its members, may evidence the promise of the municipality for the payment of such annual installments in the form of negotiable bearer bonds payable serially to mature annually, as the parties may agree, in amounts aggregating and corresponding with the amounts of such annual installments and interest, respectively, as so fixed by compromise. Bonds so issued shall be delivered to the judgment creditor upon release of the judgment and in consideration of the full satisfaction thereof. The negotiable bearer bonds payable serially as herein provided shall be executed in the name of the municipality by the mayor or president or chairman of the governing body and the clerk, secretary, or auditor as the case may be. Except as herein provided said bonds shall be in the form as now or hereafter provided by law for bonds issued by municipal corporations which are payable from the levy of a general tax; and, prior to the delivery of such bonds to the judgment creditor, said bonds shall be registered by the officer, in the office, and in the manner now or hereafter provided for the registration of the bonds, of municipal corporations, which are so payable.

§ 3. TAX FOR PAYMENT OF BONDS.] At the time of the issuance of such bonds and before the delivery thereof the governing body issuing the same shall, by recorded resolution, levy a direct annual and irrepealable tax sufficient in amount to pay the principal and interest of said bonds as they severally mature, a copy of which resolution shall be certified to and filed with the county auditor. The county auditor shall thereupon and annually thereafter spread the annual tax so provided upon the tax list and deliver the same to the county treasurer who shall collect such tax in the manner provided for the collection of other taxes.

§ 4. FUNDING DAMAGE JUDGMENTS, SPECIAL ASSESSMENT WARRANTS.] When warrants have been or shall be issued by a municipality payable from special assessments made to pay the cost of a local improvement and the holder or holders of all or any portion of the issue of such warrants procures the entry of final judgment against the municipality in damages for the amount of such

warrants by him or them held, on account of the municipality's negligence or breach of duty in the levy or collection of such special assessments, and the judgment so entered shall be compromised and funded by the issuance of bonds as herein provided, the municipality shall thereupon succeed and be subrogated to the rights of the holder or holders of said warrants in and to all remaining uncollected special assessments and the fund thereby created, and shall receive payment and distribution from the same as if owning and holding the warrants affected by such judgment. But monies so acquired by or for the municipality shall be held apart from its general funds and first applied to the payment of the bonds issued as aforesaid in compromise of such judgment. After payment of all the bonds so issued the levy of an annual tax for the payment of the same shall be discontinued and the municipality shall cover into its general fund any surplus then or thereafter acquired from its interest, as herein provided, in the fund created by such special assessments.

§ 5. INTENTION OF ACT.] This act shall not be construed or applied to limit or enlarge any municipal power now or hereafter provided for the issuance of any evidence of debt, bonds, or refunding bonds or the levy of any tax for the payment of the same; but this act shall be construed and applied to create additional powers and optional and alternative methods for the single and specific purpose of enabling municipalities to compromise judgments, issue bonds to fund and satisfy the same and levy taxes in amounts necessary for the purpose without respect to limitations otherwise existing; to scale down such judgments and compromise and fund the same over a period of years.

§ 6. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 14, 1935.

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## CHAPTER 197

S. B. No. 98—(Jones and Coffey)

### DEFINING POPULATION, MUNICIPAL BOND ISSUES

An Act to amend and re-enact Subsection (3) of Section 1, Chapter 196, Session Laws of North Dakota for the year 1927, and declaring an emergency.

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

§ 1. That Subsection (3) of Section 1, Chapter 196, Session Laws of North Dakota for the year 1927 be amended to read as follows:

(3) Any reference to the population of a municipality means its population according to the last officially published United States

or State Census, whichever was latest taken; and every reference to the value of taxable property or the assessed valuation of a municipality means that portion of the value of all taxable property in such municipality as last finally equalized, against which the mill rate of taxes for state and county purposes is computed and extended, except that for the purpose of determining the limit of the indebtedness of any municipality as applied to the issuance of bonds to fund certificates of indebtedness and warrants issued under Sections 2079b1 to 2079b13, both inclusive, Supplement to the Compiled Laws of 1913 of North Dakota as amended or for the purpose specified in paragraph (g) of Subsection (2) of Section 4 of this act as amended, such term shall have the same meaning as defined in Section 2122 Compiled Laws of 1913, as amended, viz: the full and true one hundred (100) per cent value of all taxable property in such municipality as finally equalized by the State Board of Equalization, provided, however, said full and true 100% value shall apply only to the refunding of evidences of indebtedness issued and outstanding prior to January 1, 1935.

§ 2. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 12, 1935.

## CHAPTER 198

S. B. No. 209—(Committee on State Affairs)

### PRIVATE SALE MUNICIPAL BONDS TO U. S. A. OR ITS AGENCIES

An Act to amend and re-enact Subdivision 6 of Section 17 of Chapter 196, Session Laws of North Dakota for the year 1927, authorizing the private sale of bonds to the United States of America or any agency or instrumentality thereof without public advertisement, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision 6 of Section 17 of Chapter 196, Session Laws of North Dakota for the year 1927, be amended and re-enacted to read as follows:

(6) The procedure prescribed in this section shall not be required in case bonds are sold to the State Board of University and School Lands or in case other trust funds administered by public officials are invested in them or are sold to the United States of America, or any agency or instrumentality thereof.

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

Approved March 7, 1935.

## CHAPTER 199

S. B. No. 203—(Committee on State Affairs)

TAX LEVY PRINCIPAL AND INTEREST MUNICIPAL BONDS  
SUSTAINED BY REVENUE-PRODUCING UTILITY

An Act to amend and re-enact Section 12 of Chapter 196 of the Laws of North Dakota for the year 1927, in relation to the levy of taxes to pay the principal of and interest on bonds issued by municipalities which are further sustained by revenue of a revenue-producing utility, industry, or enterprise, and declaring an emergency.

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

§ 1. That Section 12 of Chapter 196 of the Laws of North Dakota for the year 1927, is hereby amended and re-enacted to read as follows:

§ 12. DIRECT, ANNUAL, IRREPEALABLE TAX.] The governing body of every municipality issuing bonds under the authority of this act shall, after the sale of such bonds and before the delivery thereof, levy by recorded resolution or ordinance a direct, annual tax sufficient in amount to pay and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or obstruct the collection of said tax until such payments have been made or provided for. A copy of such resolution or ordinance shall be certified to and filed with the county auditor and after the issuance of such bonds such tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected. No further or annual levy for that purpose shall be necessary; provided, however, that when such bonds are further sustained by revenue of a revenue-producing utility, industry or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

§ 2. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1935.

## CHAPTER 200

S. B. No. 326—(Drew)

ELECTRIC LIGHT AND POWER PLANTS, ETC., CITIES,  
TOWNS OR VILLAGES

An Act to amend and re-enact Section 1, of Chapter 172, of the Session Laws of 1929, which authorizes and empowers cities, towns or villages to purchase, erect, operate and maintain or lease electric light and power plant, electric distribution system and transmission line, telephone plant or parts of systems or lines or waterworks, mains, distribution system and/or equipment or appliances connected therewith as provided in the act, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1, of Chapter 172, of the Session Laws of 1929 be and the same is hereby amended to read as follows:

§ 1. Any city, village or town is authorized and empowered to purchase, erect, operate and maintain, enlarge, improve and extend, or lease from any person, firm or corporation, or sell or lease to any person, firm or corporation, any electric light and power plant, site buildings and equipment thereof, or any electric distribution system and equipment thereof, or any electric transmission line and equipment thereof, or any telephone plant, equipment and distribution system thereof, or any waterworks, mains, distribution system and/or equipment or appliances connected therewith.

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

Approved March 14, 1935.

## CHAPTER 201

S. B. No. 198—(McDonald)

## HOURS OF EMPLOYMENT MUNICIPAL EMPLOYEES

An Act limiting the hours of employment of municipal employees, fixing the penalty for violation thereof, and repealing all acts and parts of acts in conflict therewith.

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

§ 1. It shall be unlawful for any person employed by any city in the State of North Dakota having a population of 7,500 or more to work for any city more than eight hours in any one day, or more than fifty-six hours in any one week, except in case of emergency, provided, that this act shall not apply to public officers who are elected to their said office; provided, however, that the provisions of this act shall not apply to the fire department of any city.

§ 2. Any employee of any city wilfully violating this act, and any city officer, or member of any board, bureau, or commission, having charge or supervision over the employment of any such employee, who shall require such employee to violate Section 1 hereof, by requiring him to work more than eight hours in any one day or more than fifty-six hours in any one week, except in case of emergency, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than ten dollars or more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1935.

## CHAPTER 202

S. B. No. 205—(Committee on State Affairs)

### MORTGAGE OR TRUST DEED TO SECURE GARBAGE, SEWAGE, ETC., PLANT BONDS, ETC.

An Act to amend and re-enact Subsection 2 of Section 2 and Section 5 of Chapter 179 of the Session Laws of North Dakota, 1933, authorizing the execution of a mortgage or a deed of trust to secure mortgage bonds and making such bonds negotiable.

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

§ 1. AMENDMENT.] Subsection 2 of Section 2 of Chapter 179 of the Session Laws of North Dakota, 1933, is hereby amended and re-enacted to read as follows:

(2) Governmental agencies or municipalities may issue mortgage bonds therefor beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost of such sewage disposal plant and system, or such garbage disposal plant. The mortgage bonds herein authorized shall not impose any general liability upon the governmental agencies or municipalities but shall be secured by the net revenues of the improvement or system and by a mortgage or deed of trust upon such improvement or system. The governmental agencies or municipalities are hereby authorized to execute and deliver such mortgage or deed of trust. Such mortgage bonds shall be sold for not less than par, shall bear interest at a rate not to exceed 7 per cent per annum, and the total amount thereof shall not exceed 60 per cent of the costs of such improvement except as hereinafter provided. The remaining 40 per cent of the total cost of such improvement shall be defrayed as provided in Subsection (1) preceding. No mortgage bonds shall be issued except upon a three-fifths affirmative vote of the legislative body of such governmental agency or municipality. The form, re-

citals, maturity, rate of interest and whether payable annually or semi-annually, of such mortgage bonds shall be fixed and determined by a three-fifths affirmative vote of the legislative body of such governmental agency or municipality.

§ 2. That Section 5 of Chapter 179 of the Laws of North Dakota for the year 1933 is hereby amended and re-enacted to read as follows:

5. "Any of the governmental agencies or municipalities herein mentioned, through the legislative body or the legislative bodies thereof, shall have authority to issue and sell the necessary bonds for the construction and installation thereof, including the disposal plant and such intercepting and other sewers as may be necessary to permit the effective operation of such system and for the purchase of such real and personal property as may be necessary for use in connection with such system; such bonds to draw interest at not to exceed seven per cent per annum, and payable in not to exceed thirty years from the date of issuance; the legislative body or the respective legislative bodies shall determine the denomination of said bonds and the date, time and manner of payment. Governmental agencies or municipalities issuing bonds hereunder, the principal and interest of which are not to be paid out of funds created from service charges, as hereinbefore provided, may raise such sum annually by taxation as the legislative body or the respective legislative bodies may deem necessary to pay the interest on such bonds and to create a sinking fund to pay the principal thereof as it falls due but shall not exceed in amount the limitations provided by Chapter 196 of the 1927 Session Laws and other laws amendatory and supplementary thereof. Whenever any of the governmental agencies or municipalities herein mentioned has, pursuant to existing laws, heretofore obtained authority to issue and sell bonds for the construction and installation of any of the improvements herein mentioned, such governmental agency or municipality may defray the costs of such improvements entirely out of the proceeds of the sale of such bonds, or may defray the cost of such improvement in part out of the proceeds of the sale of such general liability bonds and in part out of the proceeds of the sale of mortgage bonds as provided in this act, except that the mortgage indebtedness upon such improvement shall not when originally created exceed three-fifths of the total cost of such improvement. Provided that bonds issued hereunder which are a general liability of the city shall not be issued except upon a vote of the people as provided by Chapter 196 of the 1927 Session Laws and acts amendatory and supplementary thereof. All first mortgage bonds which have been issued or which may hereafter be issued under the provisions of this act may be negotiated in the same manner and with the same legal effect as negotiable instruments under the provisions of Chapter 103 of the Compiled Laws of North Dakota 1913.

§ 3. An emergency is hereby declared to exist and therefore

this act shall take effect and be in full force immediately upon its passage and approval.

Approved March 7, 1935.

## CHAPTER 203

S. B. No. 175—(Committee on Taxes and Tax Laws)

### MUNICIPAL CONTROL ACT—LIQUOR

An Act providing for a system of municipal control of the purchase, sale, importation, transportation, handling, possessing, dispensing and use of alcohol and alcoholic beverages by any incorporated city of the state having a population of two hundred or more; the levy and collection of a tax thereon; the duties of the State Treasurer; providing for injunctions against and abatement of liquor nuisances; the continuing in force of the present statutory regulations prohibiting the manufacture, sale and possession of intoxicating liquors; providing penalties for violations of the provisions of this act.

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

§ 1. This act shall be known and may be cited as the "Municipal Control Act."

§ 2. This act shall be deemed an exercise of the police powers of the state for the protection of the public health, peace and morals; to prevent the recurrence of abuses associated with saloons; to eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of alcoholic beverages; and all provisions of this act shall be liberally construed for the attainment of these purposes.

§ 3. "Alcohol" and "Alcoholic Beverages" means and includes any alcoholic, spirituous, vinous, fermented, malt or other liquor, which contains more than one per centum (1%) of alcohol by weight; provided, however, that it is not intended that beer be included with this definition.

§ 4. That alcohol and alcoholic beverages, as defined in Section 3 hereof, may be imported, transported, possessed and sold in the State of North Dakota in the manner hereinafter set forth.

§ 5. Any incorporated city, having a population of two hundred or more, as shown by the last United States census, that maintains a regular police department, may establish, own and operate a municipal store for the sale of the beverages described in Section 3 of this act. Whenever the word "Store" is used in this act it shall mean a municipal liquor store.

§ 6. No store, as provided for herein, shall be opened or maintained in any city unless and until the opening and maintenance thereof is approved by a majority of the voters voting in such municipality at an election held for that purpose.

§ 7. The governing board of any incorporated city, having a population of more than two hundred as disclosed by the last Federal census, shall, upon the petition of fifteen per cent (15%) of the legal voters of such city to be determined by the vote cast for president of the city commission or mayor of the city, as the case may be, at the last preceding election, call a special election and give notice of the time of holding a special election to vote upon the question of whether or not a municipal liquor store shall be established, owned and operated by such city; provided, however, that if a regular city election is to be held within thirty days after the filing of said petition, such question shall be voted upon at the regular city election. At such election, when so petitioned for and called, said question shall be voted upon by a separate ballot, the terms of which shall be either for the establishment of a municipal liquor store or against the establishment of a municipal store. The votes shall be counted and the results of such voting shall be duly canvassed, certified and returned in the same manner as provided by law for the return of regular city elections, and, if a majority of the votes cast upon the question shall be in favor of establishing a municipal liquor store, then and in that event the governing board of said city shall proceed to establish a store according to the provisions of this act.

§ 8. If the voters of any incorporated city, as defined herein, approve the opening and maintenance of a store as set forth in this act, then and in that event the board shall appoint a manager and such assistants as it may deem necessary to operate such store. The manager and his assistant or assistants, if any, shall be required to furnish surety bonds to the municipality, conditioned for the faithful performance of their service and the faithful accounting to the municipality for all property, moneys and effects coming into their possession as such manager or assistant, the bond or bonds to be in such sums as the governing board may deem sufficient. The manager or any assistant manager of the store may be removed at any time and without cause by the mayor of the city or the president of the city commission. The governing body of the municipality shall fix the salary of the manager and his assistants, if any, of such store and fix and prescribe such rules and regulations not inconsistent with the provisions of this act as in its discretion may be necessary to the proper and effective management of the store; provided, however, that the manager shall not be paid a salary to exceed one hundred and fifty dollars (\$150.00) per month, and an assistant or assistants shall not be paid to exceed one hundred and twenty-five dollars (\$125.00) per month.

§ 9. The prices of all liquor shall be fixed by the governing board of the municipality from time to time so that the net annual revenue received by the board therefrom shall not exceed twenty-five per cent (25%).

§ 10. For the purpose of carrying out the provisions of this

act the governing board of the municipality is hereby authorized to rent or purchase such real or personal property as it may deem necessary for the establishment and maintenance of such store, and such governing body is hereby authorized and empowered to incur such indebtedness on the part of the municipality for the purchase of liquor and expense of operation as in its judgment is deemed necessary for the carrying out of the provisions of this act; provided, however, that in no case shall such indebtedness exceed the sum of twenty-five thousand dollars (\$25,000.00).

§ 11. The store referred to in this act shall not be open for business prior to 10:00 o'clock A. M. and shall close promptly at 9:00 o'clock P. M. and shall be closed on Sundays, legal holidays and all days on which any state or municipal election is being held.

§ 12. The beverages described in this act shall not be sold to minors.

§ 13. All sales made by such stores shall be in bulk and in sealed or corked packages, and no drinking of the beverages described herein shall be allowed or permitted in any of said stores or upon the premises where the same are located.

§ 14. In every such store there shall be kept a record book in which each purchaser must sign his name in his own hand writing, giving his address and a receipt for every package of beverage purchased, and the record shall designate the kind and the amount of the purchase, and such record shall be open to inspection by the governing board of the municipality or any member thereof at any time, and it shall be the duty of the manager or assistant manager or managers of the store to rigidly enforce this rule. Provided further that the manager of said store shall keep a true and correct record of the stock on hand and all sales made by said store, and at the end of each month he shall make and deliver to the city auditor and the state treasurer a true and correct inventory of the stock on hand and a complete description of the merchandise sold during the month.

§ 15. There shall be levied and collected on all alcohol and alcoholic beverages as defined herein and sold in such municipal store the following excise tax:

- (1) On all light wines up to 14% of alcohol by weight, the sum of 10¢ per gallon.
- (2) On all wines from 14% to 21% of alcohol by weight, the sum of 20¢ per gallon.
- (3) On all wines from 21% to 24% of alcohol by weight, the sum of 40¢ per gallon.
- (4) On all wines containing more than 24% alcohol by weight, the sum of 60¢ per gallon.
- (5) On all natural sparkling wines containing alcohol, the sum of 60¢ per gallon.

(6) On all artificial sparkling wines containing alcohol, the sum of 30¢ per gallon.

(7) On all other liquors, liqueurs and cordials, the sum of 60¢ per gallon.

Provided that in computing the tax on any package of spirits a proportionate tax at a like rate on all fractional parts of a gallon shall be paid, except that all fractional parts of a gallon less than 1/16 shall be taxed at the same rate as shall be taxed for 1/16 of a gallon.

§ 16. Stamps, representing the excise tax set forth in Section 15 hereof, shall be securely fixed to each package sold by such liquor store and it shall be unlawful for any person to possess any such package or container without having a stamp or stamps affixed thereto.

§ 17. The stamps herein provided for shall be prepared and printed by the State Treasurer in such form and denominations as may be necessary for the carrying out of the provisions of this act and shall be issued and sold by the State Treasurer to the municipality upon requisition by it from time to time. All expenses of the State Treasurer in complying with the provisions of this act shall be deducted from moneys received from the sale of such stamps, and the remainder of said moneys, so received from a sale of said stamps, shall be, by him, credited to the General Fund of the state. The State Treasurer shall, by regulation, prescribe the manner in which said stamps shall be affixed and cancelled. The municipality shall be liable for the payment of the tax provided in this Chapter on sales made by said store and shall be required to affix stamps of the proper amount on every package or other container, containing the beverages described in this act, sold or delivered to any purchaser. Such stamps may be affixed at any time prior to sale to the consumer.

§ 18. It shall be unlawful for any person to possess the beverages described in Section 3 of this act except in his home, or transporting the same thereto, and it shall be unlawful for any person other than an employee of a municipal store to sell or barter any of the beverages described in Section 3 of this act.

§ 19. It shall be the duty of every sheriff and deputy sheriff, constable, marshal, chief of police or police officer of any city, town or village, having notice of information of any violation of this Chapter, to notify the state's attorney of the fact of such violation and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven, and if it be proven that any officer designated herein fails or refused to give the information required by this section, it shall constitute sufficient grounds for removal from office.

§ 20. Every person, who shall, directly or indirectly, keep or

maintain by himself or by an association, or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other place of whatsoever nature, name, kind or description, in which any intoxicating liquor, as defined herein, including the beverages described in Section 3 of this act, is received or kept for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any such club or association, by any means whatsoever; and every person who shall use, barter, sell or give away or assist or abet another in bartering, selling or giving away any intoxicating liquors, including the beverages described in Section 3 herein, so received or kept, shall be deemed guilty of a misdemeanor, and shall be punished as provided for in this act.

§ 21. It shall be the duty of the states attorney and all police officials to rigidly enforce the provisions of this act, and their failure so to do shall be sufficient grounds for their removal from office.

§ 22. PLACE OF SALES A NUISANCE: TO BE ABATED: LIQUORS TO BE DESTROYED: PENALTIES: RELEASE OF PROPERTY: BOND.] All places where intoxicating liquors are sold, bartered or given away, in violation of any of the provisions of this chapter, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage or where intoxicating liquors are kept for sale, barter or delivery in violation of this chapter, are hereby declared to be common nuisances; and if the existence of such a nuisance is established, either in a criminal or equitable action, upon the judgment of a court or judge having jurisdiction, finding such place to be a nuisance, the sheriff, his deputy or under sheriffs, or any constable of the proper county or marshal of any city where the same is located, shall be directed to shut up and abate such place by taking possession thereof, if he has not already done so under the provisions of this chapter and by taking possession of all such intoxicating liquors found therein, together with all signs, screens, bars, bottles, glasses and other property used in keeping and maintaining such nuisance and such personal property so taken possession of shall, after judgment, be forthwith publicly destroyed by such officer, and the owner or keeper thereof or any person who, in any manner, by using such place for the illegal purposes forbidden herein, or otherwise aids, abets, or assists in any violation of this section or chapter, shall upon such conviction, be adjudged guilty of maintaining a common nuisance, and shall for the first offense be punished by a fine of not less than \$200 nor more than \$1,000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense be punished by imprisonment in the penitentiary not exceeding two years and not less than one year; and said officer abating such nuisance shall securely close said building, erection or place where such nuisance was located, as against the use or occupation of the same

for saloon purposes, and keep the same securely closed for the period of one year (unless sooner released as hereinafter provided), and any person breaking open said building, erection or place, or using the premises so ordered to be closed, shall be punished for contempt, as hereinafter provided, in case of violation of injunctions; provided, however, that when leasehold premises are closed under a temporary injunctinal order or having been adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing to the tenant, and when this is done, if the said owner shall prove to the court that he was without fault, and neither knowingly, nor without knowledge negligently permitted the keeping or maintaining of the nuisance complained of, the premises shall be turned over to the owner upon the order of the court or judge as hereinafter set forth. But the release of the property shall be upon the condition that the nuisance shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant. If the owner appears and pays all costs of the proceedings and files a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the court or judge, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter the court, or in vacation time the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement, to be delivered to said owner; and if the proceeding is an action either at law or in equity, and bond is given and costs therein paid, the action shall be dismissed at the end of one year from the date of the service of the temporary injunctinal order, if in an equity case, or the closing of the premises if in a criminal case; in the meantime and in either form of action the premises where such nuisance was kept and maintained, shall be regarded as being under a restraining order of the court, a violation of which will subject the violator to punishment for contempt as hereinafter provided; provided, however, that the release of the property under the provisions of this section shall not release it from any judgment, lien or penalty, or liability to which it may be subject under any statute or law. Provided, further, that when an injunction, either temporary or permanent, has been granted, under the provisions of this chapter, the same shall be binding personally on the defendant or defendants, throughout the entire state, and for the violation of such injunction in any place in the State of North Dakota, the offending party shall be punished as for contempt according to the rules in this chapter prescribed.

§ 23. ACTIONS, HOW MAINTAINED: PROCEDURE: PRESUMPTIONS: PENALTIES.] The attorney-general, his assistant, state's attorney, or any citizen of the county where such nuisance exists or is kept or is maintained, may maintain an action in the name of the state to abate and perpetually enjoin the same. The injunction shall

be granted at the commencement of the action in the usual manner of granting injunctions, except that the affidavit or complaint, or both, may be made by the state's attorney, attorney-general or his assistant upon information and belief, and no bond shall be required; and if an affidavit shall be presented to the court or judge, stating or showing that intoxicating liquor, particularly describing the same, is kept for sale, or is sold, bartered or given away on the premises, particularly describing the same, where said nuisance is located contrary to law, the court or judge must at the time of granting the injunction issue his warrant commanding the officer serving said writ of injunction, at the time of such service to search diligently the premises and carefully invoice all the articles found therein, used in or about the carrying on of the unlawful business, for which search and invoicing said officer shall receive the sum of ten dollars in addition to the fees now allowed by law for serving an injunction. If such officer upon such search shall find upon such premises any intoxicating liquor or liquors of any kind, he shall take the same into his custody and securely hold the same to abide the final judgment in the action, the expenses for such holding to be taxed as part of the costs in the action; and such officer shall also take and hold possession of all personal property found on such premises, and shall take and hold possession of such premises and keep the same closed until such final judgment. The finding of such intoxicating liquor or liquors on such premises shall be prima facie evidence of the existence of the nuisance complained of. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt, for the first offense by a fine of not less than two hundred nor more than one thousand dollars, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense of contempt by imprisonment in the penitentiary not exceeding two years and not less than one in the direction of the court or judge thereof. In case judgment is rendered in favor of the plaintiff in any action, brought under the provisions of this section, the court or judge rendering the same shall also render judgment for a reasonable attorney's fee in such action, in favor of the plaintiff and against the defendants therein, which attorney's fee shall be taxed and collected as other costs therein, and when collected paid to the attorney or attorneys of the plaintiff therein; provided, if such attorney is the state's attorney such attorney's fee shall be paid into the county treasury as in section 10110 provided. In contempt proceedings arising out of the violation of any injunction granted under the provisions of this chapter the court, or in vacation the judge thereof, shall have the power to try summarily and punish the party or parties guilty as required by law. Process shall run in the name of the State of North Dakota. The affidavits upon which the attachment for contempt issues shall make a prima facie case for the state. The accused may plead in the same manner as to an information or indict-

ment, insofar as the same is applicable. Evidence may be oral or in the form of affidavits, or both; the defendant may be required to make answer to interrogatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his denial of the facts stated in the moving papers; the clerk of the court shall, upon the application of either party, issue subpoenas for witnesses, and except as above set forth, the practice in such contempt proceedings shall conform as nearly as may be to that adopted by the nineteenth rule of the supreme court of the United States for proceedings in equity in the circuit courts.

§ 24. That it is the intent of the Legislature in enacting this law to continue in full force and effect all statutes of the state prohibiting the manufacture, sale and possession of intoxicating liquors, together with the penalties set forth therein, except insofar as the same are inconsistent with the provisions of this act.

§ 25. Any person violating any of the provisions of this act shall, for the first offense, be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than \$200 or more than \$500, or be imprisoned in the county jail for a period of not more than six months, and for every succeeding offense, shall be deemed guilty of a felony and be punished by imprisonment in the penitentiary not exceeding two years.

§ 26. It is hereby declared that, if any of the provisions of this act in any manner contravene the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act; therefore, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 27. No provision of this act shall apply to alcohol intended for use in the manufacture and sale of any of the following articles when they are unfit for beverage purposes, namely:

- (a) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;
  - (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations;
  - (c) Flavoring extracts, syrups, and food products;
  - (d) Scientific, chemical, mechanical, and industrial products;
- nor to the manufacture and sale of any of said articles containing alcohol;

Provided, however, that this section shall not apply in any case where any person shall knowingly sell any of the articles enumerated in sub-paragraphs (a), (b), (c), and (d) for beverage pur-

poses, or shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes.

Approved March 8, 1935.

## CHAPTER 204

S. B. No. 222—(Coffey and Miklethun)

### CITY PARK COMMISSIONERS—ELECTION, TERM OF OFFICE, FILLING VACANCIES

An Act to amend and re-enact Section 4058 of the Compiled Laws of North Dakota for 1913, as amended by Section 1 of Chapter 180 of the Session Laws of the State of North Dakota for 1929, relating to the organization of a Board of Park Commissioners, defining the qualifications, mode of election and term of office of such commissioners and prescribing the manner of filling vacancies of said board, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4058 of the Compiled Laws of North Dakota for 1913 as amended by Section 1, of Chapter 180 of the Session Laws of North Dakota for 1929 is hereby amended and re-enacted to read as follows:

§ 4058. ELECTION OF COMMISSIONERS, FILLING VACANCIES.] The powers of each park district shall be exercised by a Board of Park Commissioners consisting of five members who shall hold office for the period of six years from and after the date of their election and qualification and until their successors are duly elected and qualified, except the members of the first board who shall hold office as follows: One member until the third Tuesday in April in the year in which the next regular biennial city election is held, two members until two years following such last mentioned date, and two members until four years following such last mentioned date. The members of the park commission shall qualify by taking and filing with the city auditor of the city the oath prescribed by Section 211 of the Constitution. The city treasurer shall be ex-officio treasurer of the park district. He shall take the oath prescribed by Section 211 of the Constitution and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by the qualified electors of the park district at the regular elections of the city, and shall qualify within ten days after their election, and on the third Tuesday of April after the election shall organize by the selection of a president and vice-president. The first board may be elected at any regular city election, or at a special election for that purpose called by the city council or the city commission. The members of the board shall receive no compensation for their services as such, and shall have the qualifications of electors

of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy. Members of such boards elected prior to the taking effect of this act shall continue to serve in their respective official capacities until their successors have been elected at regular city elections in accordance with the provisions hereof and until they have qualified for such offices.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

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

Approved March 12, 1935.

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## CHAPTER 205

S. B. No. 185—(Cain)

### JURISDICTION POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE

An Act defining the jurisdiction of Police Magistrates and City Justices of the Peace in criminal actions in cities of five thousand inhabitants or more in counties wherein the County Court does not have increased jurisdiction; qualifications and fees of said Police Magistrates and City Justices of the Peace; procedure, jurors and officers in said Police Magistrates Courts and Courts of said City Justices of the Peace; limitations of jurisdiction of Justices of the Peace in said cities; and repealing all acts and parts of acts in conflict therewith.

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

§ 1. JURISDICTION OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] Each police magistrate shall have exclusive jurisdiction, and it shall be his duty to hear, try and determine all offenses against the city in which he is elected or appointed; and all police magistrates and city justices of the peace shall have concurrent jurisdiction with all justices of the peace of the county in all matters and other actions, civil and criminal. Justices of the peace, except said city justices of the peace in counties containing cities of 5,000 inhabitants or more, situate in counties where the county court does not have increased jurisdiction, shall have no jurisdiction to hear and determine criminal actions, or sit as committing magistrates except in cases of felony, and in cities of 5,000 inhabitants or more situate in counties where the county court does not have increased jurisdiction the police magistrates and city justices of the peace shall have exclusive jurisdiction to hear, try and determine

all cases of misdemeanors and criminal actions below the grade of felony, and may sit as committing magistrates in cases of felony, and prosecutions of said criminal actions shall be by information.

§ 2. QUALIFICATIONS OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] No person shall be eligible to election to the office of police magistrate or city justice of the peace in such cities who is not a qualified elector of the city, and who shall not have resided therein at least nine months before the last preceding election, and no person shall be eligible to hold either of said offices by appointment unless he is a citizen of the United States. And no person shall be eligible to election or appointment to the office of police magistrate or the office of city justice of the peace in cities of five thousand inhabitants or more, situate in counties where the county court has not increased jurisdiction, unless such person is an attorney at law and if the incumbent of any such office of police magistrate or city justice of the peace shall not have all of the qualifications for such office as herein provided, then immediately upon the taking effect of this act such office shall become vacant automatically and the office shall then be filled by appointment as now provided by law.

§ 3. FEES OF POLICE MAGISTRATES AND CITY JUSTICES OF THE PEACE.] Fees of police magistrates and city justices of the peace in said cities shall be and remain as is now provided by law, and in the trial of all misdemeanors by them, or either of them, or heard by them or either of them, and for all services of any kind, and in appeals taken, shall be as now provided by law and as shall be allowed justices of the peace or other officers for like services.

§ 4. GENERAL PROVISIONS TO APPLY.] The general provisions of law which may at any time be in force relating to the district courts, county courts of increased jurisdiction, and justices of the peace in civil and criminal proceedings therein shall also relate to the police magistrates and city justices of the peace of said cities, and the rules and practices of district courts, county courts of increased jurisdiction, and justices of the peace shall be in force in said police magistrates courts and courts of city justices of the peace when applicable and except as herein otherwise provided.

§ 5. MANNER OF SELECTING JURY IN CRIMINAL ACTION.] Jurors to serve in any criminal action in said police magistrate court or court of city justice of the peace shall be selected from a jury list of one hundred qualified jurors to be furnished said police magistrate or city justice of the peace by the mayor and city council or board of city commissioners, whose duty it shall be to select such names as jurors from residents of said city and to furnish said list to such judge. Whenever said list of jurors is partly exhausted by reason of service as jurors in criminal actions, the judges of said court shall notify the boards whose duty it is to replenish said list, and said board shall furnish additional names to said judges so that

there shall always be one hundred names of qualified jurors in said jury box; provided, however, that no juror shall serve on more than five criminal actions in any two-year period. The governing board of the municipality shall select said list of jurors in the manner now provided by law for the selection of jurors to serve on district court juries. The failure of said municipal board to comply strictly with the provisions of this act shall not invalidate the list of names remaining in the jury box of said police magistrate or city justice of the peace.

§ 6. JURY TRIAL.] In all criminal actions the defendant shall be entitled to a trial by a jury and when the defendant is arraigned he shall be informed by the court of his rights to a trial by a jury and if he waives his right to a jury trial an entry to that effect shall be made in the docket and the defendant shall then be tried by the court.

§ 7. JURY IN CRIMINAL ACTION, HOW COMPOSED.] The jury in all criminal actions shall be composed of twelve residents of the city in which the police magistrate and city justice of the peace is elected or appointed having the qualifications of jurors, and the jurors mentioned shall be selected, summoned and impaneled as in the district court in like criminal actions and each party shall be entitled to the same number of challenges as now or may hereafter be allowed in the district court in like actions; the said police magistrate or city justice of the peace presiding at any trial, as the case may be, to draw a jury from the box containing the list of said jurors, said drawing to be in the presence of the parties and their attorneys and the state's attorney.

§ 8. BAILIFF.] The sheriff or any of his deputies, chief of police or any policeman, or any constable may be appointed at any trial as bailiff of the court during the said trial by the police magistrate or by the city justice of the peace, and shall receive for his services the sum of two dollars each day he serves as said bailiff.

§ 9. PRELIMINARY EXAMINATIONS.] No preliminary examination shall be necessary before the trial in criminal actions in the said police magistrate court or court of city justice of the peace in which the said courts have original jurisdiction.

§ 10. ASSIGNMENT OF COUNSEL.] In all criminal cases triable in the police magistrate court or in the city justice of the peace court in cities in which said courts have exclusive and original jurisdiction, when it is satisfactorily shown to the court that the defendant has no means and is unable to employ counsel, the court shall in such case assign counsel for the defendant and allow and direct to be paid by the county in which said court is held a reasonable and just compensation to the attorney or attorneys assigned for such services as they may render, provided, however, that said compensation shall not exceed twenty-five dollars in any one case.

§ 11. COURT STENOGRAPHER.] The police magistrate having increased jurisdiction as herein is authorized to appoint a court stenographer to hold office during the pleasure of the police magistrate, who shall qualify in the same manner as the court stenographer of a district court, said court stenographer to be appointed to act only when a criminal trial is being had so that a record of the proceedings may be preserved for purposes of appeal, said court stenographer also to act in the court of the city justice of the peace when the city justice of the peace has before him the trial of a criminal action. The compensation of the said court stenographer shall be paid in the same manner as the court stenographer of the district court, at such compensation as the board of county commissioners shall designate, not to exceed the sum of five dollars per day when actually employed, said stenographer to receive the same fees for transcripts and copies as is now allowed the stenographer in district court.

§ 12. PREJUDICE OF POLICE MAGISTRATE OR OF THE CITY JUSTICE OF THE PEACE.] When the defendant or his attorney before the trial of a criminal action commences files an affidavit in writing stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the police magistrate or before the city justice of the peace about to try the same by reason of the bias or prejudice of said police magistrate or of said city justice of the peace, the action must be transferred if about to be tried by the police magistrate to the city justice of the peace, and if about to be tried by the city justice of the peace must be transferred to the police magistrate, and an order must be made transferring the same accordingly. But after such change of venue the state's attorney or other attorney for the state, may file a like affidavit and the action shall then be transferred to the district court of the county.

§ 13. WHEN A CHANGE OF PLACE OF TRIAL IS ORDERED.] To the original papers a certified copy of the docket entries in the action must be forthwith attached and the court must deliver same to an officer, who shall without delay deliver same to the court to which the action has been transferred and take the defendant before said court.

§ 14. NEW TRIALS IN CRIMINAL ACTIONS.] In all criminal actions or proceedings brought in the police magistrate court or court of city justice of the peace in said cities set forth in this act, the police magistrate and city justice of the peace shall have authority to grant new trials, vacate and set aside verdicts and entertain motions to arrest judgment in the same manner and pursuant to the same statutes, rules and regulations now prescribed by law for the district courts, and a statement of the case may be prepared and settled in the same manner prescribed for appeals in the Code of Criminal procedure.

§ 15. APPEALS IN CRIMINAL ACTIONS.] In all criminal actions brought in police magistrate court or court of city justice of the peace, as provided for in this act an appeal may be taken to the supreme court in the same manner and pursuant to the same rules as appeals from the district court to the supreme court, the duties that are now performed by the clerk of the district court on appeals from the district court to be performed by the police magistrate or by the city justice of the peace.

§ 16. FEES OF JURORS.] The fees of jurors shall be for each days attendance as juror, two dollars, and traveling expenses for each mile actually and necessarily travelled each way, five cents.

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

Approved March 12, 1935.

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## CHAPTER 206

H. B. No. 292—(Muus)

### AUTHORIZING CITIES AND VILLAGES TO ISSUE BONDS FOR PURCHASING OUTSTANDING SPECIAL IMPROVEMENT WARRANTS

An Act authorizing and empowering cities and villages to issue bonds for the purpose of purchasing outstanding special improvement warrants, and declaring an emergency.

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

§ 1. All cities and villages are hereby authorized and empowered to issue bonds for the purchase of outstanding special improvement warrants of said city or village before or after maturity thereof at the best price obtainable but not exceeding sixty per cent (60%) of the par value thereof and accrued interest to date of purchase; provided, however, that the rate of interest on the bonds shall not exceed the rate of interest on the special improvement warrants purchased; provided, further, that said bonds shall not be sold for less than par value thereof and the accrued interest thereon.

§ 2. Such bonds may be issued pursuant to resolution or ordinance of the governing body of the city or village without submitting the question to the electors of the city or village, nor shall it be necessary that the issuance of said bonds be submitted to the Board of Budget Review in the manner required by law for other bond issues. Such bonds shall mature serially, the first installment to fall due not more than three years and the last installment to fall due not more than twenty years from the date of such bonds.

§ 3. All such bonds shall be general obligations of the city and the full faith and credit and unlimited taxing power shall be pledged to their payment.

§ 4. The governing body of said city or village shall create a special fund for the payment of the principal and interest of the bonds as the same become due. For that purpose it shall credit to said fund all special assessments collected for the benefit of the special improvement warrants purchased, and shall annually cause a general tax levy to be made against all taxable property in the municipality in an amount which, together with the special assessments collected, will be sufficient to pay the principal and interest of the bonds when the same become due. If upon payment of all of the bonds and interest thereon, any money remains in the special fund, the same may be transferred to the general fund. Such general tax levy shall not be subject to any tax levy limitations imposed by Chapter 235 of the Session Laws of North Dakota for 1929 or acts amendatory thereof or supplemental thereto.

§ 5. This act shall be deemed and construed complete in and of itself and is intended to be an additional remedial measure and shall not be deemed to have amended or repealed any existing law.

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

Approved March 13, 1935.

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## CHAPTER 207

S. B. No. 97—(Jones and Coffey)

### REFUNDING SPECIAL IMPROVEMENT WARRANTS

An Act relating to refunding special improvement warrants, repealing Chapter 178 of the Session Laws of North Dakota for 1929 and all other acts in conflict herewith and declaring an emergency.

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

§ 1. Any city or village having valid outstanding special improvement warrants may issue refunding special improvement warrants for the purpose of extending the maturities thereof whenever any of said warrants are past due and there is not sufficient money in the special improvement fund for their payment.

§ 2. Refunding warrants may be authorized by a resolution of the governing body describing the warrants to be refunded and fixing the amount, maturity and other details of the refunding warrants. The refunding warrants shall bear such date, be in such denomination, and mature at such time or times, not exceeding twenty years, as the governing body shall determine and may be made subject to redemption at any specified time or times if so provided in the initial resolution. The rate of interest shall not exceed the rate of interest on the warrants to be refunded thereby.

§ 3. Refunding warrants may be sold for cash in such manner as the governing body may direct and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants, but no such sale or exchange shall be made at less than par and accrued interest. Refunding warrants may be issued from time to time as the original warrants mature or may be exchanged for warrants which are not due by agreement with the holders thereof. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange for refunding warrants and may provide that such agreement shall be effective when the holders of not less than seventy-five per cent of the said warrants shall have entered into said agreement.

§ 4. Refunding warrants shall be payable out of the special improvement fund provided for the payment of the warrants refunded thereby and it shall be the duty of the city or village to preserve and enforce, for the security of the refunding warrants, all rights and duties which constituted security for the refunded warrants. Among the rights and duties so to be preserved shall be the duty of the governing body of the city or village to levy a tax for the payment of any deficiency in the special improvement fund and such tax shall be levied at the date of maturity of the last maturing warrant of the original issue, but may be payable in the years and amounts required to pay principal of and interest on the refunding warrants as the same become due.

§ 5. Chapter 178 of the Session Laws of North Dakota for 1929, and all other acts in conflict herewith, are hereby repealed.

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

Approved March 1, 1935.

## CHAPTER 208

H. B. No. 259—(Downey, Gessner and Traynor)

### LIMITATION TAX LEVIES CITIES

An Act to amend and re-enact Sub-section (b) of Section 5, of Chapter 235 of the Session Laws of 1929, as amended by Chapter 297 of the Session Laws of 1931, relating to tax levy, limitations of cities.

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

§ 1. AMENDMENT.] That Sub-section (b) of Section 5, of Chapter 235 of the Session Laws of 1929, as amended by Chapter 297 of the Session Laws of 1931 is hereby amended and re-enacted to read as follows:

(b) The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of

fourteen mills on the net taxable assessed valuation of property in the city, provided that in cities supporting bands and/or public libraries that an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for these purposes.

Approved March 13, 1935.

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## NORTH DAKOTA

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### CHAPTER 209

S. B. No. 220—(Handley and Lowe)

#### SUSPENSION 1935 STATE CENSUS

An Act to suspend the operating of Chapter 24 of the Political Code of the State of North Dakota for the year 1913, being Sections 1889 to 1902 both inclusive of said compiled laws, relating to the enumeration of inhabitants in the State of North Dakota, and declaring an emergency.

WHEREAS: Due to the financial condition of the state, it is deemed advisable to suspend the operation of the aforesaid Chapter and eliminate the taking of the state census for the year 1935.

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

§ 1. That the provisions of Chapter 24 of the Political Code of North Dakota being Sections 1889 to 1902 both inclusive of the Compiled Laws for the year 1913, relating to the census in so far as the same relates to the taking of said census in 1935 and the same is hereby suspended.

§ 2. No state census shall be taken during the year 1935 and the Secretary of State is hereby prohibited from furnishing and submitting the necessary blanks to the several county auditors and the assessors of the several townships, cities and villages are hereby prohibited from performing any duty or incurring any expense in connection with said matter until the year 1945, all acts or parts of acts to the contrary notwithstanding.

§ 3. EMERGENCY.] Whereas under the provisions of the laws it will be necessary, and it is made the duty of the Secretary of the State and various county auditors and assessors to perform duties and incur expenses in connection with the 1935 state census, therefore an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1935.

## CHAPTER 210

S. B. No. 324—(Committee on Delayed Bills)

**AUTHORIZING INDUSTRIAL COMMISSION TO CO-OPERATE  
WITH FEDERAL ECW PROJECTS ON STATE, COUNTY  
AND MUNICIPALLY OWNED LANDS**

An Act authorizing and empowering the Industrial Commission of the State of North Dakota to take such action as may be proper and necessary to co-operate with the emergency conservation work projects of the Federal Government on state, county and municipally owned lands, authorizing the Industrial Commission to enter into such contracts and agreements as are permissible under the state constitution with municipalities and private individuals for the carrying on of such emergency conservation work projects, making it the duty of such commission to make a report of its proceedings under this act to the next legislative assembly, and declaring an emergency.

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

WHEREAS, the Federal Government is now engaged in emergency conservation work projects in this state, and for such purposes has purchased and is about to purchase state, county and municipally owned lands, and that therefore it is necessary that some agency of the State of North Dakota be authorized and empowered to co-operate and act in conjunction with the Federal Government in such conservation work projects;

§ 1. That the Industrial Commission of the State of North Dakota be, and hereby is, empowered to co-operate and act in conjunction with the Federal Government in the matter of entering into contracts with the State of North Dakota or counties and municipalities within the state and/ or private individuals for the purposes of such emergency conservation work projects insofar as such acts or actions upon the part of the Industrial Commission are permitted by the Constitution of the State of North Dakota.

§ 2. It shall be the duty of the Industrial Commission to make a full and complete report of any and all proceedings had by it under and in pursuance of the provisions of this act, and to present the same to the next Legislative Assembly of the State of North Dakota.

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

Approved March 14, 1935.

## CHAPTER 211

S. B. No. 131—(Dubay and Gronvold)

CONVEYANCE INTERNATIONAL PEACE GARDEN LANDS TO  
STATE OF NORTH DAKOTA

An Act authorizing and empowering the Governor to accept a conveyance in trust of the lands comprising the International Peace Garden to the State of North Dakota; setting forth the terms and conditions of the trust; vesting the custody, control, possession, supervision, management and operation of such lands in the Board of Directors of the International Peace Garden, Inc.; vesting in the State Historical Society general supervision of such lands, and expressly empowering the State Historical Society to co-operate in the establishment, promotion and development of the International Peace Garden for the purpose of furthering International Peace among the Nations of the world; providing for the duration of such trust; and repealing all acts, or parts of acts, in conflict herewith, and declaring that an emergency exists for the immediate enactment of this act.

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

§ 1. That the Governor of the State of North Dakota is hereby authorized, empowered, and directed, for and in behalf of the State of North Dakota, to accept from International Peace Garden, Inc., a New York corporation, a deed of conveyance in trust upon the trust conditions hereinafter contained, of the following described real property situated in the County of Rolette, and State of North Dakota, to-wit:

The South Half of the Southeast Quarter, and the South Half of the Southwest Quarter, and Lots Numbered One, Two, Three, and Four, of Section Twenty-five in Township One Hundred Sixty-four North, of Range Seventy-three West, of the Fifth Principal Meridian, which land was purchased by the International Peace Garden, Inc., with funds appropriated to it by the 23rd Legislative Assembly of the State of North Dakota, by Chapter 56, Session Laws of North Dakota, 1933;

All of Section Thirty-six, in Township One Hundred Sixty-four North, of Range Seventy-three West, of the Fifth Principal Meridian, which land was authorized transferred by the Governor and the Board of University and School Lands of the State of North Dakota to the International Peace Garden, Inc., a New York corporation, by the 23rd Legislative Assembly of the State of North Dakota, by Chapter 224, Session Laws of North Dakota, 1933; all of which described land now comprises that part of the International Peace Garden, situated within the State of North Dakota, and the United States of America.

§ 2. That the title to the real property described in the preceding section, is hereby accepted by the State of North Dakota in trust and upon the following express conditions and trusts, to-wit:

a. That the title to said described real property shall be in the State of North Dakota, in trust for, and for the use and benefit of the International Peace Garden.

b. That said described real property shall be used and maintained as an International Peace Garden as a memorial to commemorate the long existing relationship of peace and good will between the people and the governments of the United States of America, and the Dominion of Canada.

c. That if the said described land shall at any time cease to be used and maintained as an International Peace Garden, that then such land shall unconditionally revert to the State of North Dakota, and upon such reversion shall become the absolute and unconditioned property of the State of North Dakota, and shall become subject to the laws of the state and of the United States to the same extent as if this act had never been passed, and as if Chapter 56 and Chapter 224, Session Laws of North Dakota, 1933, had never been passed.

d. That the control, custody, possession, supervision, management, and operation of said described land as an International Peace Garden, shall be and is hereby vested in the Board of Directors of the International Peace Garden, Inc., a New York corporation, provided, however, that such custody, control, possession, supervision, management and operation thereof as aforesaid shall at all times be for the maintenance and operation of an International Peace Garden in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States of America and the Dominion of Canada.

e. That the International Peace Garden is hereby recognized as an International Peace park located partly within the State of North Dakota, and partly within the Province of Manitoba, Dominion of Canada, and that the International Peace Garden, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, and whose articles of incorporation have been filed in the State of North Dakota, is hereby recognized as the sponsoring organization responsible for its creation, designation and location, and said corporation is hereby vested with the authority to control, operate, supervise and maintain said International Peace Garden, in accordance with the terms of this act.

f. That the State of North Dakota shall in no manner be responsible for the maintenance or operation of said lands as an International Peace Garden.

g. That the State Historical Society of the State of North Dakota, as Trustee for the State of North Dakota, shall have general supervision of the lands herein described and comprising that part of the International Peace Garden located within the State of North Dakota, and the United States of America, for the purpose of seeing that the terms of this act, and the trust imposed by this act, are complied with by the International Peace Garden, Inc., and for the pur-

pose of co-operating with the International Peace Garden, Inc., in the promulgation, promotion and development of the International Peace Garden, in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States and Canada; and said State Historical Society is hereby expressly authorized and empowered to co-operate in the establishment, promotion, and development of said International Peace Garden, for the purpose of furthering International Peace among the Nations of the world.

h. That the terms and conditions of the trust imposed by this act can only be repealed, amended, or changed by the Legislature with the consent of the Board of Directors of the International Peace Garden, Inc., a New York corporation.

i. That the terms and condition of the trust created by this act shall exist so long as the International Peace Garden shall be in existence.

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

§ 4. EMERGENCY.] WHEREAS, the lands in the United States belonging to the International Peace Garden, have been provided by the State of North Dakota by Chapters 56 and 224, Session Laws of North Dakota, 1933; and whereas a Civilian Conservation Camp was located at the Peace Garden in 1934 and did some real constructive work; and whereas the directors of the International Peace Garden, Inc., have been notified that no further work can be performed by a Civilian Conservation Camp at the Peace Garden until the title to such lands is in the State; and whereas the Peace Garden is in fact a State as well as International park, with the provision in the title that if the project is ever abandoned the title reverts unconditionally to the State; and whereas it is desirable that further work be done on the Peace Garden by a Civilian Conservation Camp, and the Directors of International Peace Garden, Inc., have offered to transfer the said lands to the State in Trust, therefore an emergency exists, and this act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1935.

**CHAPTER 212****S. B. No. 58—(Committee on Employment)****COMPENSATION OFFICERS AND EMPLOYEES' LEGISLATIVE ASSEMBLY**

An Act to amend and re-enact Section 34, Compiled Laws of 1913, relating to officers and employees and compensation thereof, of the Legislative Assembly and declaring an emergency.

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

§ 1. That Section 34, Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 34. The Legislative Assembly of the State of North Dakota shall, at the beginning of each legislative session, by joint resolution, appoint such officers and employees as shall be deemed proper and necessary and fix their compensation, provided, however, that the compensation of the President pro tempore of the Senate and Speaker of the House shall not exceed the sum of two dollars per day; the compensation of the Secretary of the Senate, Chief Clerk of the House and Desk Reporter for the Senate and for the House shall not exceed the sum of eight dollars per day; the compensation of Assistants to the Secretary of the Senate and Assistant to the Chief Clerk of the House shall not exceed the sum of seven dollars per day; and the compensation of all other officers or employees shall not exceed the sum of five dollars per day.

§ 2. That all acts or parts of acts in conflict herewith are hereby repealed.

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

Approved January 25, 1935.

**CHAPTER 213****S. B. No. 263—(Erickson)****DEFINING MILITARY FORCES; POWERS BOARD OF ARMORY SUPERVISORS, ASSISTANT ADJUTANT GENERAL AND DISBURSING OFFICER; PAY AND ALLOWANCES ENLISTED MEN, ETC.**

An Act to amend and re-enact Sections 2350, 2412 and 2417 of the Compiled Laws of North Dakota of the year 1913 relating to the Military Code of the State of North Dakota; defining Military forces; providing a Board of Armory Supervisors and defining the powers thereof; fixing the pay and allowances of enlisted men on active duty and further providing for the appointment of an Assistant Adjutant General, his powers and duties; the appointment of a Disbursing Officer, his powers and duties; requiring officers to fur-

nish bonds; providing punishment for false certificates or returns and for the misuse of funds or property; providing that State and Municipal officers and employees shall not lose pay while on duty; giving troops power to act outside of occupied territory; providing for the service of process of Military Courts; providing that the invalidation of a portion of this act shall not invalidate the remainder thereof and repealing Sections 2392, 2421, 2432b and 2434 of the Compiled Laws of North Dakota of the year 1913 and Sections 2423a and 2442a of the 1925 Supplement to the Compiled Laws of North Dakota of the year 1913 and all acts or parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 2350 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2350. MILITARY FORCES — GENERAL DEFINITIONS.] The military forces of this state shall consist of those persons subject to military duty in the militia as defined in the Constitution of the state, and those persons subject to duty in the National Guard as defined in the National Defense Act of the United States, except that honorably discharged soldiers, sailors, and marines of the United States shall be exempt from military service in this state at their election.

When used in this act, the following words, terms, and phrases shall have the following meanings:

The word "militia" shall mean the forces provided for in the Constitution of North Dakota.

The term "National Guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the National Defense Act of the United States as the "National Guard of the United States and the State of North Dakota." It shall also include the term "National Guard of the State of North Dakota."

The word "company" as used in this act shall be understood and construed to include a company of infantry, engineers, signal corps, a flight of the air service, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment.

The word "battalion" applies in like manner to "squadron" of cavalry, and of the air service.

The term "active service" shall be understood and construed to be service on behalf of the state, in case of public disaster, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, or under martial law, or at encampments whether ordered by state or federal authority, or upon any other duty requiring the entire

time of the organization or person, except when called or drafted into the Federal service by the President of the United States.

The term "on duty" shall include periods of drill and such other training and service as may be required under state or federal law, regulations, or orders.

The terms "in service of the United States" and "not in service of the United States," used herein, shall be understood to mean and be the same as such terms are used in the National Defense Act of Congress, approved June third, nineteen hundred sixteen (June 3, 1916), and amendments thereto.

§ 2. AMENDMENT.] That Section 2412 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2412. BOARD OF ARMORY SUPERVISORS.] The Governor shall appoint a Board of Armory Supervisors which shall consist of the Adjutant General, and four other officers from the active, inactive, or retired commissioned personnel of the National Guard. The board shall meet at such times and places as are ordered by the Governor. The four officers so appointed shall serve at the pleasure of the Governor. The board shall, for each unit of the National Guard, fix the rent allowance to be paid by the state for other than state owned armories, and shall acquire, contract, erect, purchase, sell, maintain, repair and alter state owned armories subject to the laws made and provided therefor. Said board may lease property to be used for armory purposes, said lease to extend for any period but not to exceed fifteen years.

Provided further that the said Board of Armory Supervisors shall have power to receive and authority to expend all moneys which may be donated to the State of North Dakota from any and all sources or at any time appropriated by the Legislature of the State of North Dakota for the purpose of building, altering, repairing and/or maintaining armories to be owned by the State of North Dakota together with the grounds upon which the same is situated and all necessary and proper appurtenances thereto including all necessary and proper equipment thereof.

Said board shall also have power to receive, operate and care for in behalf of the State of North Dakota any and all armories which may be deeded or transferred to the state by any other owner whatsoever.

§ 3. AMENDMENT.] That Section 2417 of the Compiled Laws of North Dakota of the year 1913 is hereby amended and re-enacted to read as follows:

§ 2417. PAY AND ALLOWANCES OF OFFICERS AND ENLISTED MEN ON ACTIVE DUTY.] Every commissioned officer of the National Guard not salaried as such shall receive from the state, while engaged in any service ordered by the Governor, pay and allowances,

at the rate allowed by law to officers of similar rank and length of service in the United States Army.

Where the officers of the National Guard are convened by the Governor at an annual meeting of instructions, other than camp or active service, or where they are detailed under orders from Regimental Headquarters for the purpose of holding a quarterly inspection outside of their own station, they shall be allowed for traveling and incidental expenses, the sum of four dollars per day.

When called into active service by the Governor, each enlisted man of the National Guard shall receive pay at the rate now or hereafter provided for enlisted men of similar grades rating and term of enlistment in the Regular Army of the United States, and in addition thereto the sum of one dollar and fifty cents (\$1.50) per day besides transportation, shelter and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and legal fines or forfeitures may be deducted from the member's pay.

§ 4. ASSISTANT ADJUTANT GENERAL.] There shall be an Assistant Adjutant General of the state who shall be appointed by the Governor, upon the recommendation of the Adjutant General. He shall have such rank as is consistent with Federal law and regulations and at the time of his appointment shall be a commissioned officer of the National Guard with not less than five years military service in the armed forces of this state or of the United States, at least three of which shall have been commissioned service and he shall have reached the grade of captain. He shall hold office as provided for the Adjutant General. He shall serve in the office of the Adjutant General and aid him by performing such duties as the Adjutant General may assign him in the absence or disability of the Adjutant General. He shall perform the duties of that office as Acting Adjutant General.

§ 5. GOVERNOR TO APPOINT DISBURSING OFFICER.] The Governor, pursuant to Federal authority, shall appoint, designate, or detail, upon recommendation of the Adjutant General, an officer of the National Guard who shall be property and disbursing officer of the United States for the State of North Dakota. He shall receipt and account for all funds and property belonging to the United States in possession of the National Guard of this state, and shall make such returns and reports concerning the same as may be required by the Secretary of War. He shall render, through the War Department, such accounts of Federal funds intrusted to him for disbursement as may be required by the Treasury Department. Before entering upon the performance of his duties as property and disbursing officer shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by the Secretary of War, for the faithful performance of his duties and for the safekeeping and proper disposition of the Federal prop-

erty funds intrusted to his care. The said Property and Disbursing Officer may also be the Quartermaster of the state.

§ 6. BONDS OF OFFICERS.] Each officer to whom there shall be issued, or who shall be accountable for arms, equipment, uniforms, and any other state or United States property for military uses, or who shall have the control, custody or disbursement of state or military funds shall, before the delivery to him of such arms, equipment, uniform, and other state or United States property, and the receipt of such funds, execute and deliver to the Adjutant General a bond therefor, with sureties to be approved by the Governor, and payable to the state, in such amount as may be fixed by the Governor, conditioned for the proper care, use and return in good order, wear, use and unavoidable loss and damage excepted, of all such state and United States property, and the proper care and faithful disbursement and accounting of all funds coming into the hands of such officer. Upon the violation of any of the conditions of such bond, action thereon shall be brought by the Adjutant General on behalf of the state, and any recovery thereon shall be credited to the Guard Funds of the state. It shall be the duty of the Attorney General of the state to prosecute all actions upon such bonds.

§ 7. FALSE CERTIFICATE OR RETURN.] Any officer or soldier of the National Guard who knowingly makes any false certificates of muster or false return of Federal or state property or funds in his possession shall be guilty of a misdemeanor.

§ 8. MISUSE OF FUNDS OR PROPERTY.] Any officer or soldier of the National Guard who wilfully neglects or refuses to apply all money, in his possession drawn from the paymaster general, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in his possession shall be guilty of the crime of embezzlement by bailee and punished accordingly.

§ 9. STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON DUTY.] All officers and employees of the state, or a subdivision thereof, or a municipality therein, who are members of the National Guard, shall, when ordered by proper authority to active service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

§ 10. JURISDICTION OUTSIDE OF OCCUPIED TERRITORY.] Troops occupying a military district established under martial law, may, if necessary, pursue, arrest and subpoena persons wanted in said military district, anywhere within the State of North Dakota.

§ 11. SERVICE OF PROCESS.] All peace officers of the state

shall serve process and execute the orders of a military court in the same way and to the same extent as corresponding instruments of civil courts.

§ 12. CONSTITUTIONALITY.] Should the courts of this state or of the United States declare any of the provisions of this chapter unconstitutional, illegal or void, such decision shall not invalidate any other provision herein contained.

§ 13. REPEAL.] Sections 2392, 2421, 2432b and 2434 of the Compiled Laws of North Dakota of the year 1913 and Section 2423a and 2442a of the 1925 Supplement to the Compiled Laws of North Dakota of the year 1913 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 12, 1935.

## CHAPTER 214

S. B. No. 218—(Committee on Irrigation and Drainage)

### ACQUISITION LANDS FOR PUBLIC PARKS, ETC., BY STATE AND COUNTIES

An Act providing that the state and the several counties of the state are authorized to acquire by purchase, exchange, gift, condemnation or otherwise the title to any land within the same political subdivision for the purpose of establishing any public park or recreational area, or for the purpose of constructing, maintaining and operating any water and/ or wildlife conservation project; providing that all lands to be purchased or exchanged under authority of this act shall be appraised by the existing appraisal agencies of the parties to the contract, providing that where no such appraisal agency exists the county board of commissioners shall determine the values thereof, and providing that no land shall be purchased for more than the appraised value, nor shall any lands owned by the state or the several counties be exchanged except for lands of an equal appraised value; providing that the State of North Dakota shall reserve all mineral rights to all state lands transferred under authority of this act, providing a saving clause, repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. The state or the several counties of the state, are hereby authorized to acquire by purchase, exchange, gift, condemnation or otherwise the title to any lands within the same political subdivision for the purpose of establishing a public park or recreational area, or for the purpose of constructing, maintaining and operating any water and/ or wildlife conservation project.

§ 2. All such lands to be purchased or exchanged under authority of this act shall be appraised by the existing appraisal agencies of the parties to the contract and in all cases where there are no such appraisal agencies the county board of commissioners shall

determine the value thereof, and in no case shall land be purchased for more than the appraised value, nor shall any lands owned by the state or the several counties be exchanged except for lands of an equal appraised value.

§ 3. The State of North Dakota shall reserve all mineral rights to any and all state lands exchanged under authority of this act.

§ 4. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act, hence, if any provisions are found to be violative of the Constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

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

§ 6. This act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 7, 1935.

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## CHAPTER 215

S. B. No. 328—(Delayed Bills Committee)

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### ACCEPTANCE, ETC., STATE FOREST AND PARK LANDS BY STATE FORESTER

An Act authorizing the State Forester to accept, acquire or lease land for state forests and state parks; providing for the management and development thereof and the disposition of income from such lands.

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

§ 1. That the State Forester is hereby authorized to accept gifts, donations or contributions of land suitable for forestry or park purposes and to enter into agreements with the Federal Government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the State Forester are desirable for state forests or state parks.

§ 2. When lands are acquired or leased under Section 1 of this act, the State Forester is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules and regulations as may be necessary to carry out the purposes of this act.

§ 3. All revenues derived from lands now owned or later ac-

quired under the provisions of this act shall be segregated by the State Treasurer for the use of the State Forester in the acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Providing, however, that the State Forester shall not expend for such purposes more than ten thousand dollars (\$10,000.00) in any one fiscal year. Thereafter, fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the Legislative Assembly may prescribe, and fifty per cent shall be paid into the school fund of the county in which lands are located.

§ 4. Obligations for the acquisition of land incurred by the State Forester under the authority of this act shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the state.

§ 5. The State Forester shall have full power and authority to sell, exchange or lease lands under his jurisdiction when in his judgment it is advantageous to the state to do so in the highest orderly development and management of state forests and state parks. Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into.

§ 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

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

Approved March 12, 1935.

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## CHAPTER 216

S. B. No. 150—(Bonzer and Brostuen)

### ACQUISITION LANDS FOR STATE PARKS, MONUMENTS, RECREATION RESERVES, ETC., BY STATE HISTORICAL SOCIETY

An Act empowering the State Historical Society to acquire lands for State Parks, State Monuments, and State Recreation Reserves, to supervise, control and maintain such State Parks, State Monuments, and State Recreation Reserves, providing for the appointment of a State Parks Committee, and making an appropriation therefor.

WHEREAS, the National Park Service of the United States has heretofore undertaken and is now carrying on certain State Park development projects within the State of North Dakota for the benefit of the people of North Dakota, on certain park sites heretofore acquired by the state for State Park purposes, and it appears that additional State Parks, State Monuments and State Recreation Reserves may be developed with Federal aid; and

WHEREAS, the State Historical Society is the trustee of the State of North Dakota of all state historical park sites, but that there is no adequate law providing for the administration, maintenance and future development of state parks other than the parks of historical significance, nor providing for the care and maintenance of State Monuments, or State Recreation Reserves; NOW, THEREFORE

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

§ 1. The State Historical Society is hereby authorized to acquire in behalf of the State of North Dakota, by purchase, gift, or by the exercise of the power of eminent domain, lands for State Park, State Monument and State Recreation Reserve purposes, including State Parks, State Monuments, and State Recreation Reserves now or hereafter developed by the National Park Service of the United States, to set aside for park, monument or recreation purposes, such lands as are now owned by the state and not held for some other purpose, to supervise, control, care for, maintain and develop any such State Parks, State Monuments, State Recreation Reserves, as trustees for the state, and to administer any such State Parks, State Monuments, and State Recreation Reserves, when so authorized, as an agent of the National Park Service.

§ 2. For the purposes herein provided, the board of directors of the State Historical Society, is hereby empowered to create a State Park Committee of five persons, with the advice and consent of the Governor, to consist of members of such board, or other qualified persons, who shall, when so authorized, by the board, exercise all of the powers and perform all of the duties herein vested in the State Historical Society.

§ 3. The State Historical Society or the State Parks Committee, when so authorized by the Board of Directors, shall have the power to make and enforce suitable rules and regulations relating to the protection, care and use of any State Park, State Monument, or State Recreation Reserve, and to provide that the violation of any such regulations shall constitute a misdemeanor.

§ 4. The State Historical Society, or the State Parks Committee, when so authorized by the Board of Directors, shall fix and collect such fees as it may deem reasonable for the use of the facilities of any such State Park, State Monument, and State Recreation Reserve, and to enter into concession agreements with private persons, firms or corporations for the operation of services within the areas of any such State Park, State Monument, and State Recreation Reserve, provided that no such concession agreement shall run for a duration of more than five (5) years.

§ 5. All monies collected as fees, compensation for concession agreements, or otherwise, pursuant to the terms of this act, shall

be deposited in the State Treasury and shall be placed in a special fund to be known as the "State Park Maintenance Fund," and shall be used and expended in carrying out the provisions of this act.

§ 6. There shall be appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of ten thousand (\$10,000.00) dollars for the purpose of carrying out the provisions of this act.

Approved March 14, 1935.

## CHAPTER 217

S. B. No. 149—(Bonzer and Brostuen)

### STATE PLANNING BOARD

An Act to create a State Planning Board, prescribing the powers and duties thereof, and making an appropriation therefor, and declaring an emergency.

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

§ 1. There is hereby created a State Planning Board to consist of ten (10) members, four (4) of whom shall consist of the State Geologist, Head of the State School of Forestry, Dean of the Division of Agriculture of the North Dakota Agricultural College and the Director of the College of Mining Engineering of the State University, and six (6) of whom shall be representative citizens appointed by the Governor. The term of office of the members first appointed shall be as follows: Two (2) shall be appointed for a term of two (2) years, two (2) for a term of four (4) years and two (2) for a term of six (6) years; and thereafter, the term of each member shall be six (6) years. In case of a vacancy occurring from any cause, the Governor shall fill the vacancy for the unexpired term. All members of the board shall serve without compensation, except as otherwise provided herein, but each member shall be reimbursed for his actual and necessary expense incurred in the performance of his duties. The board shall be furnished with necessary office space in the State Capitol, or other state office building. The board shall keep permanent and complete records of its proceedings, meetings, hearings, orders and recommendations.

§ 2. The board shall designate one of its members to act as chairman. It may employ an executive director, who may be a member of the board, or some other qualified person, and it may employ such other technical, professional and clerical assistance as may be required, and fix their compensation, and may incur any other necessary expense within the limits of the fund appropriated therefor. The board shall from time to time appoint technical advisory and research committees to consist of members of the board, or other persons qualified to render expert and scientific services. Heads

of state departments, or state institutions, on the recommendation of the Governor, may, from time to time, for the purpose of making special surveys under the direction of the board, assign or detail members of the staff or personnel of any state department, institution, bureau, commission, or other agency, to assist in the work of the board.

§ 3. In order that the people of North Dakota shall realize the greatest possible benefit from the land, water, mineral, recreational and economic resources of the state, the board shall have the power and (it) shall be its duty:

(1) To make inquiries, investigations and surveys, concerning the resources of all sections of the state.

(2) To make surveys of rural land utilization, with a view to the determination, among other things, of the areas suitable for cultivated crops, for grazing, for reforestation, for water-shed protection, for recreation, for other economic development.

(3) To assemble and analyze the data thus obtained, and to formulate plans for the conservation of such resources and the systematic utilization and development thereof.

(4) To make recommendations from time to time as to the best methods of the conservation, utilization and development of such resources.

(5) To co-operate with the United States and any of its agencies in the planning, conservation, utilization and development of such resources, and in the administration of its public works programs; to act, when so designated, as an agency of the United States, or of any agency thereof, in carrying out, or administering any Federal development project, within the State of North Dakota; and to accept and use any funds provided by the United States, or any agency thereof, for such purposes.

(6) To co-operate with the State Planning Boards of any other state, and with any municipal or regional planning board within the state in the planning, conservation, utilization and development of the natural resources of the state.

(7) To provide for and aid in the organization of such municipal, county, and regional planning boards as may seem advisable or expedient.

(8) To exercise such additional powers, not inconsistent with the purposes of this act, as may be necessary to promote state planning, or carry out the purposes of this act.

§ 4. The board shall have power to promote public interest in and understanding of the problem of state planning, and to that end it may publish and distribute copies of any report and may employ such other means of publicity and education as it may determine. The board shall, upon request, furnish advice or reports to any state officer or department on any problem falling within the field

of state planning, and may advise the Governor or the Legislature on programs for public employments, and the financing thereof.

§ 5. All public officials, both state and local, shall, upon request, furnish to the board such available information as it may require for its work.

§ 6. There is hereby appropriated out of the General Funds of the State, not otherwise appropriated, the sum of twenty-five thousand (\$25,000.00) dollars for the purpose of carrying out the provisions of this act.

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

Approved March 6, 1935.

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## CHAPTER 218

H. B. No. 360—(Twichell and Aljets)

### PREFERENCE NORTH DAKOTA BIDDERS AND SELLERS

An Act giving preference to North Dakota bidders and sellers; defining such North Dakota bidders and sellers, and prescribing the nature of preference to be given.

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

§ 1. PREFERENCE TO NORTH DAKOTA BIDDERS AND SELLERS.] The Board of Administration, and all boards and commissions, city councils and city commissioners, boards of education, park boards, school boards, boards of village trustees, and any and all governing bodies of any political subdivision of the state, or of any state institution; in purchasing any goods, merchandise, supplies or equipment of any kind or character, shall give preference to bidders or sellers resident in North Dakota; and in specifying or purchasing goods, merchandise, supplies or equipment to be purchased, shall not specify any trademarked or copyrighted brand or name, or the product of any one manufacturer or any patented product, apparatus, device or equipment, where the same will prevent proper competition, unless they shall also ask for, or specify for, bids or offers upon other similar articles of like nature, utility and merit. Utility, fitness and quality being equal, the bid or offer of a resident North Dakota bidder or seller shall be accepted, when such bid or offer is not materially higher than that of a low bidder or seller, a non-resident of the State of North Dakota.

A resident North Dakota bidder or seller is hereby defined and declared to be such bidder or seller who shall have maintained a bona fide place of business within the State of North Dakota for at least one year prior to the date such purchase is made.

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

Approved March 12, 1935.

## CHAPTER 219

S. B. No. 63—(Appropriations Committee)

### PROCUREMENT OFFICER STATE PARK E C W

An Act providing for the appointment and removal at pleasure of a Procurement Officer for State Park Emergency Conservation work as required under the rules and regulations of the Act of Congress known as the Emergency Conservation Work Act, and of assistant, fixing their salary and making appropriation therefor, and repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. APPOINTMENT OF PROCUREMENT OFFICER.] The Governor is hereby authorized and directed to appoint a Procurement Officer for State Park Emergency Conservation Work to perform such duties as may be required of him under the rules and regulations of the Act of Congress known as the Emergency Conservation Work Act for such term as the services of said officer may be required and needed under said Act of Congress. Said Procurement Officer shall be removable at the pleasure of the Governor. The said Procurement Officer may also appoint an assistant who shall under his direction and during his pleasure, perform such duties as may be required by said Procurement Officer and who shall be known as Assistant Procurement Officer. The salary herein provided shall be paid said Procurement Officer and his assistant in addition to any other salary or compensation which either of them may otherwise receive for his services as an employee of the State of North Dakota.

§ 2. SALARY. APPROPRIATION.] The said Procurement Officer shall receive a salary not exceeding fifty dollars (\$50.00) per month, and his said assistant a salary not exceeding twenty-five dollars (\$25.00) per month and there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$1,800, or so much thereof as may be necessary therefor, out of which appropriation the salary of said Procurement Officer and Assistant Procurement Officer shall be paid in the same manner that salaries of state officers are paid, the said appropriation to remain in force for the period extending from the effective date of this act to the 30th day of June, 1937.

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

§ 4. EMERGENCY.] The establishment by the Federal Government of CCC camps through the state under the provisions of the Act of Congress known as the Emergency Conservation Work Act having proven to be most beneficial to this state, and their continuance being to a large extent dependent upon the immediate appointment of a Procurement Officer as herein provided, an emergency is hereby declared to exist and this act is hereby declared to be an emergency measure, and shall take effect and be in force immediately upon its passage and approval.

Approved February 19, 1935.

## CHAPTER 220

H. B. No. 45—(Odegard and Brunsdale)

### EXPENSE ACCOUNT PUBLIC OFFICERS

An Act specifying the amount to be allowed for personal sustenance of officers, agents, and employees, exempting the Governor, of the State of North Dakota, or of any of its sub-divisions, while upon public expense account; providing a penalty for violation thereof, and declaring an emergency.

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

§ 1. EXPENSE ACCOUNT. UNLAWFUL WHEN.] That it shall be unlawful for any elective officer other than the Governor, or for any appointive officer, employee, representative, or agent of the State of North Dakota, or any of its sub-divisions, agencies, bureaus, boards, or commissions to make claim upon any public fund whatsoever for any sum in excess of \$4.00 for any one day for personal sustenance while engaged in the discharge of a public duty and while upon a public expense account within the state, or in excess of \$6.00 for any one day for personal sustenance while so engaged without the State of North Dakota; provided, however, that in no event shall any such elective or appointive officer, employee, representative, or agent make claim for an amount in excess of that actually paid for expenses while engaged in the public service upon such public expense account.

§ 2. PENALTY.] Any person violating any of the provisions of this act shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than \$50.00 or more than \$1,000.00, or by imprisonment in a county jail for not less than ninety days or more than one year, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment, in the discretion of the trial court.

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

Approved February 14, 1935.

## CHAPTER 221

H. B. No. 338—(Aljets, Twichell and Burgum)

## STATE BOARD OF PUBLIC WELFARE

An Act creating a State Board of Public Welfare, defining its powers and duties; permitting appointment of executive director; hold office at pleasure of board; establishing the State Welfare Fund; making an appropriation therefore; repealing all acts and parts of acts in conflict with the provisions of this act, and declaring an emergency.

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

§ 1. The Governor, Attorney General and Commissioner of Agriculture and Labor shall within thirty (30) days after the passage and approval of this act appoint a board to consist of seven (7) members, at least one (1) of whom shall be a World War Veteran, and such board shall be known as the Public Welfare Board of North Dakota, hereinafter referred to as the Board. Three (3) members of the Board shall be appointed for a term of two (2) years, two for a term of four years, and two for a term of six years. The term of office of each of the successors of the original Board shall be six years. Any member appointed to fill a vacancy on the Board shall serve only during the unexpired term wherein the vacancy occurred; but members of the Board shall serve until their successors have been appointed and have qualified. All members of the public welfare board of North Dakota shall be appointed by the Governor, the Attorney General and the Commissioner of Agriculture and Labor, acting jointly. A member of the Public Welfare Board of North Dakota may be removed by the Governor for cause.

§ 2. ORGANIZATION MEETING.] Within sixty days after this act takes effect the Governor shall call the members thus appointed to meet at the state capitol at Bismarck, North Dakota, and the Board shall organize by the election of a president, a vice president, a secretary and such other officers and employees as the Board shall determine. The Board shall hold meetings at least quarterly and whenever called in session by the president or by a majority of the members of the Board.

## § 3. COMPENSATION. APPOINTMENT OF EXECUTIVE DIRECTOR.]

(a) All members of the Board shall receive no compensation for their services but shall be paid their actual expenses incurred in attending meetings of the Board and while engaged in the performance of the duties prescribed in this act; such expense shall be audited and paid in the same manner as the expenses of state officers are audited and paid.

(b) The Board shall appoint an executive director who shall devote his entire time to the duties of office. The executive director shall be a person who has professional qualifications, wide exper-

ience, education and training, in the administration of public and/or private welfare institutions, agencies or activities, and shall be a resident of the State of North Dakota for at least five years preceding his appointment, and shall hold office at the pleasure of the Board. Before entering upon the duties of office the executive director shall take the official oath prescribed by law for the state officials and shall file with the Secretary of State such oath of office and a surety bond to be approved by the Attorney General in the penal sum of \$10,000.00 conditioned for the faithful performance of official duties and the delivery to successor of all public property in the possession or under the control of the executive director. The compensation of clerks, stenographers and other necessary employees shall be determined by the Board.

§ 4. OFFICE AND OFFICE EQUIPMENT.] The Board shall be provided with suitable offices in the state capitol, and is authorized to purchase out of the funds herein appropriated such necessary furniture, office and filing equipment, office supplies, stationery and postage as may be needed for the efficient conduct of its business.

§ 5. FUNDS TO BE PAID INTO THE STATE TREASURY.] All moneys received under the provisions of this act from appropriations by the State Legislature shall be paid into the State Treasury to be kept by the State Treasurer in a fund known as the State Public Welfare Fund, and all expenditures made under the provisions of this act shall be paid by the State Treasurer upon warrants drawn by the State Auditor, such expenditure to be supported by itemized vouchers to be signed by the executive director of the Board or by such other officers and/or assistants as the Board may designate and certified to the State Auditor. Any funds received from Federal agencies shall be deposited and disbursed in the manner provided by act of congress or by the regulations of the Federal agencies from whom the funds were received.

§ 6. DUTIES OF THE BOARD.] The Board shall have the following powers and duties, to-wit:

1. To act as the official agency of the State of North Dakota in any social welfare activity initiated by the Federal Government and to administer, allocate and distribute any State and Federal funds that may be made available for the following purposes, to-wit:

- (a) The relief of destitute or necessitous persons;
- (b) Mother's aid;
- (c) Old age assistance;
- (d) Aid to dependent children;
- (e) Maternal and child health;
- (f) Care of crippled children;
- (g) Aid to child welfare service; and
- (h) Public health service.

2. To study the subjects of non-employment, poverty, vagrancy,

housing conditions, crime, juvenile delinquency, public amusements, care and treatment of prisoners, divorce and wife desertion, child welfare, the social and kindred subjects and their causes, treatment and prevention of any hurtful conditions.

3. To make available to the several counties, municipalities and eligible public or private institutions in the state, at such times and in such amounts as are needed, funds supplied to the Board by the State and Federal Governments for the relief of destitution and for the purposes enumerated in the Subdivision one(1) of Section six (6) of this act; and for the purchase of supplies and materials to be used for work-relief projects.

4. To provide for the study and promote the welfare of the dependent, delinquent, and neglected child, and to provide for the placing and supervision of dependent, delinquent and defective children, subject to the control of any court having jurisdiction and control of any such child.

5. To recommend to the Legislature social legislation and the creation of necessary institutions.

6. To co-operate with and advise and assist the various county welfare boards in every way possible.

7. To issue bulletins and have the same printed and in other ways to inform the public as to social conditions and the proper remedy of social life.

8. To secure, hold and administer for the purpose for which it is organized any property and any funds donated to it, either by will or deed, or otherwise and to administer said funds or property in accordance with the instructions in the instrument creating them.

9. To provide for surveys and make reports on child caring institutions, homes for the aged, maternity homes, and persons or organizations receiving and placing children, and to require such institutions, persons and organizations to submit such annual reports and information as the Board may determine.

10. No general survey shall be undertaken or conducted except on the specific order of the State Board of Public Welfare.

11. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever the board deems it necessary in making the investigations provided for herein or in the discharge of its other duties, and to give such publicity to its investigations and findings as it may deem best for the public welfare, provided, however, that no subpoena shall be issued to compel the production of documents or papers relating to any private child caring and/or child placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of such institutions except upon the order of a Judge of the District Court of the Judicial District in which the institution is located.

§ 7. BIENNIAL REPORT TO GOVERNOR AND LEGISLATURE.] The Board shall biennially prepare and submit to the Governor and Legislative Assembly a complete and full report of its activities during the

preceding two years with such suggestions as it may deem necessary and shall report such other matters as it may think are for the benefit of the people of the state.

§ 8. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars (\$25,000.00) or so much thereof as may be necessary to carry out the purposes of this act.

§ 9. It is not the intention of this act to abolish any state agencies, bureaus or departments now in operation, nor is it the intention that the State Board of Public Welfare shall exercise control or supervision over appropriations or grants specifically made by the Legislative Assembly and/or by any department or agency of the Federal Government for or to any specific state agency, bureau, office, department or institution; nor is it the intention of this act to repeal or set aside any appropriations heretofore made or which this legislative assembly may make hereafter to any such agency, bureau, office, institution or department, or for child caring or child placing agencies or maternity hospitals.

§ 10. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. EMERGENCY.] Whereas, the creation of a state board of public welfare is necessary in order to qualify the state to receive grants of funds from the Federal Government for the promotion of public welfare, now, therefore, an emergency is hereby declared to exist and this act shall be in full force and effect immediately upon its passage and approval.

Approved March 7, 1935.

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## CHAPTER 222

S. B. No. 212—(Committee on State Affairs)

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### VALIDATING, ETC., BONDS, WARRANTS, ETC., OF PUBLIC BODIES FOR PUBLIC WORKS PROJECTS ALSO VALIDATION PROCEEDINGS FOR INCORPORATION, OF ANY PUBLIC BODY

An Act validating, ratifying, approving and confirming bonds, warrants and other instruments or obligations heretofore issued by public bodies of this state for the purpose of financing in whole or in part public works projects, and validating all proceedings heretofore taken for the incorporation of any public body as defined in the act, and declaring an emergency.

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

§ 1. This act may be cited as the "Validating Act of 1935."

§ 2. In this act, unless the context or subject matter otherwise requires;

(a) The term "public body" shall mean the State of North Dakota, any county, city, village, township or school district of any class.

(b) The phrase "public works project" shall mean and include any work, undertaking, enterprise, erection or construction which has been financed in whole or in part by a loan or grant or both made by the United States of America acting through the Federal Emergency Administrator of Public Works.

§ 3. All bonds, warrants and other instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, whether such bonds, warrants and other instruments or obligations are payable from taxes or revenues or special assessments or a sinking fund or a special fund, heretofore issued by a public body for any public works project, including all proceedings had or taken in connection with the issuance of such bonds, warrants, instruments and obligations and the authorization, issuance, sale, execution and delivery thereof, are hereby ratified, approved and confirmed, and in all things declared valid, notwithstanding any lack of power to issue such bonds, warrants, instruments or obligations and/or the failure of any of the public officials or the governing bodies of any such public bodies to do the acts or pass or adopt the proceedings required by the laws of North Dakota, and notwithstanding any defects or irregularities in such proceedings, or in proceedings heretofore taken by the governing board of any such public body for the incorporation of such public body as a city or village as the case may be, and all such bonds, warrants, instruments and obligations shall be binding, legal, valid and enforceable obligations of the public body issuing the same.

§ 4. Nothing in this act shall be construed as purporting to validate any issue of bonds or any part thereof issued in contravention of any provision of the Constitution of the State of North Dakota.

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

Approved March 13, 1935.

## CHAPTER 223

H. B. No. 80—(Page and Caddell)

## DUTIES STATE REGULATORY DEPARTMENT

An Act to amend and re-enact Section 10 of Chapter 199, Session Laws of 1933 relating to additional duties of the North Dakota Regulatory Department with reference to investigations and inspections for the State Auditor, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 10 of Chapter 199 Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 10. It shall be the duty of the Regulatory Department, at the request made therefor by the State Auditor to the Director of the Regulatory Department, and in the manner prescribed by the Director to make such investigations and inspections as fall within the purview of the duties of the State Auditor.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved February 23, 1935.

## CHAPTER 224

H. B. No. 347—(Aljets and Treffry)

## POWERS N. D. RURAL REHABILITATION CORPORATION; TAX EXEMPTION FUNDS, ETC.; AUTHORIZATION STATE TREASURER'S ACCEPTANCE OF FUNDS

An Act relating to relief and rehabilitation work carried on in North Dakota by the Federal Emergency Relief Administration through the North Dakota Rural Rehabilitation Corporation; exempting from taxation moneys and/or credits coming into the possession of or belonging to the North Dakota Rural Rehabilitation Corporation as a result of any Federal grant or gift for relief or rehabilitation purposes, and authorizing the State Treasurer, in event of dissolution of the North Dakota Rural Rehabilitation Corporation, to accept funds and property on hand or belonging to the Corporation at the time of dissolution.

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

WHEREAS, in order to carry out the program of relief and rehabilitation in the State of North Dakota inaugurated, organized and carried on by the Federal Emergency Relief Administration it became necessary, in accordance with the directions of the Federal Emergency Relief Administrator, to organize under the laws of

North Dakota a non-profit and charitable corporation known as the North Dakota Rural Rehabilitation Corporation;

AND, WHEREAS, the purposes for which said corporation was formed are exclusively public in their nature and directly for the benefit of the State of North Dakota and for the people thereof; such purposes, among others, involving re-settlement of and aid to persons living in areas now being or hereafter acquired under the land purchase program of the United States governmental agencies and further involving the loaning and/or giving of funds and the purchasing, holding and/or distribution among the people of the state of funds, and of seeds, feeds and other property for said purpose;

AND, WHEREAS, the carrying on of these activities requires the expenditure of funds appropriated by Congress for relief purposes and under the disposition of the Federal Emergency Relief Administrator and requires that such Federal funds be made available for ultimate expenditure through the North Dakota Rural Rehabilitation Corporation.

Now, therefore, be it enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That in order to facilitate the relief and rehabilitation work carried on or to be carried on in North Dakota by the Federal Emergency Relief Administration and/or any other relief or welfare agency that may properly be carried on through the North Dakota Rural Rehabilitation Corporation, the several counties and other municipal corporations and/or state officers and agencies are authorized to co-operate with and utilize the facilities of the North Dakota Rural Rehabilitation Corporation to the end that the relief and rehabilitation activities sought to be carried on by the Federal Emergency Relief Administration and/or any other agency organized for similar purposes, may be furthered and expedited.

§ 2. That all funds which may have been or may hereinafter be made available to the North Dakota Rural Rehabilitation Corporation by the Federal Emergency Relief Administration or any other agency or instrumentality of the Federal Government and any and all personal property purchased with such funds or held by said corporation and any payments received by the corporation on loans made and as proceeds of property sold, be and the same is hereby exempted from all taxation by the State of North Dakota or any of the political subdivisions thereof; provided, however, that this shall not apply to lands purchased or held by the North Dakota Rural Rehabilitation Corporation but all lands shall be subject to taxation.

§ 3. That the State of North Dakota hereby accepts the offer contained in the Articles of Incorporation of the North Dakota Rural Rehabilitation Corporation that any funds or property on hand upon the dissolution of the corporation shall be turned over to the State

Treasurer for appropriation by the Legislative Assembly for such public purposes as may be designated, or placed in the general fund, as may be directed; and the Treasurer of the State of North Dakota is hereby authorized to accept and receive all such funds and/or property if or when the same may be tendered upon a dissolution of the North Dakota Rural Rehabilitation Corporation.

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

Approved March 13, 1935.

## CHAPTER 225

S. B. No. 239—(Bonzer)

### AGREEMENTS FOR SHELTERBELT LANDS BY STATE, ETC., GOVERNING BOARDS

An Act authorizing any Board or Officer having the control or management of any real estate belonging to or controlled by the State of North Dakota or any of its political subdivisions to enter into agreements with the United States of America for the improvement of said real estate by the establishment and maintenance of shelterbelts of trees and other plants and necessary protective structures and works thereon, and repealing all acts or parts of acts in conflict herewith.

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

§ 1. Any board or officer having the control or management of any real estate belonging to or controlled by the State of North Dakota or any of its political subdivisions may and is hereby authorized to enter into agreements with the officers and agents of the United States of America for the improvement by the United States of any of said lands by the establishment and maintenance thereon of shelterbelts composed of trees, other plants and necessary protective structures and works.

§ 2. Every such agreement shall describe particularly the land to be covered by the shelterbelt; shall be recorded at the expense of the United States in the county where such land is situate; and thereafter all leases, sales and other disposition of such land shall be subject to such agreement.

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

Approved March 7, 1935.

## CHAPTER 226

S. B. No. 192—(Stucke and Thatcher)

## PROPOSALS CLASS 5 STATE PRINTING

An Act amending and re-enacting Section 47 of the 1913 Compiled Laws relating to the proposals for state printing; providing for the printing of all matters coming under Class 5 of state printing; providing for each state department or office to designate newspaper or job printing shop where Class 5 printing shall be performed; providing for State Printing Commission and State Printer to determine and fix price and cost thereof and repeal all acts and parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 47 of the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 47. PROPOSALS FOR PRINTING.] The State Printing Commission shall, at least six months immediately preceding each legal session of the Legislative Assembly, advertise for four weeks successively in two daily papers in the State, one of which shall be at the Seat of Government, inviting sealed proposals for doing all printing and binding required under Classifications 1, 2, 3, and 4, required by the Legislative Assembly and by the several State Departments for the two succeeding years commencing with the first day of January next following the date of the contract, and such bids shall specify at what price and cost for which the said work will be performed and furnish the stock.

§ 2. Each department and office of the State Government may let the printing of all matters coming within Class 5 of Section 46 of the 1925 Supplement to the 1913 Compiled Laws, to such newspaper or job printing shop in this State as are equipped to handle, perform and take proper care of the work required and to furnish the stock necessary. No newspaper or job printing shop awarded printing under this class shall be permitted to sublet the same. Before letting or submitting such order for printing or miscellaneous job work to such newspaper or job printing shop, the department or state office shall submit such order or requisition for printing to the State Printing Commission and the State Printer, who shall determine and fix the reasonable cost or price for such printing or work and the stock required and such price so fixed and determined by the State Printing Commission and the State Printer, shall be the cost of and the price paid by such department or office for the work and printing so ordered and the material furnished. Such cost and price so fixed shall not exceed the price and cost as provided for in the Franklin Printing Catalogue less 10 per cent. Such cost or price shall be determined and fixed by the State Printing Commission and the State Printer according to the kind and quality of material re-

quired and the kind of work necessary. Upon the determining and fixing of such cost and price to be charged for the work required, the State Department or office may have such work and printing done and the material furnished by such newspaper or job printing shop in this State as the said State Department or state office shall select.

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

Approved March 13, 1935.

## CHAPTER 227

S. B. No. 306—(Senator Eastgate, by request)

### AUTHORIZING GOVERNOR TO ENTER INTO AGREEMENTS WITH THE UNITED STATES AND PRIVATE LAND OWNERS FOR UNEMPLOYMENT RELIEF PURPOSES

An Act authorizing the Governor to enter into agreements with the President of the United States under an Act of Congress entitled "An Act for the Relief of Unemployed Through the Performance of Useful Public Work, and for Other Purposes," approved March 31, 1933, and other acts supplemental thereto; authorizing the Governor to enter into agreements with private land owners, declaring the rights and duties of the Conservation Commission and of such land owner thereunder and providing procedure for giving notice to mortgagees and lien holders against land affected, and declaring an emergency.

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

§ 1. GOVERNOR AUTHORIZED TO ENTER INTO AGREEMENTS WITH PRESIDENT OF UNITED STATES: SCOPE OF AGREEMENTS.] (1) The Governor in the name and on behalf of the State of North Dakota is authorized to enter into such contracts or agreements with the President of the United States as the President may deem necessary or advisable in carrying out the provisions of an act of congress entitled "An Act for the relief of unemployment through the performance of useful public work, and for other purposes," approved March 31, 1933, and any other act of congress amendatory thereof or supplementary thereto.

(2) Such contracts or agreements may include the following conditions and provisions which the State of North Dakota hereby accepts, agrees to and promises to perform:

(a) If, as a result of any conservation work projects on state, county or municipally owned land, the State derives a direct profit from the sale of any such land or the products thereof, the proceeds shall be divided equally between this state and the Federal Government until the Federal Government has been repaid the amount of its investment in such work, computed at the rate of one dollar per man per day, with a maximum limitation of three dollars per acre of land purchased.

(b) No work is to be done on privately owned land except as may be necessary in the public interest for regional or state-wide forest protection against fire, insects and disease or simple flood control measures to arrest gully erosion and flash runoffs at the headwaters of streams.

(c) When the public interest requires work to be done on privately owned land as provided in paragraph (b) hereof, the State of North Dakota assumes responsibility for the reasonable protection of work done either by the landowners or otherwise and agrees that if a contract with the landowner is obtained, such contract shall provide that this state reserves the right to remove at its option and without recompense to the landowner, any structure or other thing of removable value resulting from the work done, including products of trees planted to arrest erosion.

(d) The landowner may be required under the contract provided for in paragraph (c) to protect the soil saving dams and other works and to practice specified cultural methods for the prevention of soil erosion, and if he fails to meet these requirements, the conservation commission may cause to be constructed such terraces and other works as will repair the damage done through the landowner's noncompliance with the contract. The cost of such construction shall be collected, paid and accounted for as a special state charge against the land specified as the basis of the original contract and shall be paid into the conservation fund and used as a revolving appropriation to carry out the provisions of this paragraph.

(3) In addition to the conditions and provisions assented to in subsection (2), such contracts or agreements may contain such other conditions or provisions, which this state solemnly pledges itself to carry out, as the Governor may deem necessary or advisable to enable this state to secure the benefits to which it may be entitled under any of said acts of congress.

(4) Whenever any contract is entered into by the State of North Dakota or the United States or any agency thereof, with a private landowner as provided for in subsection (2) recording of such contract in the office of the register of deeds of the county in which the land involved is situate and the posting of a copy thereof in the office of (the) county auditor of the said county and the mailing of a copy thereof by registered mail to any mortgage or lien holder of record at his address as shown by the record or if not so shown, to his last known post office address, which mailing shall be performed by the register of deeds of said county within five days after the recording of said instrument, shall be deemed constructive notice of such agreement to any mortgagee of or lien holder upon the lands covered thereby. Upon the failure of such mortgagee or lien holder to object thereto by written notice served upon the director of conservation within four weeks after the mailing of the said copy by registered mail, such mortgagee or lien holder shall be conclusively deemed to have assented to such agreement. At the time of the mail-

ing of said notice the register of deeds shall make a marginal notation, giving the name and address of each addressee to whom the same was sent and the date of the mailing, and such notation shall be prima facie evidence in all courts that the copies were sent by registered mail in accordance with such notation.

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

Approved March 12, 1935.

## CHAPTER 228

S. B. No. 296.—(Brostuen, Lind and Wog, by request)

### WATER CONSERVATION DISTRICTS

An Act to provide for the creation of water conservation districts; to provide for water conservation commissioners and fix their powers and duties; to provide for a state water conservation commissioner and fix his powers and duties; to provide for the acquisition of property rights and the assessment of benefits against the property affected, and to provide for the levy of special assessments and prescribing the duties of county commissioners relating to water conservation projects, providing for the exemption of Federal Projects and Agencies, and declaring an emergency.

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

§ 1. WATER CONSERVATION DISTRICTS: BOUNDARIES: HOW ESTABLISHED.] Whenever there shall be presented to the State Water Conservation Commissioner, hereinafter provided for, a petition signed by any county, city, village, township or by any cooperative grazing association fifty per cent or more of the freeholders within the limits of a proposed water conservation district asking for the establishment of a water conservation district, the State Water Conservation Commissioner shall forthwith make such investigation and examination of the proposal as in his judgment may be necessary and proper. If he finds that there is not a sufficient water supply to make the proposed water conservation district desirable or feasible or that for any other cause or reason it is impracticable or undesirable to establish the proposed water conservation district, he shall make an order disallowing the petition giving his reasons for such disallowal. If after such investigation and examination he finds that the proposed water conservation district is desirable and proper and that the drainage area is such and the probable available water supply of such quantity as to render the proposed district necessary and desirable, he shall make his order establishing such district and fix the boundaries thereof.

When a petition for the establishment of a water conservation district is presented by fifty per cent or more of the freeholders,

the State Water Conservation Commissioner shall require a bond from such petitioners in a sum sufficient to pay all expenses of the investigation and examination required to determine whether the petition should be granted. When a petition is signed by a county, city, village or township, no bond shall be required but the county, city, village or township as the case may be, shall be required to pay the expenses necessarily incurred by the State Water Conservation Commissioner in investigating and examining the proposal for the establishment of the water conservation district in the event that the petition is disallowed. In determining the area to be included within the district, the said Commissioner shall disregard township and county boundaries and shall consider only the drainage area to be affected by the water development proposed and the probable future development thereof. Whenever practicable, such boundaries shall follow section lines. A certified copy of such order shall be filed with the county auditor of each county within which any portion of the district shall lie, and upon said order being so filed a water conservation district shall thereby be created. The order of the State Water Conservation Commissioner shall specify the name or number by which such districts shall be known. When a petition is filed by any municipal corporation as above provided, a certified copy of a resolution of the governing board thereof authorizing the signing of said petition shall be filed with the State Water Conservation Commissioner at the time of filing the petition. The determination by the State Water Conservation Commissioner as to the boundaries of a district may be changed or modified from time to time as circumstances may warrant upon like petition, or, when the circumstances clearly require it, upon his own motion. No two such districts shall overlap. When a district has been once established and another district is proposed in the vicinity thereof, or when two or more districts have been established in the vicinity of each other, the State Water Conservation Commissioner may, by order filed as above provided, combine the areas affected by two or more districts whether already existing or proposed into one district; but no district lying wholly within one county shall be combined with any district lying in whole or in part in another county unless the development of the water resources of both districts is, in effect, one inseparable project.

§ 2. APPEAL.] From all orders and decisions of the State Water Conservation Commissioner and/or the Board of Water Conservation Commissioners an appeal may be taken to the district court by any person aggrieved, upon filing an undertaking in the sum of two hundred dollars (\$200.00) and with such sureties as may be approved by the clerk of the district court to which the appeal is taken, conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against him in the district court. Such undertaking shall be executed to the State Water Conservation Commissioner and/or the Board of Water Conservation Commis-

sioners, as the case may be, and may be sued on in the name of the obligee. Where the water conservation district is confined to the limits of one county the appeal shall be taken to the district court of that county. When such district includes lands in two or more counties the appeal shall be taken to the district court of the county in which the land lies which is claimed to be adversely affected by the order or decision appealed from.

Such appeal when taken from a decision of the State Water Conservation Commissioner must be taken within thirty days after the order of the State Water Conservation Commissioner has been filed with the Secretary of the Water Conservation District and when taken from a decision of the Board of Water Conservation Commissioners, it must be taken within thirty days after such decision has been entered by the Secretary of the Board of Water Conservation Commissioners.

Such appeal when taken from the decision of the State Water Conservation Commissioner is taken by serving a written notice of appeal upon him, and when taken from a decision of the Board of Water Conservation Commissioners, the notice of appeal must be served upon one of the members of the Board and upon the Secretary of the Board.

Such appeal shall be filed on or before the next term of the district court after such appeal is taken and the case shall stand for trial at such term.

All appeals thus taken shall be docketed as other causes pending in the district court and the same shall be heard and determined de nove.

The district court may enter a final judgment or in a proper case may send the same back with an order how to proceed.

§ 3. LOCAL BOARDS OF WATER CONSERVATION COMMISSIONERS.] At the first regular or special meeting of the board of county commissioners after the filing of an order of the State Water Conservation Commissioner with the county auditor of any county as hereinbefore provided, it shall be the duty of the board of county commissioners to appoint a Board of Water Conservation Commissioners for such district. When any such district is confined to the limits of one county, the Board shall consist of three members and shall be selected, so far as practical, from persons residing in or near the area affected by the project. When any such district shall include land in two counties, the Board shall consist of five members of which three shall be appointed by the county commissioners of the county containing the greater acreage within the conservation district, and two shall be selected by the county commissioners of the county containing the lesser acreage within the district. When any such district shall include land in more than two counties, the Board shall consist of two members appointed by the board of county commissioners of each county within which such district may lie, except that only one member shall be appointed from the

county containing the least acreage within the district. Any resident free holder and citizen of the county, including all county and municipal officers and members of the board of county commissioners and other municipal governing boards shall be eligible for appointment on said Board. Such commissioners shall hold their respective offices for a term of five years from the date of appointment and until their successors are appointed and qualified. Vacancies in said Board shall be filled by appointment by the board of county commissioners of the county which made the original appointments. Members of Boards of Water Conservation Commissioners shall serve without fee and without compensation of any description, save and except only that they shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

When such district is confined to the limits of one county, the county auditor shall serve as secretary of the board; when such district includes land in two or more counties, the county auditor of the county having the greatest acreage within the district shall serve as Secretary of the Board of Water Conservation Commissioners. In either case the county auditor shall serve without additional compensation.

§ 4. CHANGE OF BOUNDARIES: WHEN NEW COMMISSIONERS APPOINTED.] In case of the modification of the boundaries of any water conservation district, the same Board of Water Conservation Commissioners shall continue to serve without any change in their duties or terms of office, except that in case two or more existing districts are combined, the filing of the order of the State Water Conservation Commissioner for such combination shall operate automatically to terminate the term of office of all Water Conservation Commissioners of all districts affected by the combination, and it shall be the duty of the county commissioners to appoint Water Conservation Commissioners for said combined district in the same manner as upon the organization of a new district.

§ 5. ORGANIZATION OF BOARD OF WATER CONSERVATION COMMISSIONERS: QUORUM.] Immediately after the appointment of any Board of Water Conservation Commissioners and immediately after any change in the personnel of any Board of Water Conservation Commissioners, the Board shall meet and organize and shall select one of the commissioners as chairman of the board. Two-thirds of the members of the Board, but not less than two members, shall constitute a quorum at any and all meetings thereof.

§ 6. POWERS AND DUTIES OF BOARD OF WATER CONSERVATION COMMISSIONERS.] Each Board of Water Conservation Commissioners shall have the power:

- (1) To sue and be sued in the name of the district.
- (2) To exercise the power of eminent domain in the manner provided by the Code of Civil Procedure for the purpose of acquiring

ing and securing any and all rights, titles, interests, estates or easements necessary or proper to enable it to carry out the duties imposed by this act, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation devices of any nature and to flood lands, and to secure the right of access to said dams and other devices and the right of the public to access to the waters impounded thereby.

(3) To accept funds and/or property or other assistance, financial or otherwise from federal, state and/or other public or private sources for the purposes of aiding the construction or maintenance of water conservation projects.

(4) To procure the services of engineers and/or other technical experts.

(5) To plan, locate, re-locate, construct, reconstruct, modify, maintain and repair and to control all dams and water conservation devices of every nature and water channels and to control and regulate the same and all reservoirs, artificial lakes and other water storage devices within the district.

(6) To maintain and control the water levels and the flow of water in the bodies of water and streams involved in water conservation projects within their districts.

(7) To make rules and regulations concerning the use to which such waters may be put and to prevent the pollution or contamination, or other misuse, of the water resources, streams or bodies of water included within the district.

(8) To certify to the county auditor of the county in which the district is located, the amount of money necessary to meet the estimated expenses of properly conducting its activities during the ensuing year, such certificate to be filed with the county auditor on or before the first day of July in each year. In the case of districts in more than one county, the board shall make an order determining the proportionate share of the costs chargeable to each county and certify the same to the county auditor of each county. Such certificates shall in all cases be accompanied by an itemized budget statement showing the full and exact expenditures program of the district for the ensuing year. If any county feels aggrieved by the determination made by the board, an appeal may be taken by such county to the district court in the manner provided in Section 2 of this act.

(9) To do all things reasonably necessary and proper to preserve for the people of the State of North Dakota the benefits to be derived from the conservation of the water resources of the state.

§ 7. LEVY OF TAX BY COUNTY COMMISSIONERS.] At the time of levying taxes for other county purposes, it shall be the duty of the board of county commissioners to consider the certificate of the Board of Water Conservation Commissioners of each district within the county, and it shall have the power to levy each year upon all taxable property within the county a tax sufficient in amount to pay

the actual necessary expense of said water conservation district, not exceeding, however, a total of one-half mill on each dollar of assessed valuation of the county for all districts included therein, and in case the total estimated expense of all districts would exceed the levy of one-half mill the county board shall allocate any levy which it may make among the several districts of the county in proportion to the actual needs of such districts as determined by the county commissioners from the budget statements presented, and such other evidence as may be available to it. Such tax levy for water conservation purposes (not exceeding one-half mill) may be levied in excess of the mill limit fixed by law for taxes for general county purposes. The county auditor shall credit the proceeds of such tax to each district in accordance with the division thereof fixed by the county board. If, in the judgment of the county board, it appears that the expense of acquisition of right of way or other interests in property, or the construction or maintenance of any project should not be spread over the entire county, but should be borne by the property specially benefitted thereby, the board may refuse to levy a tax for such purposes and may require that such work be financed, if at all, by special assessments as hereinafter provided.

8. PAYMENT OF EXPENSES OF DISTRICTS.] All bills incurred by a water conservation district shall be audited and recommended for payment by the Board of Water Conservation Commissioners and certified to the county auditor who shall present them for audit and allowance by the board of county commissioners in the same manner as other bills of the county are audited and allowed, and upon the allowance thereof the same shall be paid out of the funds standing to the credit of the district in the same manner as other county obligations are paid. In the case of districts in two or more counties, the Board of Water Conservation Commissioners shall pro-rate such bills and certify the same for payment to the counties involved.

§ 9. ORGANIZATION: CONSTRUCTION AND REPAIR OF DAMS, ETC.] No dams or other devices for the conservation, regulation or storage of water shall be hereafter constructed within any water conservation district except in accordance with the terms of this act. Any proposal for the construction of any dam or other such device shall be first presented to the Board of Water Conservation Commissioners of the district within which the contemplated project is located who shall consider the same, and if the same meets with its approval, shall forward the proposal to the State Water Conservation Commissioner as soon as possible. After the receipt thereof, the State Water Conservation Commissioner shall consider the same in such detail as to him may seem necessary and proper, and make his recommendations and suggestions as to the propriety, efficiency and feasibility of the proposal, and forward the same to the Board of Water Conservation Commissioners who shall thereupon require,

or if the project is to be constructed at the expense of the district furnish, complete plans and specifications therefor, which shall be forwarded to the State Water Conservation Commissioner who shall examine the same in detail and who may refuse to allow the construction of any unsafe, improper or dangerous dam or other device which would interfere with the orderly control of the water resources of the district, and may order such changes or modifications thereof as in his judgment may be necessary for the safety thereof. Any person aggrieved by any such ruling of the State Water Conservation Commissioner shall have the right to a full hearing before the commissioner and a full consideration of all evidence available before a final order of the Commissioner shall be entered, subject to appeal to the district court as hereinbefore provided.

§ 10. ASSESSMENT OF DAMAGES AND BENEFITS: SPECIAL ASSESSMENT TAXES.] In lieu of the purchase of right of way and other interests in property and the payment of the expenses thereof and the expense of the construction, repair, or alteration of any water conservation project through a general tax levy, the Board of Water Conservation Commissioners may proceed to acquire the necessary interests in property and construct, repair, alter and maintain water conservation projects through the use of special assessment warrants, and in case of the financing of any such project by this method, the Board of Water Conservation Commissioners shall give at least ten days notice of a hearing to be held at some place convenient to the owners of property to be affected by the project, which notice shall be given by causing five notices to be posted in the districts at such points as would, in the judgment of the board, be most likely to secure the greatest publicity, and in addition thereto, a notice shall be sent by registered mail to the last known address of each and every owner of land which may be affected by the proposed project, at least ten days prior to the date of such hearing. The notices of hearing shall briefly set forth the nature of the project proposed, and shall state that the board will, at the time and place stated in the notice, consider the advisability and feasibility of the project, and if approved, will proceed to assess and determine the damages, if any, to be suffered by the property owners affected. All persons whose land may be affected by such project may appear and express their opinion and offer evidence upon matters pertaining thereto. Should two-thirds of the land owners whose land is subject to assessment for such project and who own at least one-half of such land believe that the benefits to be derived are not equal to the expense of the construction, they may petition the Board to have further proceedings discontinued, whereupon the board shall, by resolution, order all further proceedings in connection therewith discontinued. Should no such petition be filed and the board determine to proceed, it shall conduct all proceedings with reference to determining the damages and assessing the benefits to result from such project all in accordance with the laws governing the assessment of damages, the

payment of damages, the assessment of accruing benefits, the review and return thereof, the computation, apportionment and taxation of costs and all other proceedings in connection with the issuance of special assessment warrants and the retirement thereof by payment and/or the issuance of bonds, in the same manner and under all restrictions provided by Chapter 116, Laws of 1919, with reference to the construction of flood irrigation projects by the board of flood irrigation.

§ 11. PRIVATELY OWNED DAMS, ETC.] The State Water Conservation Commissioner and the Boards of Water Conservation Commissioners shall encourage the construction of dams and other water control devices within the districts by federal agencies and private individuals and public and private corporations and shall lend their aid, counsel and assistance to all such projects within any water conservation district and all dams and other devices whether constructed by public authorities or private persons, shall be subject to all of the terms of this act.

§ 12. TO WHAT DAMS APPLICABLE.] All dams and water control devices heretofore or hereafter constructed within any water conservation district shall automatically come under the jurisdiction of the Board of Water Conservation Commissioners. No changes or modifications of any existing dams or other devices shall be made without fully complying with the provisions of this act.

§ 13. All dams and water control devices heretofore or hereafter constructed by or with the assistance of the Civil Works Administration, the Emergency Conservation Work, Federal Emergency Relief Administration, or other Federal Agencies, and having no one responsible for their maintenance and operation, and outside of a water conservation district, shall come under the jurisdiction of the board of county commissioners of the county in which such dams and water control devices are located and the board of county commissioners are authorized to exercise control and supervision over the same and may make such provisions as they deem necessary or desirable for the proper maintenance thereof. In all such cases, the board of county commissioners may petition for the establishment of a water conservation district as provided for in this act.

§ 14. STATE ENGINEER EX OFFICIO STATE WATER CONSERVATION COMMISSIONER.] The State Engineer of the State of North Dakota, shall, by virtue of his office, be the State Water Conservation Commissioner. He shall perform all duties herein set forth without additional compensation, but shall be paid the expenses necessarily incurred in performing the duties assigned to him under this act.

§ 15. STATES ATTORNEYS TO ASSIST BOARDS.] The states attorney of any county within which a water conservation district is located in whole or in part shall act as legal advisor and shall upon

request render opinions in writing to the Board of Water Conservation Commissioners and shall without additional fee or charge prosecute any actions in eminent domain found necessary by the Board of Water Conservation Commissioners and also appear as attorney for such Board or for the State Water Conservation Commissioner in any appeals that may be taken from their decision as provided for in this act, as well as in any other litigation brought against them in their official capacity. It shall also be the duty of the Attorney General to render such legal opinions or such other assistance as he is required to render to other county and state officers.

§ 16. PENALTY.] Violation of this act or of any rule or regulation of the Board of Water Conservation Commissioners shall be a misdemeanor, punishable by a fine of not to exceed \$50.00 or by imprisonment in the county jail for not to exceed thirty days, or both such fine and imprisonment.

§ 17. PROVIDING FOR THE EXEMPTION OF FEDERAL AGENCIES AND PROJECTS.] It is hereby provided that this act shall not apply to the Government of the United States or any department, bureau or agency thereof, except to such extent as the Government of the United States or any department, bureau or agency thereof may desire to take advantage of its provisions, it being the express purpose and intent of this act to aid but not to interfere with the Government of the United States and/or its departments, bureaus or agencies. It is hereby provided that this act shall not apply to any project or projects of the Government of the United States or any department, bureau or agency thereof over which such federal authority desires to exercise full supervision and/or control, nor to the impounding, utilization or distribution of any water for any purpose whatever on or in connection with such project or projects. It is hereby provided that this act shall not be construed to impair, limit or repeal any water right or other right whatever which the Government of the United States or any department, bureau or agency thereof may have under statutes existing prior to the enactment of this act. It is hereby provided that the creation of water conservation districts under the provisions of this act shall not limit nor impair the right of the Government of the United States or any department, bureau or agency thereof to full and complete jurisdiction, management or control over any waters or projects over which such Federal authority desires to exercise such rights, it being the purpose hereof to expressly subrogate any power or jurisdiction granted in this act to the extent where the exercise of such power or jurisdiction shall never interfere directly or indirectly with such Federal authority.

§ 18. UNCONSTITUTIONALITY.] The object of this act is to provide for the conservation of the water resources of the state, and the provisions relating to the manner in which this object is to be accomplished do not form an inducement for its enactment. It is hereby declared that if any of the provisions of this act in any man-

ner contravene the provisions of the federal or state constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

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

§ 20. EMERGENCY.] Whereas, various federal and state agencies and private individuals within the State of North Dakota have embarked upon an extensive water conservation program for the State of North Dakota resulting in the construction of many dams and water control devices and in the proposed construction of many more; and,

Whereas, there are no adequate laws providing for the regulation and control thereof,

Now, therefore, this act is declared to be an emergency measure and shall be in full force and effect immediately upon its passage and approval.

Approved March 12, 1935.

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## CHAPTER 229

S. B. No. 126—(Committee on Irrigation and Drainage)

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### WATER AND/OR WILDLIFE CONSERVATION PROJECTS

An Act declaring all water and/or wildlife conservation projects, including wildlife reservations, to be a public purpose, providing that all lands within the ordinary high-water mark of navigable lakes shall be under the control of the state, under its police power, for the purpose of constructing, maintaining and operating water and/or wildlife conservation projects, providing that authority and control over such lands shall be vested in the State Engineer, defining the term "ordinary high-water mark," providing that all meandered lakes shall be declared to be navigable within the meaning of this act, providing a saving clause, repealing all acts or parts thereof in conflict herewith, and declaring an emergency.

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

§ 1. All water and/or wildlife conservation projects, including wildlife reservations, within the State of North Dakota are hereby declared to be a public purpose, and to be for the benefit and welfare of the people of the State and for the improvement of their living conditions.

§ 2. That whereas, there are within the State of North Dakota a considerable number of navigable lakes which have been mean-

dered and their metes and bounds established by the Government of the United States in the survey of public lands,

Now, therefore, it is hereby declared that, under the police power vested in the state by the constitution, the control of such lands within the ordinary highwater mark of navigable lakes for the purpose of constructing, maintaining and operating such dams, dikes, ditches, fills, spillways or other structures for the purpose of conservation, development, storage, distribution and utilization of such water and the propagation and preservation of wildlife shall be vested in the State of North Dakota.

§ 3. It is hereby provided that the authority, control and supervision of the lands included in this act shall be vested in the State Engineer, and he is hereby authorized and empowered to accept co-operation, aid and assistance from the United States of America, its instrumentalities or agencies, in the construction, maintenance and operation of any structure for the purposes set forth in this act, and he is further authorized and empowered to do any and all acts necessary to make such aid, assistance and co-operation from the Federal Government available, this power or authority shall expressly include the right to grant such easements to the United States of America, its instrumentalities or agencies, as may be required.

§ 4. As used in this act the term "ordinary high-water mark" is that line reached by water when the lake or stream is ordinary full and the water ordinarily high.

§ 5. It is hereby provided that any lake which shall have been meandered and its metes and bounds established by the government of the United States in the survey of public lands shall be declared to be a navigable lake within the meaning of this act.

§ 6. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act, hence, if any provisions are found to be violative of the Constitution the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 7. EMERGENCY.] An emergency is hereby declared and this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1935.

**CHAPTER 230****H. B. No. 221—(Fjeld)****EASEMENTS TO U. S. A. FOR WATER AND/OR WILDLIFE  
CONSERVATION**

An Act granting easements to the United States for rights of way over lands owned by the State of North Dakota for ditches, dams, dikes, fills, spillways, or other structures now constructed or to be constructed by the United States of America, its instrumentalities or agencies, for the purpose of water and/or wildlife conservation.

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

§ 1. There is hereby granted to the United States, its instrumentalities or agencies, over all lands now owned or hereafter acquired by the State of North Dakota, an easement for right of way for ditches, dams, dikes, fills, spillways, or other structures now constructed or to be constructed for the purpose of water and/or wildlife conservation.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1935.

**CHAPTER 231****S. B. No. 219—(Committee on Irrigation and Drainage)****RECORDING OR FILING FEES FOR DOCUMENTS REQUIRED  
BY U. S. OR STATE FOR WATER AND/OR WILD  
LIFE CONSERVATION PROJECT**

An Act providing that no fee shall be charged or collected for the recording or filing of any document required by the United States or the State of North Dakota for any water and/or wildlife conservation project; repealing all acts or parts of acts in conflict herewith, declaring an emergency.

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

§ 1. No fee shall be charged or collected by the county auditor, register of deeds, or the clerk of court for any services rendered for the recording or filing of any document required by the United States or the State of North Dakota for any water and/or wildlife conservation project.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 7, 1935.

# PHARMACY

## CHAPTER 232

S. B. No. 57—(Bonzer)

### QUALIFICATIONS PHARMACIST REGISTRATION

An Act to amend and re-enact Section 486 of the Compiled Laws of North Dakota of 1913, as amended and re-enacted by Section 2 of Chapter 211 of the Session Laws of 1927, and as further amended and re-enacted by Chapter 185 of Session Laws of 1929 and Section 2 of Chapter 211, Session Laws of 1927.

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

§ 1. AMENDMENT.] Section 486 of the Compiled Laws of North Dakota of 1913 as amended and re-enacted by Section 2 of Chapter 211 of the Session Laws of 1927 and as further amended and re-enacted by Chapter 185 of the Session Laws of 1929, is hereby amended and re-enacted to read as follows:

§ 486. QUALIFICATIONS FOR REGISTRATION.] Every applicant for a license as a registered pharmacist shall be not less than twenty-one (21) years of age, shall be of good moral character, shall be a graduate of a school or college of pharmacy recognized by the board; and shall have at least two (2) years of practical experience in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians prescriptions, keeping records and making reports required under the state and federal statutes; provided, however, that not to exceed one year of additional credit on practical experience may be allowed for one year or more years of satisfactorily completed work in an approved school or college of pharmacy, in excess of two years.

On and after January 1st, 1930, an applicant for examination as a registered pharmacist, must with the application for examination, present to and file with the Pharmacy Board, satisfactory evidence that he or she has at least one year of practical experience as defined above and must have graduated from a school or college of pharmacy having a course of three years or more, and recognized by the Board of Pharmacy as an approved school.

The said Board shall be authorized to determine what shall constitute an approved school or college of pharmacy, but a school or college to be so approved must maintain standards equivalent to the requirements of membership of the American Association of Colleges of Pharmacy.

PROVIDED, that any person who was registered as an assistant pharmacist in North Dakota, prior to January 1, 1935, but who has been debarred from application of Certificate as a Registered Phar-

macist, by reason of the requirements as to college work, shall upon application duly made to the Board prior to July 1st, 1936, be given an examination for registration as a registered pharmacist, such examination for registration to be given with due regard for such circumstances; and upon passing of an examination so to be given, in manner satisfactory to a majority of such Board, shall be given a certificate as a registered pharmacist.

Registration as a pharmacist by said Board, entitles the person so registered to membership in the North Dakota Pharmaceutical Association.

§ 2. AMENDMENT.] Section 487 of the Compiled Laws of North Dakota of 1913 as amended and re-enacted by Section 3 of Chapter 211, Session Laws of 1927 is hereby amended and re-enacted to read as follows:

§ 487. EXAMINATION FOR AN ASSISTANT.] An applicant for examination and registration as an assistant pharmacist must as a condition precedent to the right to be examined, present and file with the Board satisfactory evidence that he or she is a person of good moral character, over the age of eighteen years, and has had at least two years experience in a reputable pharmacy under the instruction and supervision of a reputable pharmacist, or has been registered as an apprentice in pharmacy in this state for a period of two years. The Board may, however, allow and consider as a part of the two years experience required of such applicant such time not exceeding one year, as shall be spent by the applicant in a regular course of study in a college of pharmacy approved by the Board.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this bill shall be in full force after its passage and approval.

Approved March 12, 1935.

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## PROCEDURE

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### CHAPTER 233

H. B. No. 78—(Godwin)

#### TIME OF COMMENCING ACTIONS

An Act to amend and re-enact Section 7375, Compiled Laws of North Dakota for the year 1913, enumerating the kinds of actions which must be commenced within six years after the cause of action accrues.

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

That Section 7375, Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 7375. SIX YEARS.] Within six years. An action upon a contract, obligation or liability, express or implied excepting those mentioned in Section 6762.

An action upon a liability created by statute, other than a penalty or forfeiture, when not otherwise expressly provided.

An action for trespass upon real property.

An action for taking, detaining or injuring any goods, or chattels, including actions for specific recovery of personal property.

An action for criminal conversation, or other injury to the person or rights of another not arising on contract and not hereinafter enumerated.

An action for relief on the ground of fraud in all cases both at law and in equity, the cause of action not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

An action for the foreclosure of a mechanics' lien.

Approved February 14, 1935.

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## CHAPTER 234

S. B. No. 31—(Coffey)

### APPEALS JUSTICE TO DISTRICT COURTS

An Act to amend and re-enact Section 9163 of the Compiled Laws of North Dakota for the year 1913, relating to Appeals from Justice Courts.

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

§ 1. AMENDMENT.] That Section numbered 9163 of the Compiled Laws of North Dakota, for the year 1913, be amended and re-enacted to read as follows:

§ 9163. APPEALS TO THE DISTRICT COURT.] Any party dissatisfied with a judgment rendered in a civil action in justice court, whether the same was rendered on default or after a trial, may appeal therefrom to the district court of the county at any time within thirty days after the rendition of the judgment. The appeal is taken by serving the notice of appeal and a copy of the undertaking; and in case of default judgment a copy of the proposed pleading shall be served with the notice and undertaking, on the adverse party or his attorney and by filing the notice of appeal together with the undertaking required by law with the clerk of the district court of the county in which the appeal was taken; provided, however, that if at the time of the service of the notice of appeal, undertaking and copy of pleadings as provided for in this chapter, the party is not within the state, or cannot conveniently be found and such fact appears by the return of the sheriff filed with the justice, and has not appeared by attorney, the service of such notice of appeal and under-

taking—with copy of pleading in case of default—may be made upon the justice rendering the judgment.

Approved February 6, 1935.

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## CHAPTER 235

S. B. No. 244—(Committee on Judiciary)

### AUTHORIZING FIDELITY AND SURETY COMPANIES AS SURETIES ON BAIL

An Act to permit fidelity and surety companies to act as sureties upon civil or criminal undertakings for bail.

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

§ 1. In all civil or criminal actions in this state bail may be given by a fidelity or surety company authorized to act as surety within this state. Any such company may execute the undertaking as surety by the hand of an officer or attorney authorized thereto by a resolution of its board of directors, a certified copy of which, under its corporate seal, shall be filed with the undertaking.

Approved March 6, 1935.

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## CHAPTER 236

S. B. No. 242—(Committee on Judiciary)

### DEPOSIT OF MONEY OR BONDS AS BAIL IN CRIMINAL CASES

An Act to amend and re-enact Section 11119, Compiled Laws of 1913, and to permit the deposit of money or bonds as bail in criminal cases.

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

§ 1. AMENDMENT.] Section 11119, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 11119. DEPOSIT FOR BAIL.] A deposit of the sum of money, or non-registered bonds of the United States, or of the State of North Dakota or of any county, city, village or school district within the state, equal in market value to the amount mentioned in the order admitting to bail, together with the personal undertaking of the defendant shall be equivalent to bail, and upon such deposit the defendant must be discharged from custody. If the defendant has given bail, he may at any time before the forfeiture of the undertaking, in like manner deposit the sum of money or bonds mentioned therein, and upon the deposit being made the bail is exonerated. Every deposit under the provisions of this act shall be with the clerk of the court in which the defendant is held to answer.

Approved March 7, 1935.

## CHAPTER 237

S. B. No. 230—(Bonzer, Fowler and Coffey)

### NOTICE EXECUTION SALE

An Act to amend and re-enact Section 7745 of the Compiled Laws of North Dakota, for the year 1913, relating to the notice to be given upon sale of real property under execution; repealing all acts or parts of acts in conflict herewith.

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

§ 1. AMENDMENT.] That Section 7745 of the Compiled Laws of North Dakota for the year 1913, relating to the sale of real property under execution be and the same is amended and re-enacted to read as follows:

§ 7745. REAL PROPERTY. SAME.] Before any real property or interest therein taken on execution shall be sold the officer making such sale must cause public notice of the time and place thereof in manner following:

(1) If there is a newspaper printed in the county or subdivision where the real property to be sold is situated, such notice must be given by advertisement in some newspaper printed in such county or subdivision, once a week for three successive weeks the last publication to be at least ten days prior to the making of such sale.

(2) In case there is no newspaper printed in such county or subdivision, then the officer making the sale must cause such advertisement to be made by posting a copy of such advertisement on the outer door of the court house or building wherein the district court of the county or subdivision was last held, and in five other public places in the county. All sales made without notice as provided in this section must be set aside by the court to which the execution is returnable, upon motion to confirm the sale.

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

Approved March 6, 1935

## CHAPTER 238

H. B. No. 126—(Place, Noben and Fitzgerald)

### ABSOLUTE EXEMPTIONS

An Act to amend and re-enact Section 7730 of the Compiled Laws of North Dakota for 1913, defining absolute exemptions.

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

§ 1. AMENDMENT.] That Section 7730 of the Compiled Laws of North Dakota for 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 7730. ABSOLUTE EXEMPTION.] The property mentioned in this section is absolutely exempt from all such process, levy or sale:

1. All family pictures.
2. A pew or other sitting in any house of worship.
3. A lot or lots in any burial ground.
4. The family Bible and all school books used by the family and all other books used as a part of the family library not exceeding in value one hundred dollars.
5. All wearing apparel and clothing of the debtor and his family.
6. The provisions for the debtor and his family necessary for one year's supply, either provided or growing, or both, and fuel necessary for one year.
7. The homestead as created, defined and limited by law.
8. All crops and grain both threshed and unthreshed raised by the debtor on not to exceed 160 acres in one tract occupied by the debtor, either as owner or tenant, as his homestead as defined by law; provided, however, that the provisions of this law will in no way affect seed, farm labor, thresher, or landlord liens. Provided, however, that if the debtor takes advantage of subdivision 8 of this act, he shall not avail himself of any additional or alternate exemptions.

Approved March 5, 1935.

## CHAPTER 239

S. B. No. 143—(Lemke and Greene of Cavalier)

### ADDITIONAL EXEMPTIONS PERSONAL PROPERTY

An Act to amend and re-enact Section 7731 Supplement to the Compiled Laws of 1913, relating to exemptions of personal property from attachment, levy and sale on execution, and defining "head of family" as defined by Section 5626 of the Compiled Laws of 1913, and exemptions of a single person, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 7731 Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted so as to read as follows:

§ 7731. ADDITIONAL EXEMPTION.] In addition to the property mentioned in the preceding section, the head of a family may himself, or by his agent, select from all other of his personal property not absolutely exempt, goods, chattels, merchandise, money or other personal property not to exceed in the aggregate \$1,500.00 in value, which is also exempt, and must be chosen and appraised as hereinafter provided. The "head of a family" as herein used means the "head of a family" as defined by Section 5626 of Compiled Laws of North Dakota for the year 1913.

§ 2. EXEMPTIONS OF A SINGLE PERSON.] A single person may himself, or by his agent, in addition to his wearing apparel, select from all other of his personal property, goods, chattels, merchandise, money or other personal property not to exceed in the aggregate \$150.00 in value, which is also exempt and must be chosen and appraised in the same manner as the exemptions of the "head of a family."

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

Approved March 7, 1935.

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## CHAPTER 240

H. B. No. 299—(Page)

### SALES PERSONAL PROPERTY ON FORECLOSURE, JUDGMENT, ETC.

An Act to amend and re-enact Section 2 of Chapter 206 of the 1933 Session Laws of the State of North Dakota, providing for the sale of personal property or chattels ordered sold by judicial action; providing for the publication of notice of sale, repealing acts in conflict herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 206 of the 1933 Session Laws of the State of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 2. CONDUCT OF SALE.] All sales of personal property or chattels as a result of foreclosure or decree of judgment, or of sheriff's levy, shall be conducted on the premises where said property is seized, and shall be conducted by the sheriff or other auctioneer duly designated by the court holding jurisdiction, and due notice of such sale shall be given by insertion of the notice of sale in a legal newspaper of the county for at least two issues prior to the date of sale.

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

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall go into full force and effect upon its passage and approval.

Approved March 13, 1935.

## CHAPTER 241

S. B. No. 229—(Bonzer, Fowler and Coffey)

SERVICE OF SUMMONS, ETC., FORECLOSURE REAL ESTATE  
MORTGAGE OR LIEN

An Act relating to foreclosure of mortgage or other lien upon real estate; providing for service of summons in actions to foreclose mortgage or other lien upon real estate; providing for personal service or service by publication; specifying manner in which unknown defendants and representatives of deceased defendants may be joined; providing that said method shall be in addition to present remedies.

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

§ 1. SUMMONS HOW SERVED.] That in addition to any method now or hereafter provided by law for the service of summons, in all actions hereafter commenced for the foreclosure or satisfaction of a mortgage, or other lien, upon real estate, in any court of the State of North Dakota, the summons may be served in the following manner, and when so served the service shall be deemed complete, viz: by personally serving upon all defendants, if any, in actual possession of the real estate involved in the action (if said real estate is occupied), and as to all other defendants by publication in the manner herein provided.

§ 2. SERVICE BY PUBLICATION. HOW MADE.] When the plaintiff shall file a verified complaint in the office of the clerk of the district court of the county where said action is commenced, setting forth a cause of action in favor of the plaintiff and against the defendants, for the foreclosure of a mortgage or other lien upon real estate, and when the plaintiff shall file in said office an affidavit signed by the plaintiff or his attorney in substance as follows:

State of North Dakota }  
County of ..... } ss.

.....being first duly sworn upon oath deposes and says that he is the.....plaintiff in the above  
(attorney for)

entitled action:

Affiant further says that the defendants.....  
(naming them)

appear to have an interest in or lien or incumbrance upon the real estate described in the complaint in this action, which interest or lien is subject and inferior to the lien of the plaintiff being foreclosed; that plaintiff seeks no personal judgment against the defendants (if any).....and seeks only to bar and exclude said defendants from any interest in or lien or incumbrance upon the real estate described in the complaint, save and except the right of redemption as provided by law; that the addresses of the defendants

(if any).....are not shown upon the records of the  
(naming them)  
office of the register of deeds, county auditor or clerk of the district  
court of.....county, that being the county in which  
the real estate involved in this action is situated; that the addresses  
of the defendants (if any).....is as follows:  
(naming them)  
.....; that affiant does not know the addresses of  
the defendants (if any).....; that the defendants  
(naming them)  
(if any).....are deceased, and it does not appear  
(naming them)  
by the records in the office of the judge of the county court in and  
for.....county, that being the county in which  
the real estate described in the complaint in the action is situated,  
that any administration upon the estate of said defendant is now  
pending: or, that the defendants (if any).....  
(naming them)  
are deceased, and that.....of.....  
is the duly appointed, qualified and acting administrator or executor  
(as the case may be) of the estate of said deceased.

§ 3. SUMMONS TO BE PUBLISHED.] Plaintiff shall cause said summons to be published once each week for four successive weeks in some newspaper published in the county where the land described in the complaint is situated, and if no newspaper is published in said county, then in some newspaper published at the seat of government of the State of North Dakota.

§ 4. COPY OF SUMMONS AND COMPLAINT TO BE MAILED.] A copy of the summons and complaint must, within thirty days after the first publication of the summons, be deposited in some post office in this state, postage prepaid, and directed to the defendants whose addresses are shown by the affidavit aforesaid to be known to the person making such affidavit, and to the executor or administrator, if any, of deceased defendants, the receipt of the postoffice where such mailing is done is to be received in evidence by any court in this state as proof of such mailing.

§ 5. PERSONAL SERVICE EQUIVALENT TO PUBLICATION.] After the affidavit for publication has been filed, personal service of the summons and complaint upon any defendant, within or without the State of North Dakota, shall be equivalent to and have the same force and effect as the publication and mailing in the act provided for.

§ 6. PERSONAL SERVICE OF SUMMONS AND COMPLAINT MAY BE MADE IN ANY EVENT.] Nothing herein contained shall prevent the plaintiff from making personal service of the summons and complaint upon any or all of the defendants, in the manner now or hereafter provided by law.

§ 7. SERVICE BY PUBLICATION WHEN COMPLETED.] Service by publication is completed upon the expiration of thirty-six days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant outside of the state, upon the expiration of fifteen days from such service.

§ 8. PERSONAL SERVICE OF SUMMONS. HOW MADE.] Personal service of the summons may be made in the manner provided by Section 7426 of the 1913 Compiled Laws of the State of North Dakota.

§ 9. UNKNOWN DEFENDANTS. HOW JOINED.] All persons having or claiming an estate or interest in, or lien or incumbrance upon the property described in the complaint, whether as heirs, devisees, legatees, or personal representatives of a deceased person, or under any other title or interest, and not in possession or not appearing of record in the office of the register of deeds, the clerk of the district court or the county auditor of the county in which the land described in the complaint is situated, to have such claim, title or interest therein, may be proceeded against as persons unknown, and any order, judgment or decree entered in said action shall be valid and binding on such unknown persons, whether of age or minors, and on those claiming under them. Provided, however, that if any unknown persons are joined as defendants, the summons shall contain the following statement: "And all persons unknown, claiming any estate or interest in, or lien or incumbrance upon the real estate described in the complaint;" provided, further, that as to such unknown defendants the plaintiff or his attorney shall, at the time of filing the summons and complaint, file in the office of the clerk of the court wherein said action is brought, an affidavit in substance as follows:

State of North Dakota }  
County of ..... } ss.

.....being first duly sworn upon oath deposes and says that he is the.....plaintiff in the above  
(attorney for)

entitled action:

Affiant further says that as to all defendants proceeded against as "And all persons unknown, claiming any estate or interest in, or lien or incumbrance upon the real estate described in the complaint," the interests of such unknown persons defendants in the land described in the complaint are not shown of record in the office of the register of deeds, clerk of the district court or the county auditor of the county of....., being the county in which said land is situated, and affiant does not know and is unable to ascertain the names, residences or post office addresses of any of the persons who are so proceeded against as unknown defendants; that the relief sought in this action consists wholly or partially in excluding said unknown defendants of any interest in or lien upon the real estate

described in the complaint save and except the right of redemption as provided by law.

§ 10. CORPORATIONS INCLUDED IN THE WORD "PERSON" OR "PERSONS."] Wherever the word "person" or "persons" is used in this act it shall include corporations, firms and co-partnerships.

§ 11. WHAT THE SUMMONS TO CONTAIN.] The summons issued and served under this act shall contain, or have appended thereto a statement substantially as follows:

"This action relates to the foreclosure of a mortgage or lien (as the case may be) upon (here describe the real estate involved in the action.)

§ 12. JUDGMENT AND DECREES TO BE BINDING AGAINST WHOM.] All orders, judgments or decrees entered in any action brought under this act shall be binding upon all persons proceeded against as defendants, whether of age or minors, and all those claiming by, through or under them after the commencement of the action, and all persons whose interests did not appear of record in the office of the register of deeds, county auditor or clerk of the district court of the county wherein said action is brought at the time of the commencement of the action.

Approved March 22, 1935.

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## CHAPTER 242

S. B. No. 23—(Representatives Godwin and Scholl and Senators Cain, Peterson, Thatcher and Young)

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### RELIEF FROM FORECLOSURE OF REAL ESTATE MORTGAGES, ETC.

An Act providing for relief in certain cases during the emergency declared to exist, from foreclosure of mortgages or other liens on real estate, and execution sales of real estate, and cancellation of contracts for the sale of real property, eviction of tenants from real estate, and for postponing certain sales and extending the period of redemption from certain sales, and relating to the jurisdiction and procedure for such relief, and for the right to possession during the extended period, and limiting the right to emergency actions for deficiency judgment, and for extending the expiration of certain periods of redemption to thirty days after the passage of this act.

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

Whereas, The members of the Twenty-fourth Legislative Assembly of the State of North Dakota, being cognizant of the distress of the farmers, the laborers, the businessmen, the tenants and the property owners of the state, due to the extremely low prices of the products of the farm and the factory, and the large number of unemployed, and the severe financial and economic distress prevailing

throughout this and other states of the nation during the past several years, and the drought of the past two years, and

Whereas, Many owners of property by reason of said conditions are unable, and it is believed will for some time be unable, to meet all payments as they become due of taxes, interest and principal of mortgages or other liens on their properties, or to make the payments due on contracts for the purchase of real estate, and are therefore threatened with loss of such properties through mortgage or other foreclosure, judicial sale, or cancellation thereof, and

Whereas, It is believed that the owners of such property will suffer irreparable loss and damage if mortgage or lien foreclosure, or cancellation of contracts, or execution sale of property is had, because of lack of purchasers financially able to bid an adequate price therefore, and

Whereas, It has been reported that at many mortgage foreclosure or execution sales the property was bid in for prices much below what was believed to be its real value, and often for much less than the mortgage or judgment indebtedness against the same, thereby resulting in large deficiency judgments being entered against debtors, and

Whereas, Chapter 158 of the Session Laws of North Dakota for the year 1933, prohibiting the foreclosure of mortgages on real estate by advertisement in certain cases, is of doubtful validity insofar as it is made to apply to mortgage contracts in existence at the time the act was passed and approved, and

Whereas, Chapter 155 of the Session Laws of North Dakota for the year 1933, prohibiting the obtaining of a deficiency judgment on mortgage foreclosure, is of doubtful validity insofar as it applies to mortgage contracts in existence at the time it was passed and approved, and

Whereas, It is the opinion of, and believed by the Legislature of the State of North Dakota that the conditions existing as hereinbefore set forth, has created an emergency of such nature that justifies and validates legislation for the extension of the time of redemption from mortgage foreclosure or other lien or judicial sales on execution or evictions and other relief of a like character, and

Whereas, The State of North Dakota has the right, in the opinion of its Legislative Assembly, to safeguard the vital interests of its people, and

Whereas, The State of North Dakota possesses the right under its police power to declare a state of emergency to exist, and

Whereas, The inherent and fundamental purpose of our government is to safeguard the public and promote the general welfare of the people, and

Whereas, Under existing conditions, foreclosure of real estate mortgages or other liens by advertisement would prevent fair, open

and competitive bidding at the time of sale in the manner now contemplated by law, and

Whereas, It is believed, and the Legislature of North Dakota hereby declares its belief that the conditions existing, as hereinbefore set forth, have created an emergency of such a nature that justifies and validates changes in legislation providing for the temporary method, terms and conditions upon which mortgages or other lien foreclosures may be had or postponed, and jurisdiction to administer equitable relief in connection therewith may be conferred upon the district court,

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

§ 1. In view of the situation hereinbefore set forth, the Legislature of the State of North Dakota hereby declares that a public economic emergency does exist in the State of North Dakota.

§ 2. In any proceeding for the foreclosure of any mortgage or other lien upon real property, or the cancellation of any contract for the sale of real estate by advertisement or publication of notice, the mortgagor, lienee or assignee of either, or the owner in possession of such property, or any one claiming under said mortgage or lienor, or any one liable for the mortgage debt, or the vendee or his assignee of such contract for the sale of said premises, may, at any time after the publication of notice for the foreclosure of such mortgage or other lien, or the cancellation of a contract, apply to the district court of the county wherein such proceedings are being had, or are pending, by filing with the court his affidavit, setting forth such reasons, consistent with the provisions of this act, as the party applying for such order may have for a postponement thereof, with a prayer that the foreclosure or cancellation, if any, shall be had by action in the district court. If it appears to the court that granting of the relief, as prayed for in such affidavit, would be equitable and just, then and in that event the foreclosure or cancellation proceedings by advertisement or publication of notice may be postponed by the court by ex parte order, which may be served upon the attorney or agent of the mortgagee or assignee, or vendor or assignee, or upon the party foreclosing or cancelling said contract, and the party seeking to foreclose such mortgage or other lien, or cancel such contract, shall proceed, if at all, to foreclose such mortgage or other lien, or cancel said contract, by action in the district court of the county having jurisdiction thereof and shall tax as a part of the costs in said action the expense incurred in publishing such notice.

§ 3. When any mortgage or other lien has been foreclosed by action, the court shall, on the coming in of the report of sale, on the request of any party who has been personally served with a summons or who has appeared, cause notice of hearing thereon to be served on the parties to the action, who have appeared, and fix the

time and place for hearing on said report. Before granting an order confirming said sale, the court shall, if it appears upon due examination that the sale price is unreasonable and unfairly inadequate, or that justice has otherwise not been done, order a re-sale. If the sale is confirmed, the sheriff or his deputy shall forthwith execute and deliver the proper certificate of sale, which shall be recorded within twenty days after such confirmation. Upon the hearing of the motion for an order confirming the sale of the premises involved in the foreclosure of mortgages or other liens by action, in case the evidence is insufficient to establish a fair and reasonable market or rental value of such property, the court shall receive any competent evidence, including evidence tending to establish the actual value of the property involved in such mortgage foreclosure proceedings for the purpose or purposes for which said property is or can be used. The court shall also receive any evidence tending to show to what extent, if any, the property has decreased in actual or market value by reason of the economic conditions existing at the time, or prior to such sale.

§ 4. When any judgment has been entered for the cancellation of a contract for the sale of real estate, or eviction or ejectment of any tenant from the possession of real estate, the court having jurisdiction thereof shall, at the request of any party to the action, cause notice of hearing to be served upon the parties thereto, who have appeared therein, to show cause, if any they have, why a stay of execution should not be granted. Before granting such request on the part of any party to said action, the court having jurisdiction thereof shall receive any competent evidence of the reasonable rental value of said property, taxes levied and assessed against the same, the interest on the indebtedness, if any, due thereon, and the purpose or purposes for which said property is or can be used.

§ 5. (a) In case the parties to any such foreclosure action, or other action heretofore set forth in this act, shall agree in writing upon terms of compromise settlement thereof, or of composition of the mortgage or other indebtedness, or both, the court shall have jurisdiction and may by its order confirm and approve such settlement or composition, or both, as the case may be.

§ 5. (b) The court shall have the same jurisdiction to postpone the enforcement of judgment by execution sale, or to order re-sale, or give other relief where such judgment is rendered in an action to collect a debt or obligation secured by real estate mortgage or other lien, the foreclosure of which might be effected under the terms of this act, as is conferred by this act, with regard to the mortgage or other lien, or the cancellation of a contract, or the enforcement of an obligation for rent.

§ 6. Where any mortgage or other lien upon real estate has been foreclosed and the period of redemption has not yet expired,

or where sale is hereafter had in the case of real estate mortgage or other lien foreclosure proceedings, now pending, or which may hereafter be instituted, prior to the expiration of two years from and after the passage and approval of this act, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage and approval of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1937; or where stay of execution has been granted against the cancellation of a contract or the ejectment of a tenant from premises, for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1937. Provided that the mortgagor or the owner in possession of said property in the case of mortgage foreclosure proceedings, or the lienor or person in possession of said property in the case of foreclosure of such a lien, or the judgment debtor in the case of sale under judgment or execution, or the tenant in case of judgment of eviction, or the vendee in case of a contract of sale of real property, shall, prior to the expiration of the period of redemption, or in case of judgment or eviction or cancellation of land contract within the period of time described in Section 4 hereof, apply to the district court having jurisdiction of the matter, on not less than ten days written notice to the mortgagee, the lienee, judgment creditor or plaintiff, or the attorney of either as the case may be, for an order determining the reasonable value of the income of said property, or if the property has no income then the reasonable rental value of the property involved in such sale, cancellation or eviction, and directing and requiring such mortgagor, lienor, vendee, tenant or other judgment debtor to pay all or a reasonable part of such income or rental value in or toward the payment of taxes, insurance, interest, mortgage, or judgment indebtedness, at such time and in such manner as shall be fixed and determined and ordered by the court; provided, however, that in fixing the rental value of farm lands, the rental value of any buildings thereon shall not be included or considered; and the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, lienor, vendee, tenant or judgment debtor of such an amount, at such times and in such manner as to the court shall, under all circumstances, appear just and equitable, and provided that upon the service of notice or demand aforesaid, that the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor, lienor, vendee, tenant, or judgment debtor or personal representative shall default in the payments, or any of them, in such order required on his part to be done, or commits waste, his right of redemption from said sale shall terminate thirty days after such default, and holders of subsequent liens may redeem in the order and manner now provided by law,

beginning thirty days after the filing of notice of such default with the clerk of district court, and his right to possession shall cease, and the party acquiring title to such real estate shall then be entitled to immediate possession of said premises. If default is claimed by allowance of waste, such thirty day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any real estate mortgage or other lien foreclosure, or judgment, or execution sale heretofore made, which otherwise cannot expire less than thirty days after the passage and approval of this act, shall be, and the same hereby is extended to a date thirty days after the passage and approval of this act, and in such case the mortgagor, lienor, vendee, tenant or judgment debtor, or the assignee or personal representatives of either, as the case may be, or the owner in possession of the real property may, prior to said date, apply to said court for, and the court may thereupon grant, the relief as hereinbefore and in this section provided. Provided, further, that prior to July 1, 1937, no action shall be maintained in this state for a deficiency judgment until the period of redemption, as allowed by existing laws or as extended under the provisions of this act, has expired; provided, however, that the provisions of the act shall (not)\* be construed as a repeal of Chapter 155 of the Session Laws of 1933 or any other similar enactment.

§ 7. Upon application of either party, prior to the expiration of the extended period of redemption as provided for in this act, and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms in such manner as the changed circumstances and conditions may require.

§ 8. The trial of any action, hearing or proceedings mentioned in this act shall be held within twenty days after the filing by either party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during vacation of the court, and the order of the court shall be filed within five days after trial or hearing. No more than five days' stay shall be granted, and review by the Supreme Court may be had by certiorari, if application for the writ shall be made within 15 days after notice of such order, and such writ shall be returnable within 20 days after the filing of such order.

§ 9. Every law and all the provisions thereof now in force insofar as inconsistent with the provisions of this act, are hereby suspended until July 1, 1937. No extension of the period for redemption, nor any postponement of sale judgment on execution shall be ordered or allowed under this act which would have the effect of extending the period of redemption or enforcement of judgment beyond July 1, 1937.

§ 10. This act as to mortgage or other lien foreclosures shall

apply only to mortgages or contracts or liens made prior to the passage and approval of this act, but shall not apply to mortgages, liens, contracts or leases made prior to the passage of this act which shall hereafter be renewed or extended for a period ending more than one year after the passage of this act. Neither shall this act apply in any way which would allow a re-sale, stay, postponement, or extension to such time that any right might be adversely affected by the statute of limitations.

§ 11. The provisions of this act shall not apply to any mortgage, lien, contract or lease while such mortgage or other instrument is held by the United States or any agency, department, bureau, board, instrumentality or commission thereof, as security or pledge of the maker, its executors or assigns, nor shall the provisions of this act apply to any mortgage holder as security or pledge to secure payment of a public debt, or to secure payment of the deposit of public funds, nor shall the provisions of this act apply to notes and obligations incurred under Title I and to insured mortgages issued under Title II of the National Housing Act, including the Land Bank Commissioner, a Federal Land Bank, a Federal Intermediate Credit Bank, a Production Credit Association, a Bank for Co-operatives, and a Regional Agricultural Credit Corporation.

§ 12. It is hereby declared that if any of the provisions of this act in any manner contravenes the provisions of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provisions had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

§ 13. This act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 9, 1935.

\*Word (not) inserted to indicate probable intention.

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## CHAPTER 243

H. B. No. 79—(Godwin)

### FRAUDULENT CONCEALMENT POSTPONES RUNNING OF STATUTE OF LIMITATIONS

An act to provide for fraud or fraudulent concealment of facts constituting a cause of action, to postpone or toll the running of the statute of limitations.

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

§ 1. FRAUD TOLLS STATUTE.] When a party against whom a cause of action exists in favor of another, by fraud or fraudulent concealment prevents such other from obtaining knowledge thereof,

the statute of limitations will commence to run only from the time the cause of action is discovered or might have been discovered by the exercise of diligence, and the action may be commenced within one year thereafter.

§ 2. BURDEN OF PROOF.] Such fraud or fraudulent concealment shall be established to the satisfaction of the trial court by a fair preponderance of the evidence.

Approved March 13, 1935.

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## CHAPTER 244

S. B. No. 33—(Coffey)

### AFFIDAVIT JUDGMENT DEBTOR IDENTIFICATION

An Act requiring judgment creditors to file an affidavit identifying the judgment debtor, forbidding clerks of court and other officers to enter judgments without affidavits of identification, and providing a penalty for failure to comply with this law.

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

§ 1. No judgment, except for taxes, shall hereafter be docketed or entered until the judgment creditor, his agent or attorney, shall have filed with the clerk of the district court, an affidavit stating the full name, occupation, place of residence, and post office address of the judgment debtor, to the best of affiant's information and belief; and if debtor has a known street address or residence number, or both, it shall be given. Failure to file such affidavit, or the filing of a defective or insufficient affidavit, shall not invalidate the judgment docketed or entered, but the clerk of the district court entering or docketing a judgment without such affidavit of identification shall be liable to any person damaged thereby in the sum of five dollars.

Approved February 6, 1935.

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## CHAPTER 245

S. B. No. 95—(Cain)

### JUDGMENT NOTWITHSTANDING VERDICT

An Act to amend and re-enact Section 7643, Supplement to the Compiled Laws of 1913, relating to directed verdicts, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 7643, Supplement to the Compiled Laws of 1913 be and the same hereby is amended and re-enacted to read as follows:

§ 7643. JUDGMENT NOTWITHSTANDING VERDICT.] When at the close of the testimony any party to the action moves the Court to

direct a verdict in his favor, and the adverse party objects thereto, such motion shall be denied and the Court shall submit to the jury such issue or issues, within the pleadings on which any evidence has been taken, as either or any party to the action shall request, but upon subsequent motion, by such moving party after verdict rendered in such action, that judgment be entered notwithstanding the verdict, or if the jury have failed to agree upon a verdict, for a directed verdict, the Court shall grant the same if, upon the evidence as it stood at the time such motion to direct a verdict was made, the moving party was entitled to such directed verdict. An order for judgment notwithstanding the verdict may also be made on a motion in the alternative form asking therefor, or if the same be denied, for a new trial. Such motion, singly or in the alternative, may be made either before or after entry of judgment. The ruling on the motion for a directed verdict may be reviewed by the Supreme Court without a motion for judgment notwithstanding the verdict or a motion in the alternative for such judgment or for a new trial having been first made in the trial court. If the motion for judgment notwithstanding the verdict be denied, the Supreme Court, on appeal from the judgment, may order judgment to be entered, when it appears from the testimony that a verdict should have been so directed; and it may also so order on appeal from the whole order denying such motion when made in the alternative form whether a new trial was granted or denied by such order.

§ 2. The terms and provisions of this act shall apply to any and all actions pending in any of the courts of the state.

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

Approved February 21, 1935.

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## CHAPTER 246

S. B. No. 246—(Committee on Judiciary)

### ALTERNATE JURORS CRIMINAL CASES

An Act to provide for the use of alternate jurors in criminal cases, and to regulate the practice of the courts in regard thereto.

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

§ 1. ALTERNATE JURORS.] Immediately after the jury is impanelled and sworn to try any criminal action in district court or county court with increased jurisdiction the court may, if in its judgment it is necessary or proper, direct the calling of one or two additional jurors, to be known as "alternate jurors." Such jurors shall be drawn from the same source, and in the same manner, and have the same qualifications as regular jurors, and be subject to examina-

tion and challenge as such jurors, except that each party shall be allowed one peremptory challenge to each alternate juror. The alternate jurors shall take the proper oath or affirmation and shall be seated near the regular jurors with equal facilities for seeing and hearing the proceedings in the cause and shall attend at all times upon the trial of the cause in company with the regular jurors. They shall obey all orders and admonitions of the court, and if the regular jurors are ordered to be kept in the custody of an officer during the trial of the cause, the alternate jurors shall also be kept with the other jurors and, except as hereinafter provided, shall be discharged upon the final submission of the cause to the jury. If, before the final submission of the cause, a regular juror dies or is discharged on account of disability or other good reason, the court shall order the alternate juror, if there is but one, to take his place in the jury box. If there are two alternate jurors the court shall select one by lot, who shall then take his place in the jury box. After an alternate juror is in the jury box he shall be subject to the same rules as a regular juror.

Approved March 6, 1935.

## CHAPTER 247

H. B. No. 188—(Godwin and Cunningham)

### GRANTING PREVENTATIVE RELIEF IN LABOR DISPUTES

An Act relating to the granting of preventative relief, prescribing conditions thereof and provisions therefor; and repealing Sections 7214a1, 7214a2 and 7214a3 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. That no court of the State of North Dakota as herein defined, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of this act; nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this act.

§ 2. In the interpretation of this act and in determining the jurisdiction and authority of the courts of the State of North Dakota, as such jurisdiction and authority are herein defined and limited, the public policy of the State of North Dakota is hereby declared as follows:

WHEREAS, under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment,

wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of the (his) own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definitions of, and limitations upon, the jurisdiction and authority of the court of the State of North Dakota are hereby enacted.

§ 3. Any undertaking or promise, such as is described in this section, or any other undertaking or promise in conflict with the public policy declared in Section 2 of this act, is hereby declared to be contrary to the public policy of the State of North Dakota, shall not be enforceable in any court of the State of North Dakota and shall not afford any basis for the granting of legal or equitable relief by any such court, including specifically the following:

Every undertaking or promise hereafter made, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual, firm, company, association, or corporation, and any employee or prospective employee of the same, whereby

(a) Either party to such contract or agreement undertakes or promises not to join, become, or remain a member of any labor organization or of any employer organization; or

(b) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes, or remains a member of any labor organization or of any employer organization.

§ 4. No court of the State of North Dakota shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment;

(b) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any such undertaking or promise as is described in Section 3 of this act;

(c) Paying or giving to, or withholding from, any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or other moneys or things of value;

(d) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting, any action or suit in any court of the United States or of any State;

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence;

(f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;

(g) Advising or notifying any person of an intention to do any of the acts heretofore specified;

(h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and

(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified, regardless of any such undertaking or promise as is described in Section 3 of this act.

§ 5. No court of the State of North Dakota shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in Section 4 of this act.

§ 6. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of the State of North Dakota for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof.

§ 7. No court of the State of North Dakota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as herein defined, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect—

(a) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

(b) That substantial irreparable injury to complainant's property will follow:

(c) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;

(d) That complainant has no adequate remedy at law; and

(e) That the public officers charged with the duty to protect

complainant's property are unable or unwilling to furnish adequate protection.

Such hearing shall be held after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property; provided, however, that if a complainant shall also allege that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective for no longer than five days and shall become void at the expiration of said five days. No temporary restraining order or temporary injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs (together with a reasonable attorney's fee) and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

The undertaking herein mentioned shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against said complainant and surety, upon a hearing to assess damages of which hearing complainant and surety shall have reasonable notice, the said complainant and surety submitting themselves to the jurisdiction of the court for that purpose. But nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

§ 8. No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction; and every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the bill of complaint or petition filed in such case and as shall be expressly included in said findings of fact made and filed by the court as provided herein.

§ 9. Whenever any court of the State of North Dakota shall issue or deny any temporary injunction in a case involving or grow-

ing out of a labor dispute, the court shall, upon the request of any party to the proceedings and on his filing the usual bond for costs, forthwith certify as in ordinary cases the record of the case to the Supreme Court of the state for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard and the temporary injunctive order affirmed, modified, or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters except older matters of the same character.

§ 10. In all cases arising under this act in which a person shall be charged with contempt in a court of the State of North Dakota (as herein defined), the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State of North Dakota wherein the contempt shall have been committed; provided, that this right shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.

§ 11. The defendant in any proceeding for contempt of court may file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated in the same manner as is provided by law. The demand shall be filed prior to the hearing in the contempt proceeding.

§ 12. When used in this act, and for the purposes of this act—

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employees; or (3) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined).

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect

interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

§ 13. If any provision of this act or the application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of the act and the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 14. REPEAL.] That Sections 7214a1, 7214a2 and 7214a3 of the Supplement to the 1913 Compiled Laws of North Dakota are hereby repealed.

Approved March 13, 1935.

## CHAPTER 248

S. B. No. 289—(McDonald)

### MAJORITY VOTE PARDON BOARD

An Act to amend and re-enact Section 11100 of the Compiled Laws of the State of North Dakota relating to quorum and majority vote of Board required to grant pardon, providing for the time of meetings.

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

§ 1. AMENDMENT.] That Section 11100 of the Compiled Laws of the State of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 11100. MAJORITY VOTE REQUIRED. QUORUM.] Every pardon or commutation of sentence shall be in writing and shall have no force and effect unless the same be granted by a vote of four members of said Board, four of such Board shall constitute a quorum. Provided that at any special meeting called in case of an emergency; the Governor, the Chief Justice of the Supreme Court and the Attorney General shall constitute a quorum. A reprieve in a case where capital punishment has been imposed may be granted by the Governor, but for such time only as may be necessary to secure a meeting of said Board of Pardons for the consideration of an application for a reprieve, pardon or commutation of sentence so reprieved. Said Board may grant an absolute or conditional pardon, and any conditional pardon shall state the terms and conditions upon which it is granted. Such Board of Pardons may issue its warrant under the seal of said Board to any proper officers to carry into

effect such pardon which warrant shall be obeyed and executed instead of the sentence which was first originally pronounced.

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

Approved March 13, 1935.

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## CHAPTER 249

S. B. No. 174—(Johnson)

### UNIFORM TITLE PROBATE COURT PROCEEDINGS, ETC.

An Act providing for uniform title to papers and proceedings in Probate Court practice, and for form of citation.

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

§ 1. In the title to all citations and final decrees in the probate courts of North Dakota, each and all of the respondents in such proceeding shall be named as respondents, but in all other orders or pleadings or other papers it shall not be necessary to name all of the respondents as respondents therein. It shall be sufficient to name one respondent with the language "et al."

Approved March 7, 1935.

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## CHAPTER 250

H. B. No. 258—(Treffry, by request)

### UNIFORM ACT FOR ADMINISTRATION OF TRUSTS

An Act providing a uniform law for the administration and supervision of trust estates in the District Court, and providing the procedure and rules governing and relating to same; and repealing all of Chapter 122 of the Session Laws of North Dakota for the year 1931, and all other acts or parts of acts in conflict herewith.

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

§ 1. ADMINISTRATION AND SUPERVISION OF TRUSTS.] The District Court of the county where trust property or some portion thereof is situated, except and other than property held by an executor, administrator, guardian, or assignee or trustee for the benefit of creditors, shall have jurisdiction to supervise the administration, by the trustee or trustees, of such trust estate; and reference in this act to trusts, trustee, and trust property or trust estate shall be construed as in this section defined. In case such property is situated in more than one county the District Court of the county to which application is first made shall supervise the administration of such property. The procedure shall be by special proceedings which may

include proceedings ancillary to like proceedings of a foreign court when such court has acquired prior and original jurisdiction over the person of the trustee and a part only of the trust property is within the state.

2. PROCEEDINGS. HOW COMMENCED.] Any trustee, beneficiary or person interested in such trust may file with the clerk of the District Court a petition that the administration of the trust shall be therein supervised. That the form of said petition in substance shall be as herein provided. Notice of hearing thereon shall be as provided by this act, and such further or additional notice as may be prescribed by court rules; and the court, upon hearing, may enter its order that all further proceedings in the supervision of the administration of such trust shall be had in the said court: provided, that the District Court of the county where any portion of the trust property is located, may, upon petition of any interested person, and upon like notice and hearing, adopt and confirm as the act of such District Court any order or decree of a foreign court with respect to the sale, mortgaging, leasing, or other disposition of the real property of a trust within this state. In all cases of public or charitable trusts the Attorney General and also the States Attorney of the county where the trust is established shall be deemed persons interested in the trust estate.

§ 3. FORM OF PETITION.] The caption or title of the petition and of all orders, notices or other proceedings in the matter shall be substantially as follows: In the matter of the administration by John Doe, Trustee of the Trust created by Richard Roe. Said petition shall state the residence and post office address of the trustee and shall set forth the time and manner of the creation of the trust, as by will, deed, declaration or contract. It shall include or have annexed thereto a copy of the instrument creating the trust, or show that the same is not available to the petitioner, and show where the original of such instrument is on file, or in whose possession it may be, if known to the petitioner. In case the trustee has come into possession of the trust property through distribution under the probate of a will or by other judicial proceeding, such fact shall be alleged. The petition when made by a trustee shall include or have annexed thereto an itemized inventory giving the description, location and the estimated value of all property included in the trust and, whether filed by the trustee or person interested, it shall set forth the names and post office addresses of all beneficiaries or persons interested in the trust property so far as known to the petitioner. If the residence or post office address of any such beneficiary or interested person named in the petition is unknown to the petitioner, the fact shall be stated in the petition and the petition shall allege whether there are or may be beneficiaries or interested persons other than those specifically named who are unascertained or whose names are unknown to the petitioner. The petition may contain such other and

further showing as the petitioner may consider relevant, and a prayer for the supervision of the administration of the trust by the court and for the direction or order of the court in respect to such other and specific matters as the petition may disclose. The verification of all petitions shall be made by the petitioner, or his or its agent or attorney. The form of verification shall be as prescribed for the verification of pleadings in the District Court.

§ 4. ORDER FOR HEARING AND NOTICE.] Upon the filing of the petition the Judge of the District Court shall enter an order fixing the date of hearing of the petition and shall issue a notice to show cause of hearing in form as hereinafter prescribed. The notice to show cause shall be served upon all beneficiaries and interested parties resident in this state by personal service in the manner prescribed by law for the service of summons in a civil action, at least thirty days before the date of hearing; and, if it appears from the petition that there are beneficiaries or interested persons whose residence or post office addresses are without the state, or whose post office addresses are unknown, or that there are or may be interested persons or beneficiaries unascertained or whose names are unknown to petitioner, copies of the notice to show cause why said petition should not be granted shall be mailed by registered mail to all such persons whose post office addresses are set forth in the petition, at least thirty days before the date of hearing, and the notice shall be published in a legal newspaper in the city and the county where the proceeding is pending, once in each week for three successive weeks; and at least thirty days shall elapse after the last publication before the day of hearing.

Personal service of the notice at least thirty days before the hearing may be made upon any party in lieu of the service by mail registered and publication; and personal service upon the general guardian of any minor or incompetent person, or upon a special guardian of such person appointed as hereinafter provided, shall be equivalent to and dispense with the need of such service upon a ward, except in a case of a minor over fourteen years of age who shall also be served with said notice as herein provided.

§ 5. REQUISITES AND FORM OF NOTICE OF HEARING.] Notice of hearing on order to show cause why said petition shall not be granted shall be signed by the judge and shall be issued in the name of the State of North Dakota and be directed to the trustee or trustees, beneficiaries and all persons interested in the trust by their several names. If the petition shall have set forth that there are or may be persons interested in the trust or beneficiaries unascertained or whose names are unknown to the petitioner, the notice shall be also directed to all persons unknown who have or claim to have any interest in the administration of the trust.

The notice of hearing to show cause must be substantially in the following form:

State of North Dakota  
County of.....  
In the Matter of the Administration of }  
the trust created by John Doe }

In District Court  
Judicial District

NOTICE OF  
HEARING

.....  
(Describe instrument creating the trust)

THE STATE OF NORTH DAKOTA SENDS GREETING:

To Jane Roe, Mary Roe, Will Roe (and all other persons unknown or unascertained who have or claim to have any interest in the administration of the above named trust) :

Take notice that..... (Trustee or person interested as the case may be) has filed in this court a petition for the supervision, in this court of the administration of the trust (and for order of the court directing the trustee in respect of any other specific matter mentioned in the petition) which trust was created by (here insert description of instrument, as the will of Richard Roe of....., deceased, or by deed or other instrument, etc.); and that....., the.....day of....., 19...., at the hour of.....o'clock, ...M., or as soon thereafter as counsel can be heard, at the court room of this court, in the City of....., North Dakota, has been set as the time when and the place where any person interested may appear and show cause why said petition should not be granted,

Dated....., 19....

BY THE COURT:

.....  
Judge.

§ 6. APPEARANCE. WAIVER OF NOTICE. ADMISSION OF SERVICE.] The general appearance of any interested person at any hearing, in person or by attorney, or by the guardian of a minor or person incompetent, shall render prior notice to him unnecessary. Any such person, or attorney or guardian of a minor or person incompetent may waive notice of any hearing in the proceeding by written waiver filed with the clerk of the District Court. Any such person or guardian, or attorney in the proceedings, may admit in writing the due service of any notice in the proceeding; provided, that where jurisdiction is made to depend upon the appearance, waiver or admission of an attorney his authority must appear in written power filed with the clerk.

§ 7. PROOF OF SERVICE OF NOTICE. HEARING AND ORDER.] At or before the time appointed for any hearing, returns or affidavits or written admission of the service of all notices by all persons who have made or admitted service, and if the notice has been published an affidavit of publication of the notice of hearing shall be made and filed with the clerk. Upon the hearing of the petition the court shall

first require proof that service of the notice has been given or waived, as a condition precedent, as herein required, then the court must hear the allegations and proofs of the parties, and, if the court finds the evidence and proofs sufficient, the court shall enter its order that all further proceedings in the supervision of the administration of the trust shall be had in said court. All subsequent notices shall be given to all interested persons, and hearings had therein and orders entered therein as provided by Section 8 of this act.

§ 8. SUBSEQUENT NOTICES AND HEARINGS. EFFECT OF ORDERS OF DISTRICT COURT.] Every order entered in such proceedings, upon due notice as herein prescribed, shall have the force and effect of a judgment, and shall be subject to appeal as provided by the terms of this act, and shall be binding upon all parties in interest resident within or without the state, known or unknown, ascertained and in being or otherwise. It is further provided, that no order approving a trustee's account, or directing or approving the disposition or investment of trust property or funds, shall be entered except on hearing, and after service of notice by mailing copy of the same at least fifteen days before the hearing to all beneficiaries of the trust, at their post office addresses, respectively, as last known to the trustee, and, where there are or may be beneficiaries or interested persons, unknown or unascertained or resident without the state or whose post office address is unknown to the trustee, the notice as to such persons shall be served by publication of the same in a legal newspaper in the city and county where the trust is being adjudicated once in each week for two successive weeks and fifteen days prior to the date of hearing; and provided, that the appearance of any interested person at the hearing, in person or by attorney, or by the guardian of a minor or incompetent person, shall render prior notice to him unnecessary; and any such person or guardian may waive the notice herein provided by a written waiver filed with the clerk of the District Court.

§ 9. TRIAL. CORRECTION OF MISTAKES. RELIEF FROM DEFAULT. COPY OF RECORD FURNISHED.] Any person interested in the trust estate may file written objections to any account, report or petition of such trustee before or at the time of the hearing thereof, and present proof and evidence in support thereof; any order so made by the court in such proceeding may be modified or vacated to correct clerical errors or mistakes of calculation apparent on the face of the records, either by the court on its own motion, or with or without notice given. That within six months after the entry of any order, the District Court may relieve any interested person from the same where such order has been taken against him through his mistake, inadvertence, surprise or excusable neglect, or default therein upon fifteen days notice given to the opposite party as prescribed by the terms of this act.

Whenever any interested person in the trust estate has been

served with any notice of any proceeding based upon any petition, report or accounting, or other record required to be filed under the terms of this act, may demand a copy thereof and the same shall be forthwith furnished and mailed or served on the interested party demanding same free of charge by the trustee, or any other party commencing same by petition or otherwise.

§ 10. REPRESENTATION OF MINORS AND INCOMPETENTS.] In such proceedings the District Court may, in its discretion, appoint a special guardian or guardian ad litem for any minor or person of unsound mind. The appointment of a special guardian or guardian ad litem shall be made by order of the court filed in the proceedings upon petition of any interested person or upon the court's own motion, and which order may be made with or without notice, and shall specify whether the representation of any ward by special guardian shall be limited to a specific hearing or throughout the proceedings and until further order of the court. The special guardian shall qualify by filing an acceptance of appointment and oath to faithfully perform the duties of said special guardianship. It shall be the duty of the special guardian to represent his ward at the hearing or throughout the whole or any portion of the proceedings, as the court by its order may direct; and, provided, that the special guardian shall not receive for the ward any money, funds or property, unless a good and sufficient bond of at least the amount or the value thereof is furnished and filed in court, in an amount as ordered and fixed by the court in the order of appointment; and any money, funds or property so received shall be subject to and under the further orders of the court as to the disposition and turning over of the same to any general guardian of any ward appointed according to law.

§ 11. RESIDENT AGENT.] The trustee, if not a resident of the state, shall file in the office of the clerk of court his appointment in writing of a resident of this state as his agent upon whom any legal processes, notice or order may be served in the proceeding. Such appointment shall be filed within ten days after the hearing of the first or original petition for the supervision of the trust; and, if the trustee fails to make the appointment as such resident agent the court upon its own motion or upon petition of the interested person, by order, and upon fifteen days prior notice to the trustee given by mail, may appoint such resident agent. Service upon the said resident agent, in the manner provided by the terms of this act of any notice or order in the proceedings, shall be equivalent to service upon the trustee. Where the trustee is a foreign corporation, or other interested person, which has appointed the Secretary of State it or his agent for the service of process service of any notice in the proceeding may be made upon such foreign corporation or other interested person by service upon the Secretary of State in lieu of service by any other method herein provided.

§ 12. WHEN COURT ORDER REQUIRED. VALID ACTS OF TRUS-

TEE.] Except as required by the terms of this act, or specifically required by statute, such as in Section 6283 or 6307 of the Compiled Laws 1913, or other statutory provisions or as hereinafter may be enacted, no judgment or order of the court shall be necessary to render effective and valid any act of the trustee lawfully performed within the terms of the trust. The intendment of this act shall be taken to provide a speedy and convenient means to apprise interested persons of the progress of the trust administration; to bring the same before the court for its direction of the trustee; and, provide for prompt hearing upon the adjudication of the claims and objections of interested persons, and timely and conclusive approval or confirmation of the acts, accounts and reports of the trustee.

§ 13. ADOPTION OF ORDERS AND DECREES OF FOREIGN COURTS.] Where a foreign court, having jurisdiction in the matter of a trust which includes property in this state, has entered an order directing or allowing the performance of any act by the trustee with the respect to property within this state, which order is not inconsistent with any prior order, direction or judgment of the courts of this state, the said order may be adopted and confirmed as the order of District Court of this state having jurisdiction in the county where such property, or a part thereof, may be located; provided, that if the trustee of said trust is not found to be qualified to administer the same in this state a successor in trust shall be appointed as provided by the terms of this act to perform the duties of the trustee under such order, and who shall have charge and jurisdiction over all property located in this state. Exemplified copies of the order or decree of the foreign court may be filed with the clerk of the District Court of any county in this state wherein any of the trust property is situated with a petition of the trustee, or any beneficiary or person interested in the trust for the adoption thereof as the order of such District Court. Upon the filing of the petition, order of hearing thereon shall be entered and notice of hearing given to all interested persons as provided by the terms of this act; and the order of the foreign court, if adopted and confirmed, shall have the same force and effect and may be enforced in like manner as if the same were originally entered in the District Court of this state having jurisdiction of the trust estate or any part thereof.

§ 14. BOND OF TRUSTEES.] That unless otherwise provided by the provisions of the trust instrument or statute, the trustee or trustees shall be required to file with the clerk of court before entering upon his or its duties as such a bond with two or more sureties, or of a surety company in such sum as the court by order may direct; and, the bond shall be payable to the State of North Dakota for the use and benefit of all persons interested in the administration of the trust and be conditioned for the faithful performance of his or its duties by the trustee, as provided by the terms of the trust instrument, or by statute, and/ or the rules of the court; and that

any or all of the beneficiaries or persons interested in the trust may sue on said bond for any breach of trust by the trustee or trustees or any of them. That all foreign trustees of property located within this state shall be required to file a bond before entering upon their duties as such in this state and comply with the terms of this act.

§ 15. POWER AND DUTIES OF TRUSTEE.] Every act of the trustee or trustees in contravention of the terms of the trust, and as provided by statute, shall be absolutely void, and, unless the District Court, having justification of the supervision of the administration of such trust shall, by order on notice and hearing as provided by the terms of this act, authorize any such trustee to sell, mortgage, pledge, lease, or otherwise dispose of or invest trust property in such manner as may best accomplish the object and purpose of the trust, when it is made to appear to the satisfaction of the court that such order is necessary and for the best interest or benefit of the trust estate, or person or persons beneficially interested therein, or who may thereafter acquire an interest in the trust estate, and where it is further established to the satisfaction of the court that the trust instrument is lacking in specific and adequate directions as to the disposition or investment of trust property, or that strict compliance with the terms of such instrument will tend to destroy the trust estate or create losses of principal or income. A single hearing may be had upon, and notice thereof may include, any number of accounts, reports or petitions previously filed in the proceeding by the trustee or other interested person; and, provided that no account, report or petition shall be allowed or adopted unless or until an order is duly entered and filed allowing or approving of same.

§ 16. REPORTS OF TRUSTEE.] The trustee or trustees of every trust estate under the supervision and administration of which the court has acquired jurisdiction under the terms of this act, shall within ten days after the entry of the order taking jurisdiction of the trust estate, file with the clerk of court a verified itemized account and report showing in detail the description, location and value of all assets of the trust estate, the disposition thereof, the income therefrom from the time of inception of the trust; and, annually thereafter, said trustee or trustees shall file a like account and report together with all vouchers and receipts as hereinafter provided for, duly verified. That the court at any time and upon its own motion, or upon good cause shown by a petition of any beneficiary, and with or without notice, may require and compel the trustee to file a special itemized account, or report of any acts done, or acts contemplated by the trustee or trustees in the disposition or investment of the trust. No account or report shall be approved without notice of hearing as provided by the terms of this act.

§ 17. REMOVAL OF TRUSTEE.] Based upon a verified petition of any interested person showing upon its face good cause for removal, the court shall require the trustee or trustees to show cause

why he, they or it should not be removed as trustee or trustees. Notice of hearing shall be given as provided by the terms of this act, and personal service of such notice shall also be made upon the trustee or each of them if a resident of the state, and if not a resident, then such personal service shall be made upon the resident agent of the trustee or trustees. Provided, further, that the court may on its own motion, temporarily remove any or all trustees of the trust and appoint a temporary trustee to take charge of the trust estate and to act as such trustee until the petition for the removal of the trustee has been heard and determined, and a new trustee or trustees, as the case may be, has been appointed to fill any vacancy in the trust, or up until the time the proceedings for the removal of the trustee have been disposed of.

§ 18. VACANCY IN TRUST.] In the event of a vacancy by death, resignation or removal of a trustee or trustees, or if a trustee named in the instrument creating the trust shall not be qualified to administer the trust in this state, or as otherwise provided by statute, the court must appoint a new trustee or trustees to fill such vacancy in the trust, upon like notice and petition as herein provided for. In appointing a trustee, so far as practicable, the directions if any in the instrument creating the trust shall be followed; and likewise as to the successor in trust to be appointed or the method to be followed in the selection of same. And, generally, in the selection and appointment of a trustee the court should give first consideration to the wishes and selection made by the interested parties or beneficiaries who own, represent or control, or who have more than a fifty per cent beneficial interest in the trust estate; and provided, further, that if there is appointed three or more trustees to handle the trust estate, then the minority interest in said estate shall be entitled to the appointment of at least one trustee as selected by them, provided their combined beneficial interest in the estate amounts to at least twenty per cent of the value thereof.

§ 19. VOUCHERS MUST ACCOMPANY ACCOUNT, AND EXCEPT WHEN.] In rendering an account the trustee must produce and file vouchers or receipts for all charges, debts, claims and expenses which he has paid, and must be filed and remain in the court; and he may be examined on oath touching such payments and also touching such property and effects of the trust estate and the disposition thereof. Whenever any voucher is required for other purposes it may be withdrawn on leaving a certified copy on file; if a voucher is lost, or for other good reason can not be produced on the hearing and settlement of account, the payment may be proved by the oath of any competent witness. The trustee may be allowed any item of expenditures not exceeding fifteen dollars for which no voucher is produced, if such item be supported by his own affidavit and uncontradicted oath filed, positive to the fact of payment, specifying when, where and to whom it was made; and no account or report shall be

approved or allowed until the terms of this act are complied with by the trustee.

§ 20. EXPENSES AND NECESSARY FEES ALLOWED. COMMISSIONS.] The trustee shall be allowed all necessary expenses in the care, management and settlement of the trust estate, and for his services such fees as are hereinafter provided for; but when the instrument by which the trust is created makes some other provision for compensation of the trustee that shall be the full compensation for his services. That no compensation shall be allowed for attorney fees rendered to such trustee unless the same has been so performed by or under the direction of an attorney at law, who is a resident and admitted to practice in this state.

When there is no provision in the instrument made for the compensation of a trustee for his services, he must be allowed commissions on the amount of the whole trust estate accounted for by him, except all property not ranked as assets, as follows: For the first one thousand dollars, at the rate of five per cent; for all above that sum and not exceeding five thousand dollars, at the rate of two per cent; for all above that sum at the rate of one per cent. In all cases such further allowances may be made as the court may deem just and reasonable for any extraordinary service shown to have been performed; but the total amount of such allowance must not exceed the amount of commissions allowed by this section. Reasonable attorney fees shall be allowed, the same as allowed in like cases in the probate court in this state and no more, unless the instrument creating the trust specifies what shall be paid and allowed for legal services, and in that case the attorney fees provided for therein shall be allowed and no more.

§ 21. APPEALS.] Any trustee, beneficiary or person interested in such trust, feeling aggrieved by any order of the District Court, made in such proceedings, may appeal from the same or any part thereof to the Supreme Court within six months after the filing of such order with the clerk of the District Court. Such appeal shall be taken in the same manner, and upon such record and notice, as provided by the terms of this act, and a single appeal may include any number of orders made appealable by this section.

§ 22. APPEAL. HOW TAKEN.] Within the time prescribed by this act, any interested person may take an appeal to the Supreme Court from any order or orders entered by the District Court by the service of notice of appeal and filing the same with return or affidavit of service or admission thereof, together with a bond for costs in the sum of two hundred and fifty dollars, (\$250), with the clerk of the District Court. The bond for costs shall be executed by the appellant with the sureties to be approved by the clerk of the District Court and conditioned to the effect that the appellant will pay to the parties entitled thereto all costs that may be awarded against the appellant upon such appeal. The procedure on appeal

shall follow as near as may be done as provided by the Code of Civil Procedure in appeals in court cases, except wherein the procedure is expressly provided by the terms of this act.

§ 23. STAY OF PROCEEDINGS.] Upon the perfecting of an appeal in the manner as herein prescribed no further proceedings under the order or orders appealed from may be taken, pending the appeal, unless the District Court or Supreme Court may otherwise direct upon hearing, and upon such notice thereof as the court by order may prescribe; and the court may prescribe the terms and conditions of a supersedeas bond, deposit or other act in lieu thereof, otherwise none shall be required, except the cost bond in the sum of two hundred and fifty dollars, (\$250), to stay all proceedings from the date of the filing of the notice of appeal together with the undertaking on appeal and the service thereof.

§ 24. NOTICE OF APPEAL.] The notice of appeal shall specify the order, or orders, or parts thereof from which the appeal is taken, and shall be subscribed by the party taking the appeal, as appellant, or by his attorney. Such notice shall be served on each of the other parties, or their attorneys, who shall have appeared at the hearing or hearings at which the order or orders from which appeal is taken shall have been entered, and which parties shall be named in the notice as respondents. Service of the notice of appeal may be made personally upon, or by registered mail by mailing copies thereof to the respondents or their attorneys.

§ 25. PROCEDURE OF APPEAL.] The procedure on appeal to the Supreme Court and for certification of the record and the form of assignment of errors shall be, in so far as applicable and except as herein otherwise provided, as now provided by the statute for appeals in cases properly triable by the court without a jury in which an issue of fact has been joined; provided, that where no testimony was taken by the court reporter at the hearing on which the order or orders appealed from was entered, the original records and files of the District Court used upon the hearing, with the original notice of appeal and undertaking, shall be attached together and certified by the clerk of court and constitute the record for the purposes of appeal. The time for procuring transcript of evidence for appeal shall commence to run from the date of the entry of the order or orders from which the appeal is taken.

§ 26. TRANSMISSION OF RECORD. BRIEFS.] Within thirty days after the taking of appeal where no transcript of testimony is to be included in the record, and within thirty days after certification of the record where transcript is included, the clerk shall transmit the record and briefs filed to the Supreme Court. The parties shall serve and file their briefs on appeal as now provided by law and by the rules of the Supreme Court. However, the court may enlarge the time upon proper showing within which any act is to be performed

to perfect the record; but the court shall have no power to extend the time within which the appeal must be taken.

§ 27. AFFIDAVIT OF PREJUDICE FILED DISQUALIFIES JUDGE. WHEN.] Any judge of the District Court before whom proceedings have been commenced under the terms of this act, may be disqualified to act as such judge at any time thereafter by the filing of an affidavit of prejudice with the clerk of such court, as now provided by law in Civil cases, by any interested person or persons who have, or own, or control a beneficial interest in the trust estate of twenty-five per cent or over, and the said presiding judge shall be disqualified to further act therein; and the Supreme Court shall designate another judge to preside in place of the disqualified judge. But the same person or persons who obtained the change of judges shall be entitled to only one change of judges.

§ 28. REPEAL.] That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1935.

## CHAPTER 251

H. B. No. 72—(McIlraith)

### INVESTMENT TRUST FUNDS BY EXECUTORS, ADMINISTRATORS OR GUARDIANS

An Act providing for the investment of trust funds of executors, administrators and guardians and procedure required; repealing all acts or parts of acts in conflict herewith; and declaring an emergency.

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

§ 1. No executor, administrator or guardian shall invest trust funds unless authorized to do so by an order made and entered in the County Court of the county in which such executor, administrator or guardian was appointed; except that investments may be made without liability, in bonds of the State of North Dakota and/or of the United States of America.

§ 2. No order shall be made authorizing investment of trust funds by an executor, administrator, or guardian until a hearing be had upon petition therefor, and all heirs, devisees, legatees, and the Veterans Administration Bureau, Fargo, North Dakota, in case of beneficiaries thereof, and mother or father, or if not living, upon all brothers and sisters over the age of sixteen in guardianship proceedings, (other than petitioner), shall have had ten days notice of such hearing by registered mail addressed to such respondents at their last addresses shown of record in said court. And in event of the address of any respondent not appearing of record in such court and being unknown to the petitioner, the court may, on proper

showing made, dispense with such notice by order made and entered therein.

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

§ 4. EMERGENCY.] Whereas an emergency exists, therefore this act shall be effective from and after its passage and approval.

Approved March 13, 1935.

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## CHAPTER 252

S. B. No. 241—(Committee on Judiciary)

### CONDITIONAL EXAMINATIONS GRAND JURY OR COURT WITNESSES

An Act to provide for the conditional examination of witnesses held to appear before a Grand Jury or Court when such witnesses are unable to give the security required by the Court.

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

§ 1. Whenever it satisfactorily appears by examination on oath of a witness who has been required to give further security for his appearance as provided for by Section 10618 or Section 10621 of the Compiled Laws of 1913, or upon oath of any other person in his behalf, that such witness is unable to give the said further security, the magistrate shall make an order finding such fact and the witness shall be detained pending application for his conditional examination. Within three days from the entry of the order last mentioned, the witness so detained may be conditionally examined on behalf of the state or the defendant on application made for that purpose. Such examination shall be by question and answer in the presence of the other party, or when a witness for the state is being examined, after notice to the defendant. The examination shall be conducted in the same manner as the examination of witnesses before a committing magistrate is required by Code of Criminal Procedure to be conducted. At the completion of the examination the witness shall be discharged, and his deposition may be admitted in evidence at the trial. If no conditional examination is had within the above mentioned period of three days, the witness so detained shall be forthwith discharged.

Approved March 7, 1935.

# PUBLIC UTILITIES

## CHAPTER 253

S. B. No. 217—(Bonzer)

### REDUCTION PUBLIC UTILITY RATES

An Act to amend and re-enact Chapter 220, Session Laws of the State of North Dakota for the year 1933, relating to petitions by patrons and users of services of public utility companies for reduction of public utility rates, authorizing negotiations touching such rates, providing for summary reduction of the same, relating to hearings, and investigations; and relating to valuation and/or revaluation of property of public utility companies and corporations by the Board of Railroad Commissioners; relating to payment of expenses of such hearings, and investigations, and valuations and/or revaluations and the methods of assessing and collecting the same; and repealing all acts or parts of acts in conflict herewith; and making an appropriation for the valuation by Board of Public Commissioners of the property of the public utilities, subject to the provisions of Chapter 192 of the Session Laws of 1919; creating a revolving fund, and declaring an emergency.

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

§ 1. JURISDICTION AND POWERS.] In addition to the powers which it already possesses, the Board of Railroad Commissioners of the State of North Dakota is hereby vested with power and jurisdiction to supervise, regulate and determine rates of all associations, firms, corporations, persons, and agencies, which are now or which may hereafter be engaged in the business usually conducted by telephone and telegraph companies; pipe line companies for the transportation of gas, oil, and water; electric light companies and individuals engaged in generating, distributing and selling light, heat, or power; companies engaged in generating, distributing and selling gas, natural and artificial; and all heating companies for the distribution of heat, whether incorporated or not, within the state; and to do things necessary and convenient in the exercise of such powers and jurisdiction, and to enforce their orders.

§ 2. SUMMARY REDUCTION OF RATES ON PETITION OR ON THE BOARD'S OWN MOTION.] The Board of Railroad Commissioners, upon its own motion or whenever twenty-five per cent of the public utility company or corporation's patrons, customers or users within the incorporated limits of any city, village or town, shall petition the Board of Railroad Commissioners for a valuation and/or revaluation of the property of such public utility company or corporation including necessary audits for the purpose of determining the rate or rates to be charged for the service rendered, said Board of Railroad Commissioners shall forthwith endeavor to arrive at a reasonable rate or rates, through negotiations with said utility company or

corporation and in the event they are unable to agree upon the new rate or rates to be charged for said service within thirty days after the filing of said petition, which new rate or rates shall grant a net reduction of not less than fifteen per cent from the rate or rates in force at the time of the filing of said petition, it shall be the duty of the Board of Railroad Commissioners to summarily and forthwith reduce the rate or rates then in force twenty-five per cent, and said reduced rate or rates shall be the rate or rates at which said service shall be furnished to the patrons until a hearing shall have been held and a new rate or new rates established, as hereinafter provided; provided, however, that petition for valuation and/ or revaluation shall not be filed or made more than once in every two years; provided further that each person, firm or corporation receiving service is to be considered a patron, customer or user within the preview of this act, regardless of the number of meters owned, rented or used, by such person, firm or corporation, but a firm shall be considered a separate entity from the individual members thereof.

§ 3. UTILITY MAY COLLECT FULL RATE:] Any public utility company or corporation whose rate or rates have been summarily reduced may continue to charge the full rate or rates in force before such reduction took effect, provided it keeps twenty-five per cent of said collections separate and apart from all other funds pending the final determination of said rate or rates by the Board of Railroad Commissioners and said utility shall remit to the several patrons, customers or users their proportionate share of said fund in case said matter is determined adversely to said public utility company or corporation, in whole or in part, said remittance to be made within sixty days after the new rate or rates shall have been established by the Board of Railroad Commissioners. Provided, however, that the Board of Railroad Commissioners in lieu of requiring a deposit as herein provided, shall have the power and is hereby granted the authority in the exercise of its discretion, to take from said public utility, a corporate surety bond of a corporate surety company, approved by the Commission, authorized to do such business within the State of North Dakota, said bond to be conditioned, that said public utility as principal, shall remit to the several customers, patrons or users, their proportionate share of twenty-five per cent of the gross earnings of the service or department being investigated in case said matter is determined adversely to said public utility company or corporation in whole or in part, said remittance to be made within sixty days after the new rate or rates shall have been established by the Board of Railroad Commissioners.

§ 4. HEARINGS: INVESTIGATIONS: EXPERTS: RIGHTS TO HIRE: PAYMENT OF COMPENSATION AND EXPENSES:]

(1) All hearings, investigations, proceedings, and valuations and/ or revaluations shall be public and shall be governed by this act and by the rules, practice, and procedure heretofore or hereafter

to be adopted by the Board of Railroad Commissioners, and in the conduct thereof, the technical rules of evidence shall not be applied. No informality in any hearing, investigation, proceeding, or valuation and/ or revaluation, or in the manner of taking testimony, shall invalidate any order, decision, rule, regulation or rate made, approved, promulgated, or confirmed by said Board of Railroad Commissioners.

(2) The Board of Railroad Commissioners shall have authority and is hereby invested with power to employ any and all rate experts, engineers, auditors, accountants, and any and all other expert help and assistance, and to fix the compensation therefor; provided however, that the expense of such hearings, investigations, and proceedings, and the compensation and actual expense of any such employees shall be paid by the utility being investigated or involved in such hearing or proceedings. The Board of Railroad Commissioners shall ascertain such costs and expenditures and after giving such public utility notice thereof and opportunity to be heard thereon, shall render a bill therefor by registered mail or by personally handing to one of the managing officers of such public utility, either at the commencement of such valuation and/ or revaluation, or from time to time during the progress thereof, or at the conclusion of such valuation and/ or revaluation, as such board shall determine. Upon the bill so rendered, such public utility shall, within ten days after receipt thereof by such utility, as evidenced by return register receipt or other proof, pay to such board the amount of said costs and expenses so billed and such bill shall be paid as a condition precedent to the right of appeal by such utility from any order or decision of the Board of Railroad Commissioners.

§ 5. ADDITIONAL AMOUNT TO BE PAID: REFUND:] That in the event the amount so fixed shall be insufficient to cover the total cost and expenses of such valuation and/ or revaluation, the Board of Railroad Commissioners may from time to time and as often as shall be necessary, make its order for an amount sufficient to cover such additional costs, and the same shall be levied and collected in the same manner as the original amount; and in the event the original order shall be for an amount in excess of the actual cost and expense of such investigation, such surplus shall be refunded to the utility depositing the same, such refund to be made within thirty days after the actual amount has been determined.

§ 6. AMOUNT NOT PAID TO DRAW INTEREST: ATTORNEY GENERAL TO COLLECT WHEN:] All amounts billed against public utilities under the provisions of this act not paid within thirty days after the service of notice as herein provided, shall draw interest at the rate of six per cent per annum from the date of the service of said notice, and it shall be the duty of the Attorney General to proceed by action, in the name of the state, to collect said amount or amounts,

together with interest and the costs of the suit, and any amount so recovered shall be credited to the fund herein provided for.

§ 7. WRITS OF ATTACHMENT AND GARNISHMENT SUMMONS TO BE ISSUED: WHEN: HOW:] In connection with any action brought by the Attorney General as herein provided for, the court, or clerk thereof, shall have power to issue writs of attachment against the property of the utility company involved without bond and without the usual affidavit for attachment, and the Attorney General may cause garnishment summons to be issued in connection with any such actions without filing an affidavit as now by law provided.

§ 8. FUND CREATED:] There is hereby created a fund to be known as the "Public Utility Valuation Fund," which shall be a revolving appropriation fund and there is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated to said public utility valuation fund, the sum of \$25,000.00 and all costs and expenses of valuation and/ or revaluations collected under the provisions of this act whether collected through voluntary payments or through suit shall be paid into the State Treasury monthly and shall be credited to the said Public Utility Valuation Fund, in addition to the sum of \$25,000.00 hereby appropriated, the same to constitute a revolving fund to be used by said Board of Railroad Commissioners in the performance of its duties in the making of such valuations and/ or revaluations and shall be paid out upon proper voucher and audit by the State Auditing Board.

§ 9. NOT TO INVALIDATE PENDING PROCEEDINGS:] No part of these amendments shall be construed as in any way affecting any proceedings now pending under provisions of Chapter 220 of the 1933 Session Laws, but they shall apply as far as possible to said proceedings where it can be done without invalidating proceedings taken and had up to the present time, and the provisions of said Chapter 220 shall remain in force so far as it shall be necessary to complete proceedings now pending.

§ 10. EMERGENCY:] Whereas an emergency now exists in that the laws as now enacted are inadequate for the expeditious handling of the proceedings contemplated under this act, therefore, 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.

§ 11. REPEAL.] Except as herein otherwise provided all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1935.

# SCHOOLS AND STATE LANDS

## CHAPTER 254

H. B. No. 234—(Brusseau, by request)

### CONVEYANCE TO STATE BY OWNER OF MORTGAGED LAND

An Act relating to foreclosure of real estate mortgages held by the State of North Dakota as security for investment of permanent school funds, authorizing the Board of University and School Lands to accept from record title owner deed of conveyance of mortgaged land in lieu of foreclosure, effect of such deed, dispensing with execution and delivery of power of attorney in conducting proceedings for the foreclosure of such mortgages, repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. CONVEYANCE TO STATE BY OWNER OF MORTGAGED LAND. EFFECT OF CONVEYANCE.] In all cases where a mortgage held by the State of North Dakota as security for investment of the permanent school funds of this state is in default and foreclosure thereof is deemed advisable, the Board of University and School Lands may, at its discretion, accept from the record title owner of the land covered by that mortgage a deed of conveyance to the State of North Dakota of said mortgaged land, and said deed of conveyance shall extinguish all title, interest, and right of redemption of the grantor of said deed, but shall not extinguish the mortgage lien thereon. The mortgage lien may subsequently be foreclosed in the manner provided by law therefor. The deed of conveyance so taken may be recorded in the office of the register of deeds of the county wherein the land is situated, and the mortgage held by the state may be released and satisfied by an instrument executed by the President of the Board of University and School Lands and attested by its secretary, and written notice of such release and satisfaction shall be given by the secretary of the board to the State Treasurer, and that deed of conveyance shall have from the date of its execution the same legal effect for all purposes that a sheriff's deed would have had the mortgage involved been foreclosed.

§ 2. NO POWER OF ATTORNEY REQUIRED.] In all cases where a mortgage held by the State of North Dakota as security for the investment of the permanent school funds is foreclosed, it shall not be necessary or required that any Power of Attorney be given and furnished the attorney conducting the proceedings and recorded as provided in Sections 8075 and 8076 of the Compiled Laws of North Dakota, as amended by Chapter 144 of the 1927 Session Laws.

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

§ 4. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be operative and in effect from the date of its enactment and approval.

Approved March 14, 1935.

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## CHAPTER 255

S. B. No. 26—(Miklethun)

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### REDUCTION PAST DUE INTEREST UNIVERSITY AND SCHOOL LAND LOANS, ETC.

An Act to provide for the scaling down and discounting of past due interest on loans made by the Board of University and School Lands.

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

§ 1. That whereas the farming industry in the State of North Dakota has suffered many serious setbacks in the past few years and the value of farm land, on account of the depression and general condition of the times under which we are living, has greatly depreciated; and, whereas, it has been impossible for many of our best farmers to make payment upon the lands purchased from the Board of University and School Lands of this state, or to pay interest upon the loans borrowed from such Board; now, therefore, it is hereby provided that from and after the passage and approval of this act the Board of University and School Lands shall be authorized, through its proper officials, to reduce, scale down, or throw off the interest that may be due upon any land contract or real estate mortgage, or rentals, to the end that justice may be done in dealing with our farmers and to enable the farmers indebted to the Board of University and School Lands to pay their debts and retain their property.

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

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

Approved February 6, 1935.

## CHAPTER 256

## S. B. No. 124—(Irrigation and Drainage)

WATER AND/OR WILDLIFE CONSERVATION PROJECTS ON  
STATE LANDS

An Act declaring Water and/or Wildlife Conservation to be a state purpose, providing the Board of University and School Lands with the authority to grant to the United States of America, or to any of its instrumentalities or agencies, any and all easement rights as shall be required for the construction, maintenance and operation of Water and/or Wildlife Conservation Projects to be constructed on the public lands of the State of North Dakota, declaring that such Water and/or Wildlife Conservation Projects shall be considered as a benefit to said lands and not to diminish the value or purchase price thereof, repealing any and all acts or parts thereof in conflict herewith, and declaring an emergency.

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

§ 1. WATER AND/OR WILDLIFE CONSERVATION A STATE PURPOSE.] It is hereby declared that the public interest, welfare, convenience and necessity require the construction of Water and/or Wildlife Conservation Projects for the conservation, development, storage, distribution and utilization of water, and for the preservation of wildlife, and the construction of such projects is hereby declared to be in all respects for the welfare and benefit of the people of the state, for the improvement of their prosperity and living conditions.

§ 2. That whereas, the United States of America, through its various instrumentalities and agencies, is prepared to render aid, assistance and co-operation in the construction of Water and/or Wildlife Conservation Projects, and

Whereas, in order to avail itself of such aid, assistance and co-operation from the Federal Government for the construction, maintenance and operation of such Water and/or Wildlife Conservation Projects on its public lands it is necessary that the State of North Dakota shall grant to the Federal Government, its instrumentalities or agencies, certain easement rights to said lands,

Now, therefore, the Board of University and School Lands are hereby authorized and empowered to grant to the United States of America, its instrumentalities or agencies, such easement rights as may be required for the construction, maintenance, and operation of any dam, dike, ditch, fill, spillway or other structure erected or to be erected for Water and/or Wildlife Conservation purposes on the public lands of the State of North Dakota.

§ 3. It is hereby declared that any and all Water and/or Wildlife Conservation Projects erected or constructed on the public lands of the State of North Dakota shall at all times be considered as bene-

ficial to said lands and shall at no time be declared or determined to diminish, directly or indirectly, the value or purchase price thereof.

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

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

Approved March 5, 1935.

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## SCHOOLS

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### CHAPTER 257

S. B. No. 158—(Committee on Education.)

#### FREE HIGH SCHOOL CORRESPONDENCE COURSES

An Act to require free correspondence courses to be provided for all North Dakota children of high school age.

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

§ 1. The State of North Dakota shall provide free correspondence courses for North Dakota children of high school age under the rules and regulations hereinafter defined:

(a) A complete high school curriculum by correspondence shall be set up by one state institution of higher learning to be designated by the Board of Administration and the necessary machinery shall be developed at said institution to carry on high school instruction by correspondence on a high level.

(b) Every child living in a rural community in North Dakota shall upon compliance with regulations of the State Department of Public Instruction be entitled to the full benefits of this act up to and including the second year in high school, and also the third and fourth years if space accommodation is available in the local school.

(c) All pupils choosing to come under this act shall be required to continue to attend their local district school and study their correspondence lessons under the supervision of their local public school teacher, which means: That the pupils will be furnished with free desk space in their respective school districts; that they will attend school regularly and be under the same disciplinary supervision of the teacher as the grade school pupils.

(d) It shall be the duty of said teacher to see that said pupils shall complete their correspondence work in accordance with the rules and regulations set up by the state director. Said rural teach-

ers shall mail the written reports of their high school students to the institution carrying on said correspondence work in accordance with a schedule set up by the Director.

(e) In order to provide an enlarged curriculum for organized high schools and to eliminate very small and expensive classes in the high schools of the state it is hereby provided that students enrolled in the regular high schools of the state when unable to get in their local school courses which are available by correspondence, under this act, shall have the right to enroll in said correspondence courses under the same regulations as govern enrollments in the rural districts.

(f) To provide high school courses at home for pupils who are physically unable to attend school, in which case one of the parents shall become the supervising teacher.

(g) Correspondence students coming under this act shall be required to pay for their own books and material used, and to pay \$1.00 per subject to the supervisor together with necessary postage on reports sent for correction.

§ 2. All enrollments under this act shall be certified to the proper institution by the county superintendent of schools.

§ 3. It shall be the duty of the local teacher, the county superintendent of schools, State Department of Education and the State Institutions to co-operate to the fullest extent in making this educational plan successful.

§ 4. The State Director of Correspondence Courses in Secondary Education shall be appointed by the Board of Administration who shall determine his qualifications and fix his compensation. He shall co-ordinate the correspondence work of participating institutions to the best interest of the state with the aim of providing high school education for every boy and girl in North Dakota capable of receiving such instruction, and who are eligible to the benefits of this act. He shall make annual reports to the State Superintendent of Public Instruction and to the Commissioner of Agriculture and Labor, setting forth the exact status of the project during the preceding year and copies of said reports shall be submitted to the legislature.

§ 5. APPROPRIATION.] The cost of carrying on the correspondence teaching under this act shall be paid out of the State Equalization Fund as provided for in Chapter 229 of the Session Laws of 1933, or acts amendatory thereof. All vouchers shall be approved by the State Director.

§ 6. STUDY CENTERS AND ADULT CLASSES.] Furthermore, it shall be the duty of the state institutions carrying on correspondence teaching under this law to study and develop a plan for the establishment of study centers and adult classes within the state so that

citizens of North Dakota living outside of the home cities of such institutions may share in the benefits of our colleges to the fullest extent with regular credits granted for work satisfactorily completed.

Approved March 14, 1935.

## CHAPTER 258

S. B. No. 135—(Eastgate and Nelson, Grand Forks)

### ELECTIONS INDEPENDENT SCHOOL DISTRICTS

An Act to amend and re-enact Section 1291, Compiled Laws of 1913, concerning elections in independent school districts, placing control thereof in the hands of the Board of Education, and providing for special elections in such districts, and repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 1291, Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1291. The annual election in independent school districts shall be held on the third Monday in April of each year, at the usual polling places for municipal elections in each ward. The board of education shall have authority and is hereby empowered to appoint two judges and one clerk for each polling place, who shall open the polls at the hour of eleven o'clock in the forenoon and hold the same open until seven o'clock in the evening of the same day. Such elections shall be conducted in all respects and the polls closed and votes canvassed in the same manner as municipal elections, and the judges shall have the same power and authority in all respects as the judges of elections for municipal officers, and after the votes are canvassed the judges shall make their returns to the clerk of the school board within twenty-four hours after the polls are closed, and the school board or board of education shall canvass such returns and declare the result within three days thereafter, which result shall be entered upon the records of the board, and it shall be the duty of the clerk to issue certificates of election to the persons declared elected. The judges and clerks of election shall receive the same compensation for their services as at municipal elections for mayor and aldermen, and all expense shall be paid by the school district. Special elections may be held at any time for any lawful school district purpose (except election of officers) upon resolution of the board of education, and notice thereof shall be given and the same shall be conducted in the same manner as annual elections are conducted.

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

§ 3. EMERGENCY.] Whereas, in order that the provisions of

this act may govern the elections to be held the third Monday in April, 1935, it is necessary that this act should take effect at once; now, therefore, this act is declared to be an emergency measure, and shall be in full force and effect immediately upon its passage and approval.

Approved March 1, 1935.

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## CHAPTER 259

S. B. No. 194—(Ettestad)

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### MEETINGS, ETC., COMMON SCHOOL DISTRICTS

An Act to amend and re-enact Section 1162 of the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 233 of the Session Laws of North Dakota for 1933 relating to annual, regular and special meetings of boards of common school districts and providing for notice of same and relating to attendance, per diem and mileage of school officers attending county meetings and declaring an emergency.

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

§ 1. AMENDMENT.] Section 1162, Compiled Laws of North Dakota for the year 1913, as amended by Chapter 233 of the Session Laws of North Dakota for 1933 and the same is hereby amended and re-enacted to read as follows:

§ 1162. The board shall, on the second Tuesday in January, April, July and October of each year, hold regular meetings for the transaction of business at such hour and place as may be fixed by the board, provided such time and place of meetings for the ensuing year shall be designated at the time of the annual meeting. A special meeting may be held upon the call of the president or the other two members. Written notice of the time and place of any special meeting shall be given to each member of the board of such meeting. Each member of the board shall be paid the sum of eight dollars per annum, less two dollars for each regular meeting which he fails to attend; provided, that in any common school district which contains a graded school of three or more departments, the board shall hold regular meetings for the transaction of business on the second Tuesday of each month at such time and place as may be fixed by the board, and in such districts the members of the board shall receive a compensation of one dollar for each meeting attended; provided that five cents per mile, but not more than \$2.00 per member nor more than \$10.00 for all members from a district, shall be paid said board members and clerks in attending general county meetings of school officers convened by the county superintendent.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 12, 1935.

## CHAPTER 260

H. B. No. 255—(Committee on Education)

### DISTRIBUTION STATE EQUALIZATION FUND

An Act to amend and re-establish the State Equalization Fund for the common schools of the State; to provide for the distribution of the same upon the basis of need, in the payment of high school tuition in lieu of that now provided by law and in the payment of direct aid to school districts upon a teacher-unit basis; and to provide methods for the ascertainment and payment of the sums payable to school districts; repeal all acts in conflict herewith, and declaring an emergency.

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

§ 1. STATE EQUALIZATION FUND CREATED.] There is hereby created a fund to be known as the State Equalization Fund. The State Treasurer shall credit to such fund all sums appropriated by the Legislature for that purpose from any source of income whatever, and in the case of direct biennial appropriations, the State Treasurer shall apply one-half of the total appropriation of the biennium to each year thereof, and the amount so applied for each year, plus all accumulations from other sources, shall be construed to be the amount available in such fund for the current year.

All moneys now in the State Equalization Fund as it was created by Chapter 229 of the Laws of 1933 are hereby transferred to and shall become a part of the State Equalization Fund as hereby amended and re-enacted.

§ 2. FIRST \$500,000 PER YEAR DISTRIBUTED ON BASIS OF NEED.] The first \$500,000 accruing to the State Equalization Fund in each fiscal year from July 1st to June 30th, inclusive, shall be distributed among the needy elementary schools of this state on basis of need, in the manner hereinafter set forth, to-wit:

(a) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE MONTHLY MINIMUM COST OF MAINTAINING ELEMENTARY SCHOOLS.] The State Superintendent of Public Instruction shall be charged with the duty of investigating and inquiring into the general subject of elementary school costs and needs of financially distressed districts within the state. It shall be his duty to prepare the necessary application blanks and forms upon which the information required by him shall be certified to such school authorities as may be designated by him. From the information so acquired the State

Superintendent of Public Instruction shall from month to month determine the minimum amount of money required to operate each of the various classes of elementary schools.

(b) STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE MONTHLY CERTIFICATE TO STATE AUDITOR OF SCHOOLS IN NEED.] From the information obtained as provided in the preceding subdivision, the State Superintendent of Public Instruction shall monthly certify to the State Auditor a list of school districts of the state which are unable to pay for the operation of their schools the minimum amount determined in the manner hereinbefore set forth, after having made the maximum final effort to do so, together with a statement of the amount of the money required by such districts to meet such minimum standards.

(c) MAXIMUM FINANCIAL EFFORT DEFINED.] In determining whether or not a school district has made the maximum financial effort mentioned above, it must appear: (1) That the district shall have levied for the fiscal year the normal maximum tax rate as fixed by law, (2) That revenues from local taxes, and from state and county sources have been exhausted, and (3) That such district, under the law cannot issue additional warrants or sell certificates of indebtedness, or, if the same could be issued, that because of the financial condition of the school district such obligations of the district would be greatly depreciated in value to the extent that they would not be acceptable as commercial instruments.

(d) SCHOOLS TO RECEIVE AID FOR SEVEN MONTH TERM ONLY.] School districts shall receive aid as in this Section provided for the purpose of keeping their schools open for a seven month term only, and after the seventh month of any school term has expired, no further aid shall be granted under this Section.

(e) STATE AUDITOR.] The State Auditor shall issue his warrants monthly, in accordance with the certificates of the State Superintendent of Public Instruction, payable to the several school districts in the amounts so directed by the State Superintendent of Public Instruction, to the county superintendent of schools, in case the available money for distribution on the basis of need shall not be available in any month, the State Auditor shall pro-rate the available funds among the districts in proportion to the amounts so certified to him.

(f) ADMINISTRATION.] In carrying out the provisions of this chapter, all evidence, data, and records of transactions of the Superintendent of Public Instruction and of the school board and county or district treasurer, shall be open to inspection by the State Auditor and Attorney General. Provided that the State Treasurer, State Auditor and Attorney General shall constitute an advisory committee to work in conjunction with the State Superintendent of Public Instruction in the administration of that portion of the fund designated for distribution on basis of need, and there shall be set aside

from such portion of the fund a sum not to exceed twenty-five hundred dollars (\$2,500.00) per year for use in the necessary expenses incurred in the administration thereof.

(g) The Governor, Attorney General and Superintendent of Public Instruction shall constitute the Board which is hereby authorized, directed and empowered to carry out and perform the provisions of Section 2 of this act. And there shall be set aside from such portion of the fund a sum not to exceed twenty-five hundred dollars (\$2,500.00) per year for use in the necessary expenses of said Board incurred in the administration thereof.

§ 3. HIGH SCHOOL TUITION: WHEN AND HOW PAYABLE.] After setting aside the sum hereinbefore provided for distribution on the basis of need, there shall be paid out of said State Equalization Fund to each public school district in this state which during the previous school year offered four or more units of standard high school work, approved by the State Superintendent of Public Instruction as by law provided, the sum of \$1.50 per week of actual attendance for each non-resident high school student who attended such high school during the preceding school year, and be it further provided that high school tuition shall be paid to any school district for any pupil or student who has completed the eighth grade, living in a district having no high school and residing in a county that is on the border line of another state who may be attending the nearest four-year high school in the adjoining state; provided that the term "non-resident high school student" shall include only students who have completed all the work of the first eight grades, who are residents of the State of North Dakota and of school districts which did not, during the preceding school year, offer four full units of high school work, approved by the State Superintendent of Public Instruction, for which the student was prepared, and who had not previously attended high school for four years nor completed fifteen or more full units of high school work. Immediately upon the close of school and in any event not later than July 1st of each year, the clerk of each district claiming high school tuition under this act shall certify to the county superintendent of schools a verified claim, giving the name, residence, number of days of attendance and subjects taken by each non-resident student for whom tuition is claimed. The county superintendent of schools shall investigate the propriety of the claim for each student, and determine the residence and other qualifications of each, and on or before July 20th shall certify to the State Superintendent of Public Instruction the number of non-resident high school students for which each district is entitled to payment of high school tuition, and shall at the same time notify the school districts of the names of any students for which the claim has been disallowed by him, and such district may, if it so desires, on or before August 5th of such year, appeal to the State Superintendent of Public Instruction, who may, if, in his judgment the evidence submitted by the district warrants it, change or modify the certificate

of the county superintendent of schools, and his judgment thereon shall be final. Immediately upon receiving the certificates of the county superintendent of schools, and in any event not later than September 1st, the State Superintendent of Public Instruction shall certify to the State Auditor a list of the districts entitled to payment of high school tuition together with the amount to which each district is entitled. It is the purpose of this section to assure the payment in full of the said high school tuition before any payments are made on the teacher-unit basis as hereinafter set forth. Such high school tuition payment shall be the sole and only compensation received by such districts for non-resident high school students, and no district shall charge or collect from any non-resident student, his parents or guardians or the district of his residence any tuition fee, registration fee, text-book fee, laboratory fee or any other fee or charge which is not also charged of all resident students; provided, however, that this act shall not affect the right of a district to charge and collect from students who are not residents of this state such tuition as may be agreed upon.

(a) Whenever provisions are established for high school work by correspondence, the cost of such work shall be paid out of the equalization fund as determined by the Board of Administration, not in excess of \$40,000.00.

§ 4. REMAINDER TO BE DISTRIBUTED AMONG SCHOOLS ON TEACHER-UNIT BASIS.] After the payments on the basis of need and payments for high school tuition have been provided for, the balance remaining in said State Equalization Fund shall be distributed among the public school districts of the state upon the basis of \$175.00 per year for each grade school teacher-unit, and \$150.00 per year for each high school teacher-unit maintained by such school districts during the preceding school year.

§ 5. "TEACHER-UNIT" DEFINED BY STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: EXCEPTIONS.] The State Superintendent of Public Instruction shall, on or before the first day of August after this act shall take effect, define the terms "Grade School Teacher-Unit" and "High School Teacher-Unit" for the purposes of this act and therein fix the number of pupils and teachers required to constitute such "teacher-unit," and shall give notice of such definitions to all county superintendents of schools in the State and such other publicity thereto as shall, in his judgment, be sufficient to apprise the school officers of the State as to the requirements of such definitions. Such definitions may provide for the allowance of fractional credit for partial compliance with the requirements of the definitions. Such definitions shall be framed and formulated with the end in view of effecting efficiency in the schools, and the discouragement of the maintenance of small schools, and small classes. If, in any particular case, it shall appear that the then existing definitions or either of them would work an injustice or hardship upon

any individual school district, because of any peculiar facts existing in such district, the State Superintendent of Public Instruction may, in his sole judgment and discretion, upon request of such district, modify such definitions, or either of them, as the same shall be applied to such individual district; and in all such cases the decision of the State Superintendent of Public Instruction shall be final.

§ 6. COUNTY SUPERINTENDENT OF SCHOOLS AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CERTIFY AS TO TEACHER-UNITS.] As soon after the close of each school year as possible and in any event not later than July 20th the county superintendent of schools of each county shall certify to the State Superintendent of Public Instruction a list of all public school districts in his county and the number of high school and grade school teacher-units maintained by each during the preceding school year, and shall also notify each district as to the number of teacher-units so certified. Any school district feeling aggrieved by the certificate of the county superintendent of schools may, on or before August 5th of such year appeal to the State Superintendent of Public Instruction, who may, if in his judgment the evidence submitted by the district warrants it, change or modify the certificate of the county superintendent of schools, and his judgment thereon shall be final. Immediately upon receiving the certificates of the county superintendents of schools, and in any event not later than September 1st, the State Superintendent of Public Instruction shall certify to the State Auditor a list of all public school districts in the State, together with a statement as to the teacher-units maintained by each. The State Auditor shall thereupon pay the said sum of \$150.00 for each high school teacher-unit and \$125.00 for each grade school teacher-unit so certified to him, which payments shall be made from the balance remaining in the State Equalization Fund after payments of the amounts certified for payment on the basis of need and for high school tuition as hereinbefore set forth. Should the balance in said Fund prove insufficient to make payment in full of the amounts shown by said certificate to be due the several school districts, the State Auditor shall pro-rate such balance among the districts.

§ 7. METHOD OF MAKING PAYMENTS.] Upon receipt of the certificates of the State Superintendent of Public Instruction as aforesaid the State Auditor shall make said payments on the basis of need, for high school tuition and on the teacher-unit basis, by Auditor's warrant upon the State Equalization Fund. Said warrants may be sent by the Auditor direct to the clerks of the said school districts or to the county superintendent of schools, whichever may be deemed by the State Superintendent of Public Instruction to be most effective for the efficient administration of this act. Said warrants shall be made payable to the school districts, and shall be delivered to the clerks thereof, who shall make a record of the receipt thereof and deliver the same to the school district treasurers, who shall deposit

the same in the general funds of their respective districts, and the funds so received shall be available for use by the districts in the same manner as other general funds thereof. The State Auditor may make the payments herein provided for by separate warrants, or combine such payments, as the convenience and efficiency of his office may dictate.

§8. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO MAKE RULES AND PREPARE BLANK FORMS.] The State Superintendent of Public Instruction may make such rules and regulations governing the certification to county superintendents of schools and to himself of the information and evidence required by this act to enable him to make his certificates, and governing appeals from decisions of county superintendents of schools as may be reasonably necessary to accomplish the purposes herein set forth. He shall also prepare and circulate among the county superintendents of schools blank forms for the certificates of the school districts to the county superintendents of schools and of the county superintendents of schools to the State Superintendent of Public Instruction.

§ 9. STATE SUPERINTENDENT OF PUBLIC INSTRUCTION TO SECURE INFORMATION AND MAKE ESTIMATES.] Immediately after the close of each fiscal year the State Superintendent of Public Instruction shall secure from the State Auditor a statement of the balance in the State Equalization Fund as of the close of the year, and he shall thereupon make an estimate as to the probable amount which which may be expected to be paid for each teacher-unit in the state, and shall, on or before July 15th give notice of such estimate to each county superintendent of schools, and give the same publicity through the various news channels, so that the same may be available for the school districts in making up their budgets for the ensuing year.

§ 10. DISPOSITION OF SURPLUS.] If at the close of any fiscal year the amount remaining on hand exceeds \$100,000, the amount in excess of such sum shall be covered into the general fund of the State of North Dakota.

§ 11. REPEAL.] Such portions of Sections 1438a1, 1438a2, and 1438a3 of the 1925 Supplement to the Compiled Laws of 1913, Chapter 231, Session Laws 1933, Chapter 232, Session Laws 1933, Chapter 229, Session Laws 1933, and all other acts or parts of acts in conflict herewith are hereby repealed.

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

Approved March 14, 1935.

## CHAPTER 261

H. B. No. 365—(Wolf)

## TEACHING SERVICE, WORLD WAR VETERANS

An Act providing that teachers who served in the United States Armed Forces during the World War shall be entitled to have the time of said service counted "Teaching Service" under the Teachers' Insurance and Retirement Law upon payment of the assessments for the time of said service; and repealing all acts or parts of acts in conflict herewith.

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

§ 1. Teachers who have been granted an honorable discharge from the United States armed forces for service in the World War shall be entitled to have the time of said service counted as "teaching service", under the provisions of Section 1504 and 1518 of the Compiled Laws of North Dakota for 1913; provided, however, that teaching was his occupation at the time of entering the service, and upon the payment of assessments he would have paid had he continued his profession.

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

Approved March 13, 1935.

## CHAPTER 262

H. B. No. 179—(Schauss and Bauer)

## LIMITATION CHANGE BASIC SCHOOL TEXT BOOKS

An Act to amend and re-enact Section 1 of Chapter 235 of the 1933 Session Laws prescribing and limiting the time to which basic text books may be changed in the schools and educational institutions in this state.

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

§ 1. AMENDMENT.] That Section 1, Chapter 235 of the Session Laws of 1933, relating to prescribing and limiting the time to which basic text books may be changed in the schools and educational institutions in this state, be amended and re-enacted to read as follows:

§ 1. From and after the passage and approval of this act, it shall be unlawful for any public school or educational institution within this state to change or alter the basic text books which are being used in any such school or institution oftener than once in five years.

Approved March 5, 1935.

## CHAPTER 263

H. B. No. 172—(Saumur)

## VOTING PRECINCTS SPECIAL SCHOOL DISTRICTS

An Act providing for the establishment of voting precincts in all special school districts; requiring establishment of polling places for each 5,000 inhabitants; providing for appointment of election officials, fixing their powers, duties and compensation and repealing all acts or parts of acts in conflict herewith.

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

§ 1. ELECTIONS IN SPECIAL SCHOOL DISTRICTS.] That at all elections hereafter held in any special school district in this State there shall be provided one polling place, and one set of election officials, for each 5,000 people or majority fraction thereof (as shown by the last available state or national census) residing in said school district, and upon taking effect of this act, and thereafter as often as it shall be necessary, it shall be the duty of the school board, or the board of education, in every special school district in the State of North Dakota having a population of over 5,000 to divide said school district into voting precincts for school election purposes; said precincts to be formed by motion or resolution of the board, and to be so arranged as to divide the voters in said school district as nearly equal as possible. None of said precincts shall have a population greater than five thousand.

§ 2. POLLING PLACES HOW ESTABLISHED.] Upon such precincts being designated the school board or board of education in all school districts affected by this act shall, by resolution or motion, designate one place as a polling place in each voting precinct, said place so designated to be as conveniently located as possible to the voters in such precinct and said place so designated shall remain the voting place until changed by subsequent action of the board.

§ 3. ELECTION OFFICIALS DESIGNATED: POWERS AND DUTIES.] All election officials for said several voting precincts shall be appointed in the manner as now or hereafter provided by law for the appointment of school election officials in special school districts, and they shall have the same powers and receive the same compensation as now enjoyed or received by such election officials or as may hereafter be provided for.

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

Approved March 13, 1935.

# STATE INSTITUTIONS

## CHAPTER 264

S. B. No. 74—(Committee on Appropriations)

### PAYMENT AUDITS, ETC., CERTAIN STATE INSTITUTIONS AND DEPARTMENTS

An Act to provide for the payment of the expense of auditing and examining the affairs of the North Dakota Mill and Elevator Association for the State Mill and Elevator at Grand Forks, the Bank of North Dakota, including the Farm Loan Department, the State Hail Insurance Department, the Workmen's Compensation Bureau of the State of North Dakota, the office of the Beer Commissioner of the State of North Dakota, the North Dakota State Regulatory Department, and the North Dakota Teachers Insurance and Retirement Fund, and the Highway Department and the Motor Vehicle Department and the Game and Fish Department, by the State Board of Auditors pursuant to Section 369-b of the Supplement to the Compiled Laws of North Dakota for 1913, as amended by Chapter 186 of the Laws of 1933; designating and appropriating the funds from which such payment shall be made; providing for the payment into a special fund; providing for the repeal of any acts in conflict herewith.

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

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

North Dakota Mill and Elevator Association for the State	
Mill and Elevator at Grand Forks .....	\$4,000.00

The Bank of North Dakota, including the Farm Loan Department .....	\$7,000.00
The State Hail Insurance Department.....	\$2,000.00
The Workmen's Compensation Bureau .....	\$1,500.00
The Office of the Beer Commissioner of the State of North Dakota .....	\$ 500.00
The North Dakota State Regulatory Department.....	\$1,500.00
The North Dakota Teachers Insurance and Retirement Fund .....	\$ 500.00
The Highway Department and the Motor Vehicle Department .....	\$3,500.00
The Game and Fish Department .....	\$ 750.00

§ 2. APPROPRIATIONS.] The amounts herein directed to be paid by the aforesaid mentioned departments and institutions, shall be deemed and considered as appropriations of each amount thereof to the State Board of Auditors Fund.

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

Approved March 12, 1935.

## CHAPTER 265

H. B. No. 96—(Holte)

### LEGALIZING DEVISES, ETC., TO STATE INSTITUTIONS

An Act to make it lawful to make devises, bequests, legacies and gifts to any state educational, charitable, or penal institution; providing that title thereto shall be held by the state in trust, and regulating the use of such property and its income; validating devises, bequests, legacies and gifts heretofore made, and declaring an emergency.

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

§ 1. Devises, legacies, bequests and gifts may lawfully be made to any state educational, charitable or penal institution, and the title to any property, real, personal or mixed which shall be devised, bequeathed or given to any such institution, or to the State of North Dakota for the use and benefit thereof, shall vest in the State of North Dakota, to be held by it in trust for the benefit and use of the institution to which or for whose benefit such devise, legacy, bequest or gift is made. Unless otherwise authorized by the Will or other instrument providing for such devise, bequest, legacy or gift, no part of said property, or the income therefrom, shall be diverted or used for any other purpose.

§ 2. All devises, bequests, legacies and gifts to any state educational, charitable or penal institution heretofore made, executed or delivered, and whether vested or not, and whether executed or exe-

cutory, accrued or to accrue, and all provisions in any Will, making any such devise, legacy or bequest, whether the testator be now living or whether he may have heretofore died, are hereby declared to be legal and valid for all purposes, and subject to the provisions of this act.

§ 3. All laws and acts, or parts of laws and acts in conflict herewith, are hereby repealed.

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

Approved February 21, 1935.

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## CHAPTER 266

H. B. No. 359—(Committee on Delayed Bills)

### PRESS REPRESENTATIVE'S ROOM CAPITOL BUILDING

An Act to authorize, direct and empower the State Board of Administration to provide a room in the State Capitol Office Building for the exclusive use of representatives of accredited Press Associations and daily and other newspapers.

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

§ 1. The State Board of Administration is hereby authorized, directed and empowered to set aside a room in the State Capitol Office Building for the exclusive use of accredited representatives of daily and other newspapers and full time correspondents of accredited Press Associations.

§ 2. The State Board of Administration is further authorized, directed and empowered to place in charge of such press room the Statehouse Correspondent of the Associated Press.

Approved March 13, 1935.

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## CHAPTER 267

H. B. No. 23—(House State Affairs Committee)

### CAPITOL CUSTODIAN AND GUIDE

An Act to amend and re-enact Chapter 94 of the Session Laws of North Dakota of the year 1929, relating to the Custodian of the State Capitol and grounds and describing his powers, duties and compensation and appointing such custodian.

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

§ 1. AMENDMENT.] Section 1, Chapter 94 of the Session Laws

of North Dakota for the year 1929, is hereby amended and re-enacted to read as follows:

§ 1. That there shall be and there is hereby provided a custodian of the State Capitol grounds to serve under the direction of the Board of Administration. Such custodian and guide of the State Capitol grounds shall also be the police officer of the State Capitol grounds and buildings, and shall be provided with appropriate insignia and uniform by the Board of Administration, and such insignia and uniform must be worn by such custodian when and while on duty.

§ 2. AMENDMENT.] Section 2 of Chapter 94 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

§ 2. That such custodian is hereby constituted a police officer and given full authority, when and while engaged in the discharge of his duties, to make arrests upon and within the capitol grounds and buildings, in the same manner and with the same force and effect as a sheriff, a constable of Burleigh county or a police officer of the City of Bismarck in said county, in which said buildings and grounds are located; provided, however, that in case of arrest the said custodian shall cause the person so arrested by him to be delivered to the sheriff or to any other police officer of said county or city, to be dealt with as provided by law. That in addition to his duties as such police officer, the said custodian shall be the traffic officer in charge of enforcement of all traffic rules and regulations upon such grounds, including the parking of cars, automobiles and all other vehicles thereon, as may be prescribed by the Board of Administration for the regulation thereof.

§ 3. AMENDMENT.] Section 3 of Chapter 94 of the Session Laws of North Dakota for the year 1929 is hereby amended and re-enacted to read as follows:

§ 3. That William Laist, now employed as custodian of the Capitol Buildings and grounds, be and hereby is appointed as custodian of the Capitol grounds and such police officer of said grounds and buildings, and he shall occupy such position during good behavior but shall be removable by the Governor for cause; and he shall, until otherwise provided by law, receive for his services a salary not to exceed fifteen hundred dollars (\$1,500.00) per annum, payable monthly as other employees of the state are paid.

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

Approved February 13, 1935.

**CHAPTER 268****S. B. No. 36—(Erickson)****COMPENSATION ETC., SECRETARY BOARD OF CAPITOL COMMISSIONERS**

An Act to repeal Subsections c and e of Section 1 of Chapter 185, Laws of 1933, and to amend and re-enact Section 2 of Chapter 205, Laws of 1931, relating to the Board of State Capitol Commissioners, and declaring an emergency.

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

§ 1. REPEAL.] That Subsections c and e of Section 1 of Chapter 185, Laws of 1933, be and the same are hereby repealed.

§ 2. AMENDMENT.] That Section 2 of Chapter 205, Laws of 1931, be and the same is hereby amended and re-enacted to read as follows:

§ 2. SECRETARY, COMPENSATION, DUTIES.] The Secretary of the Board of Administration of the State of North Dakota shall, without additional compensation, be the Secretary of the Board of Capitol Commissioners. He shall file such oath and bond, if any, and keep such records and perform such duties as shall be required by the Board.

§ 3. EMERGENCY.] Whereas an emergency exists, now therefore, this act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1935.

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**TAXATION**

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**CHAPTER 269****S. B. No. 189—(Committee on Taxes and Tax Laws)****BETTER COLLECTION TAXES, ON CIGARETTES, SNUFF AND CIGARETTE PAPERS**

An Act providing for the better collection of taxes and better enforcement of Laws relating to the imposition and collection of taxes now or hereafter imposed upon cigarettes, snuff and cigarette papers.

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

§ 1. The mulct tax heretofore and now fixed by law at the sum of twelve dollars and fifty cents (\$12.50) as an annual license fee for the retail sale of cigarettes, snuff, cigarette papers or tubes, is hereby reduced and fixed at the sum of five dollars (\$5.00); and

the stamp tax upon the retail sale of snuff is hereby fixed and established at the sum of two cents for each one and one-quarter ounce or major fraction thereof and the bond now required by law from retail dealers is hereby reduced and fixed at the sum of two hundred fifty dollars (\$250.00), for which a premium of not to exceed two dollars and fifty cents (\$2.50) shall be charged.

Approved March 12, 1935.

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## CHAPTER 270

S. B. No. 125—(Committee on Irrigation and Drainage)

### EXEMPTION INUNDATED LANDS FROM TAXATION

An Act authorizing and directing the Board of County Commissioners of the several counties to remove from the tax rolls and declare as exempt from taxation all inundated lands upon which the owner thereof has granted or shall hereafter grant to the United States of America, its instrumentalities or agencies, a permanent easement for the purpose of constructing, maintaining and operating water and/or wildlife conservation projects, providing that such inundated lands shall remain exempt until such time as the water and/or wildlife conservation projects shall have been abandoned, providing that such power to remove from the tax rolls or declare as exempt shall not attach until such time as the construction of the water and/or wildlife conservation projects shall have been completed, and declaring an emergency.

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

§ 1. The Board of County Commissioners of the several counties are hereby authorized and directed to remove from the tax rolls and declare as exempt from taxation all inundated lands upon which the owner thereof has granted or shall hereafter grant a permanent easement to the United States of America, its instrumentalities or agencies, for the purpose of constructing, maintaining and operating water and/or wildlife conservation projects, the said inundated lands so removed from the tax rolls or declared exempt from taxation shall remain exempt until such time as the aforesaid water and/or wildlife conservation projects shall have been abandoned, provided, however, that nothing in this act shall be construed to give the Board of County Commissioners of the several counties the power or authority to remove from the tax rolls or declare as exempt from taxation any of the said inundated lands until such time as the construction of the water and/or wildlife conservation projects thereon shall have been completed.

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

Approved February 25, 1935.

## CHAPTER 271

S. B. No. 294—(Committee on Taxes and Tax Laws)

## INCOME TAX

An Act to amend and re-enact Section 2346a11 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Section 2 of Chapter 253 of the 1933 Session Laws; Section 2346a20 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 4 of Chapter 253 of the 1933 Session Laws; Section 2346a18 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by subsection 4 of Section 4 of Chapter 283 of the 1931 Session Laws, relating to the taxation of income of individuals, fiduciaries and corporations; repealing that portion of Section 2346a46 of the Supplement to the Compiled Laws of 1913 as was amended and re-enacted by Paragraph (b) of Subsection 4 of Section 6 of Chapter 283 of the 1931 Session Laws and repealing subsection 7 of Section 4 of Chapter 283 of the 1931 Session Laws, and repealing subsection 7 of Section 2346a30 of the 1925 Supplement to the Compiled Laws, and all other acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2346a11 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 2 of Chapter 253 of the 1933 Session Laws, be and is hereby amended and re-enacted to read as follows:

§ 2346a11. GRADUATED RATES.] A tax is hereby imposed upon every resident of North Dakota, which tax shall be levied, collected and paid annually with respect to his entire net income as herein defined; computed at the following rates:

On all net incomes not in excess of \$1,000.00, a tax of 1%.

On all net incomes in excess of \$1,000.00, and not in excess of \$2,000.00, a tax of 2%.

On all net incomes in excess of \$2,000.00, and not in excess of \$3,000.00, a tax of 3%.

On all net incomes in excess of \$3,000.00, and not in excess of \$4,000.00, a tax of 5%.

On all net incomes in excess of \$4,000.00, and not in excess of \$5,000.00, a tax of 6%.

On all net incomes in excess of \$5,000.00, and not in excess of \$7,000.00, a tax of 7½%.

On all net incomes in excess of \$7,000.00, and not in excess of \$9,000.00, a tax of 10%.

On all net incomes in excess of \$9,000.00, and not in excess of \$15,000.00, a tax of 12½%.

On all net incomes in excess of \$15,000.00, a tax of 15%.

§ 2. AMENDMENT.] That Section 2346a18 of the Supplement to the Compiled Laws of 1913, as amended and re-enacted by Subsection 4 of Section 4 of Chapter 283, of the 1931 Session Laws be and the same is hereby amended and re-enacted to read as follows:

§ 2346a18 (4). No losses shall be deducted from the fixed income of the taxpayer derived from salaries, wages, or taxable dividends, but losses actually sustained within the year from purchases and sales and other transactions where the purchases and sales are both made within the year, or the transactions are wholly within the year and not compensated by insurance or otherwise, may be deducted, provided that no loss may be allowed in the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or the destruction of property by fire, flood, or other casualty, or a loss sustained in any sale of the residence of the taxpayer. In the case of a taxpayer other than a resident of the state, losses shall be allowed only as to transactions in real property or in tangible personal property having an actual situs in this state, and losses in connection with any business, trade, profession or occupation carried on in this state. Provided, however, that the aggregate amount which may be deducted in connection with losses incurred in connection with the sale or exchange of capital assets shall not exceed the aggregate gains reported from the sale or exchange of capital assets in any year.

§ 3. AMENDMENT.] That Section 2346a20 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 4 of Chapter 253 of the 1933 Session Laws be and the same is hereby amended and re-enacted to read as follows:

§ 2346a20. EXEMPTIONS.] (a) For the purpose of the tax on individuals, there shall be deducted from the tax due, the following exemptions:

- (1) In the case of a single individual, a deduction of \$5.00.
- (2) In the case of the head of a family or married individual living with husband or wife, a deduction of \$15.00. A husband and wife living together shall receive but one deduction of \$15.00 against their aggregate net tax; and in case they make separate returns, the deduction of \$15.00 from the tax due may be taken by either or divided between them.
- (3) Two dollars for each individual (other than husband or wife) dependent and receiving his chief support from the taxpayer, if such dependent individual is under eighteen years of age or is incapable of self-support because mentally or physically defective or incapacitated, provided that deductions from tax may be claimed for children over the age of 18 years and under the age of 21 years that are dependent upon the taxpayer for support and are attending educational institutions.

(b) For the purpose of the tax on fiduciaries, there shall be deducted: (1) If taxable under Article III, Section 14 (a) (Section 2346a13, ante,) a deduction of \$10.00.

(2) If taxable under Article III, Section 14 (b) (Section

2346a13b, ante) same deduction as would be allowed the deceased if living.

(3) If taxable under Article III, Section 14 (c) (Section 2346a13c, ante), the same deduction to which the beneficiary would be entitled.

(c) The status on the last day of the income year shall determine the right to deductions provided for in this Section; provided a taxpayer shall be entitled to such deductions for husband, wife or dependent who has died during the income year.

§ 4. CREDIT ON TAX.] A credit shall be allowed against the account of tax computed to be due and payable by any taxpayer under this act, to the extent of the tax which has been assessed against and paid by a corporation under this act on income which is represented by dividends on stock in said corporation, received by the taxpayer and included in his gross income within the income year; provided that when only part of the income of any corporation shall have been assessed and income tax paid under this act, only a corresponding amount of tax shall be deducted; and provided further that such corporation has reported the name and address of each person owning stock and the amount of dividends paid each such person during the year.

§ 5. DATE OF EFFECT.] This act shall be effective on all income received during the year ending December 31, 1935, as provided in this act.

§ 6. REPEAL.] That portion of Section 2346a46 of the Supplement to the Compiled Laws of 1913 as was amended and re-enacted by Paragraph (b) of Subsection 4 of Section 6 of Chapter 283 of the 1931 Session Laws, and Subsection 7 of Section 4 of Chapter 283 of the 1931 Session Laws and Subsection 7 of Section 2346a30 of the 1925 Supplement to the Compiled Laws, and all other acts or parts of acts in conflict herewith, are hereby repealed.

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

Approved March 12, 1935.

## CHAPTER 272

H. B. No. 48—(Anderson and Marks of Burke and Divide)

PAYMENT AND CANCELLATION OF PERSONAL PROPERTY  
TAXES FOR THE YEAR 1933 AND PRIOR YEARS

An Act providing for the payment and cancellation of personal property taxes assessed and levied for the year 1933 and all prior years; fixing the amount to be paid and providing for cancellation of interest and penalties and partial cancellation of the original amount of such taxes.

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

§ 1. That all unpaid personal property taxes together with interest, penalty and costs accruing to date of such payment shall be cancelled upon the payment of the following amounts, to-wit:

For the year 1930 and prior years upon the payment of 40 per cent of the original tax.

For the year 1931 upon the payment of 60 per cent of the original tax.

For the year 1932 upon the payment of 100 per cent of the original tax.

For the year 1933 upon the payment of 100 per cent of the original tax.

Payment of taxes upon the above schedule shall only be permitted if payment thereof is made prior to January 1st, 1936.

§ 2. EMERGENCY.] Whereas, a large amount of personal property sorely needed for the support of the owners and their families is in danger of being lost by reason of the owners being unable to pay delinquent personal property taxes, this act is hereby declared to be an emergency measure and the same shall be in force from and after its approval.

Approved March 11, 1935.

## CHAPTER 273

H. B. No. 243—(Isaak, Jensen and Anderson of Divide)

DEDUCTION DELINQUENT PERSONAL PROPERTY TAXES  
FROM CLAIMS, ETC., PAYABLE BY COUNTY

An Act permitting deduction of delinquent personal property taxes from claims, demands, salaries, and wages due from county officers and others; prescribing duties of county auditor in connection therewith; giving such deduction priority over any sale, transfer or assignment of such claim, demand, salary and wage; repealing Section 4227 of the Compiled Laws of North Dakota 1913 and all acts or parts of acts in conflict herewith.

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

§ 1. CLAIMS AND SALARIES DUE FROM COUNTIES OFFSET BY TAXES. DUTY OF COUNTY AUDITOR.] Whenever a claim against a

county is allowed and ordered paid by the board of county commissioners, it shall be the duty of the county auditor to ascertain from the records in his office or in the office of the county treasurer or of the sheriff if there are any personal property taxes delinquent by the person, corporation or partnership to whom said claim was originally due by the county, and if there are any, it shall be the duty of the county auditor to stamp or write in red ink across the face of the county warrant issued by him for said claim or demand the following words:

"Personal property taxes of.....delinquent \$.  
(Name)

and interest and penalty will be deducted from warrant when paid," and when the said warrant shall be called and presented for payment the amount of said taxes with interest and penalty shall be deducted unless the same have been previously paid, and the said warrant shall remain subject to such deduction in the hands of all holders thereof.

When the county issues a salary warrant to any county officer, employee or servant of the county, it shall likewise be the duty of the county auditor to ascertain from the records aforesaid if there are any personal property taxes delinquent by the person who earned the salary or wages for which said salary warrant is being issued, and, if there are any, to stamp or write in red ink across the face of said salary warrant the following words: "Personal property taxes of.....delinquent \$.  
(Name)

interest and penalty will be deducted from warrant when paid," and if the personal property taxes so due exceed 15% of the face of the salary warrant so issued, then no larger amount than 15% of the face of the salary warrant shall be charged to each such salary warrant, and a similar endorsement shall be made on each subsequent warrant of the same person until the original amount of all personal property taxes delinquent owed by said person have been so noted upon one or more said salary warrants, and when any said salary warrant shall be called and presented for payment the amount of the taxes noted thereon shall be deducted unless the same have been previously paid, and any warrant so stamped shall remain subject to such deduction in the hands of all holders thereof. It shall further be the duty of the county auditor to cause to be entered in the county tax records of personal property taxes and opposite the name of the tax debtor a notation of each such endorsements with the amount and date of each thereof and with number of warrant on which endorsed.

§ 2. ASSIGNMENT OF CLAIM OR SALARY.] Any sale, transfer, or assignment of the claim, demand, salary or wage mentioned in this act and subject to endorsement for delinquent personal property taxes as hereinbefore provided shall be deemed to have been accepted by the purchaser, transferee or assignee thereof subject to the

delinquent personal property taxes of the original seller, transferer or assignor on the date of the issuance of the warrant evidencing said claim, demand, salary or wage, and the endorsement herein provided shall be made even though such warrant is issued to or has become the property of the purchaser, transferee or assignee on the date of such issuance.

§ 3. REPEAL.] Section 4227 of the Compiled Laws of North Dakota 1913 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1935.

## CHAPTER 274

H. B. No. 154—(Morgan and Williams)

### DEDUCTION DELINQUENT PERSONAL PROPERTY TAXES FROM PUBLIC OFFICES, ETC., SALARIES

An Act requiring deduction of delinquent personal property taxes from salaries or other compensation of elective and appointive officers, agents and employees of the State of North Dakota, all bureaus, boards, commissions and departments, and all persons receiving public funds.

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

§ 1. DEDUCTIONS TO PAY DELINQUENT PERSONAL PROPERTY TAXES.] That from and after the passage and approval of this act it shall be the duty of all persons who are required to issue warrants for or pay any of the salaries or other compensation of the officers and employees herein named, to ascertain from the tax records of the county or counties wherein the services were performed and/or the county wherein the person making claim for such compensation resides, whether the person making claim for such payment is indebted to any school district, municipal corporation, county or state for personal property taxes delinquent, and, if such indebtedness is found to exist, to deduct fifteen per cent (15%) of the amount claimed for such salary or other compensation each month until such personal property taxes, with interest and penalty, are fully discharged.

§ 2. WHO SUBJECT TO THE PROVISIONS OF THIS ACT.] This act shall apply to all elective and appointive officials and/or their deputies, all courts, bureaus, boards, commissions, departments, and committees, all agents, clerks, inspectors, employees and contractors and in fact each and every person, firm, corporation or co-partnership receiving, claiming or demanding any money from the State of North Dakota, or any of its various departments, bureaus, boards, or commissions whether especially named herein or not, it being intended hereby to insure the payment of personal property taxes

by all persons, firms, or corporations receiving any public funds from the State of North Dakota, or from any of its bureaus, boards, departments, or commissions and for which there is now no provision made for deducting such personal property taxes from the amount due to the persons, firms or corporations making claim upon public funds.

§ 3. VIOLATION. PENALTY.] Any person who shall pay any of the salaries or compensation herein referred to contrary to the provisions of this act shall be guilty of a misdemeanor.

Approved March 14, 1935.

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## CHAPTER 275

H. B. No. 265—(Anderson of Bowman)

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### CANCELLATION INTEREST AND PENALTY DELINQUENT REAL ESTATE TAXES: REDEMPTION REAL ESTATE SOLD OR FORFEITED TO AND STILL HELD BY COUNTY

An Act to cancel all interest and penalty, levied and assessed against delinquent real estate taxes and providing for redemption of real estate sold or forfeited to the county for the years 1933, and all prior years, and still held by the county, without paying interest or penalty, if said taxes are paid during the year 1935; repealing all acts in conflict herewith.

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

§ 1. That all real estate sold or forfeited to any of the counties in the State of North Dakota for taxes for the year 1933 and all prior years, including hail insurance tax but excepting special assessment taxes, and still held by the county at the time of the taking effect of this act may be redeemed in full upon payment of the original tax levied and assessed against said real estate without the payment of interest or penalty, if said redemption is made on or before December 31st, 1935, the aforesaid right of redemption shall apply to all real estate purchased or forfeited to any county in the State of North Dakota and still held by it at the time of the taking effect of this act, whether held upon tax certificate or tax deed.

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

Approved March 13, 1935.

## CHAPTER 276

S. B. No. 313—(Committee on Taxes and Tax Laws)

## RETAIL SALES TAX

An Act to equalize taxation and replace in part the tax on property; to provide the public revenue to be used for such replacement by imposing a tax on the gross receipts from retail sales as defined herein; to provide for the collection of such tax, the distribution and use of the revenue derived therefrom, and the administration of said law; to provide for certain deductions and exemptions; to make an appropriation for the administration of this Act; to fix fines and penalties for the violation of the provisions of this Act; to repeal all laws or parts of laws in conflict herewith and declaring an emergency.

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

§ 1. DEFINITIONS.] The following words, terms and phrases, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Person" includes any individual, firm, co-partnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number.

(b) "Sale" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

(c) "Retail sale" or "Sale a retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property and the sale of gas, electricity, water, and communication service to retail consumers or users, and shall include the ordering, selecting or aiding a customer to select any goods, wares or merchandise from any price list, or catalogue, which such customer might order, or be ordered for such customer to be shipped directly to such customer.

(d) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

(e) "Retailer" includes every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or the furnishing of gas, electricity, water and communication service, and tickets or admissions to places of amusement and athletic events as provided in this division.

(f) "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded

either in cash or by credit. Provided, further, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty (60) days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted, for the purpose of imposition of tax imposed by this bill, as has actually been received in cash by the retailer during each quarterly period as defined herein.

(g) "Relief agency" means the state, any county, city and county, city or district thereof, or any agency engaged in actual relief work.

(h) "Commissioner" means the Tax Commissioner of the State of North Dakota.

§ 2. TAX IMPOSED.] There is hereby imposed, beginning the first day of May, 1935, and ending May 1, 1937, a tax of two per cent (2%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the State of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the State of North Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events, except as otherwise provided in this division.

The tax herein levied shall be computed and collected as hereinafter provided.

§ 3. EXEMPTIONS.] There are hereby specifically exempted from the provisions of this division and from the computation of the amount of tax imposed by it, the following:

(a) The gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

(b) The gross receipts from the sales, furnishing or service of transportation service.

(c) The gross receipts from sales of tangible personal property used for the performance of a contract on public works executed prior to the effective date of this division.

(d) The gross receipts from sales of tickets or admissions to state, county, district and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious or charitable purposes.

§ 4. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off, for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are thereafter collected by the retailer, a tax shall be paid upon the amount so collected. The provisions of this act shall not apply to sales of gasoline, cigarettes, snuff, insurance premiums, or any other product, business or occupation upon which the State of North Dakota now or may hereafter impose a special tax, either in the form of a license tax, stamp tax or otherwise.

§ 5. CREDIT TO RELIEF AGENCY.]

1. A relief agency may apply to the Commissioner for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy.

2. Such refunds may be obtained only in the following amounts and the manner and only under the following conditions:

(a) On forms furnished by the Commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the Commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, or merchandise used for free distribution to the poor and needy.

(b) On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.

(c) The relief agency must prove to the satisfaction of the Commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this division, based upon such computation of gross receipts.

3. If the Commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

§ 6. Retailers shall, as far as practicable, add the tax imposed under this act, or the average equivalent thereof, to the sales price or charge and when added such tax shall constitute a part of such price or charge, shall be a debt from consumer or user to retailer until paid, and shall be recoverable at law in the same manner as other debts.

Agreements between competing retailers, or the adoption of appropriate rules and regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, and which do not involve price fixing agreements otherwise unlawful, and which shall first have the ap-

proval of the Commissioner, are expressly authorized and shall be held not to be in violation of any anti-trust laws of this state.

§ 7. UNLAWFUL ACTS.] It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this division will be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

§ 8. RECORDS REQUIRED.] It shall be the duty of every retailer required to make a report and pay any tax under this division, to preserve such records of the gross proceeds of sales as the Commissioner may require and it shall be the duty of every retailer to preserve for a period of two years all invoices and other records of goods, wares, or merchandise purchased for resale; and all such books, invoices and other records shall be open to examination at any time by the Commissioner or any one of his duly authorized agents.

§ 9. RETURN OF GROSS RECEIPTS.]

1. The retailer shall, on or before the 20th day of the month following the close of the first quarterly period as defined in the following section, and on or before the 20th day of the month following each subsequent quarterly period of three months, make out a return for the preceding quarterly period in such form and manner as may be prescribed by the Commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the Commissioner may require to enable him correctly to compute and collect the tax herein levied; provided, however, that the Commissioner may, upon request by any retailer and a proper showing of the necessity therefor, grant unto such retailer an extension of time of not to exceed thirty (30) days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in Section ten (10) of this act shall be extended for the same period.

2. The Commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this division, may require returns and payment of the tax to be made for other than quarterly periods, the provisions of Section ten (10) or elsewhere to the contrary notwithstanding.

3. Returns shall be signed by the retailer or his duly authorized agent, and must be verified by oath.

§ 10. PAYMENT OF TAX—BOND.]

1. The tax levied hereunder shall be due and payable in quarterly installments on or before the 20th day of the month next succeeding each quarterly period, the first of such period being the period

commencing with May 1, 1935, and ending on the 30th day of June, 1935.

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the Commissioner the tax due for the preceding period.

3. The Commissioner may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this division, require any person subject to such tax to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the Commissioner may fix, to secure the payment of any tax and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the Commissioner, in such amount as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the Commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any above the amounts due under this division shall be returned to the person who deposited the securities.

#### § II. PERMITS—APPLICATIONS FOR.]

1. Thirty days after the effective date of this act, it shall be unlawful for any person to engage in or transact business as a retailer within this state, unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the Commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the Commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the Commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

2. At the time of making such application, the applicant shall pay to the Commissioner a permit fee of fifty cents (50¢) for each permit, and the applicant must have a permit for each place of business.

3. Upon the payment of the permit fee or fees herein required, the Commissioner shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein.

It shall at all times be conspicuously displayed at the place for which issued.

4. Permits issued under the provisions of this division shall be valid and effective without further payment of fees until revoked by the Commissioner.

5. Whenever the holder of a permit fails to comply with any of the provisions of this division or any rules or regulation of the Commissioner prescribed and adopted under this division, the Commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The Commissioner shall also have the power to restore licenses after such revocation.

6. The Commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked.

§ 12. FAILURE TO FILE RETURN—INCORRECT RETURN.] If a return required by this division is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the Commissioner, such Commissioner shall determine the amount of tax due from such information as he may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and/ or other factors. The Commissioner shall give notice of such determination to the person liable for the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the Commissioner for a hearing or unless the Commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the Commissioner shall give notice of his decision to the person liable for the tax.

§ 13. APPEALS.]

1. An appeal may be taken by the taxpayer to the District Court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice from the Commissioner of his determination as provided for in the preceding section.

2. The appeal shall be taken by a written notice to the Commissioner and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of said District Court, and docketed as other cases, with the taxpayer as plaintiff and the Commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the

amount of tax appealed from, and in no case shall the bond be less than fifty dollars (\$50.00), conditioned that the plaintiff shall perform the orders of the court.

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the Commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the Commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the Commissioner to the Supreme Court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

§ 14. SERVICE OF NOTICES.]

1. Any notice, except notice of appeal, authorized or required under the provisions of this division may be given by mailing the same to the person for whom it is intended by registered mail, addressed to such person at the address given in the last return filed by him pursuant to the provisions of this division, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this division by the giving of notice shall commence to run from the date of registration and posting of such notice.

2. The provisions of the North Dakota Code relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this division.

§ 15. PENALTIES—OFFENSES.]

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this division, shall be subject to a penalty of five per cent (5%) of the amount of tax due, plus one per cent (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the Commissioner and disposed of in the same manner as other receipts under this division. Unpaid penalties may be enforced in the same manner as the tax imposed by this division.

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty (60) days after the effective date of this act,

as provided in Section 11 of this act, or who shall violate the provisions of Section 7 of this act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court.

3. Any person required to make, render, sign, or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a felony and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both a fine and imprisonment, in the discretion of the court.

4. The certificate of the Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this division, shall be prima facie evidence thereof.

§ 16. The Tax Commissioner of the State of North Dakota is hereby charged with the administration of this act and the taxes imposed thereby. Such Commissioner shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this act, necessary and advisable for its detailed administration and to effectuate its purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this act, if such method is deemed advisable by said Commissioner.

§ 17. All fees, taxes, interest and penalties imposed and/ or collected under this act must be paid to the Commissioner in the form of remittances payable to the Treasurer of the State of North Dakota, and said Commissioner shall transmit each payment daily to the State Treasurer to be deposited in the State Treasury to the credit of a fund to be known as the Special Tax Fund, which fund is hereby created and established.

§ 18. GENERAL POWERS.]

1. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and/or receipts of any taxpayer, shall have power: to examine or cause to be examined by any agent or representative designated by him, books, papers, records or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records and documents relating to any matter which he shall have the authority to investigate or determine.

2. Where the Commissioner finds the taxpayer has made a

fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the costs shall be paid by the state.

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the District Court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the Commissioner to the State Treasurer, who shall issue warrant for the amount of said costs, to be paid out of the proceeds of the taxes collected under this act.

4. In case of disobedience to a subpoena the Commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the Commissioner and give evidence or produce records, books, papers and documents, as the case may be, and any failure to obey such order of court may be punished by the court as a contempt thereof.

5. Testimony on hearings before the Commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

#### § 19.

1. The Commissioner, with the approval of the Governor, may appoint such agents, auditors, clerks and employees as he may deem necessary and fix their salaries and compensation and prescribe their duties and powers and said Commissioner shall have the right to remove such agents, auditors, clerks and employees so appointed by him.

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law.

3. The Commissioner may require such of the officers, agents, and employees as it may designate to give bond for the faithful performance of the duties in such sum and with such sureties as it may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this act, the premiums on such bonds.

4. The Commissioner may utilize the office of treasurer of the various counties in order to administer this act and effectuate its purposes, and may appoint the treasurers of the various counties its agents to collect any or all of the taxes imposed by this act, provided, however, that no additional compensation shall be paid to said treasurer by reason thereof.

§ 20. INFORMATION DEEMED CONFIDENTIAL.]

1. It shall be unlawful for the Commissioner, or any person having an administrative duty under this act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; provided, however, that the Commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the Federal Government.

2. Any person violating the provisions of Subsection 1 of this section shall be guilty of a misdemeanor and punishable by a fine not to exceed one thousand dollars (\$1,000.00).

§ 21. CORRECTION OF ERRORS.] If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this act, then such amount shall be credited against any tax due, or to become due, under this act from the person who made the erroneous payment, or such amount shall be refunded to such person by the Commissioner.

§ 22. Wherever by any provision of this act a refund is authorized, the Commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the State Treasurer, who shall thereupon draw his warrant on the Special Tax Fund in the amount specified payable to the named payee.

§ 23. If any section, subsection, clause, sentence, or phrase of this act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence, or phrase hereof, irrespective of whether any one or more of the sections, subsections, clauses, sentences, or phrases be declared unconstitutional.

§ 24. All laws or parts of laws in conflict with this act are hereby repealed.

§ 25. ALLOCATION OF REVENUES.] All monies collected and received under this act shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund." Out of this fund the State Treasurer shall first pay the expenses of administering this act and the payment of refunds allowed under this act. The net amount of monies remaining in said "Retail Sales Tax Fund" shall be allocated and distributed as follows:

(a) The State Board of Equalization is authorized, directed, empowered and required, at any regular or special meeting, from time to time, to transfer into "The State Public Welfare Fund," created and established by House Bill 338, pending in this legislative session, the sum of \$500,000.00 per annum to be expended for the relief of destitute or necessitous persons, in co-ordination with and supplementary to the funds made available for expenditure for like purposes in North Dakota from funds appropriated by Congress and allocated by the Federal Emergency Relief Administrator and/or other Federal agencies. Such monies may be expended either in the form of direct or work relief. The said State Board of Equalization is further authorized, directed and empowered to transfer into The State Public Welfare Fund the further sum of \$100,000.00 per annum, or so much thereof as in the opinion of the said State Board of Equalization may be necessary, to be expended for mothers' aid or pension and/or old age or blind pension or assistance in co-ordination with Federal funds as above set forth.

(b) The State Board of Equalization is hereby further directed, empowered and required, at any regular or special meeting, from time to time, to transfer from said "Retail Sales Tax Fund" to the State Equalization Fund, created by House Bill 255, pending in this legislative session, the sum of \$700,000 for the year 1935 and the sum of \$1,950,000 for the year 1936.

(c) Said State Board of Equalization is further authorized, directed and empowered, at any regular or special meeting, from time to time, to transfer into the General Fund of the State such portions of said "Retail Sales Tax Fund" as, in the opinion of said Board, are not required for carrying out the provisions of Subdivisions (a) and (b) of this Section, to be used by said State Board of Equalization in replacement and reduction of such of the levies for general state purposes as said Board may deem just and proper.

§ 26. There is hereby appropriated out of any monies in the State Treasury not otherwise appropriated, the sum of twenty-five thousand (\$25,000.00) dollars, for the purpose of putting this act into operation and carrying out the provisions thereof until such time as sufficient funds are collected under this act.

§ 27. EMERGENCY.] Whereas the financial situation of this state is such as to demand and require the immediate collection of additional revenue for the purposes stated in this act and otherwise, now, therefore, an emergency is hereby declared and this act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1935.

## CHAPTER 277

H. B. No. 76—(Olson of Adams and Childs)

## SUSPENSION TAX DEEDS

An Act to amend and re-enact Chapter 264 of the Session Laws of 1933, being an act to suspend the operation of Section 2202 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 199 of the Session Laws of 1925, (Section 2202 of the 1925 Supplement to the Compiled Laws of 1913) and as amended by Chapter 266 of the Session Laws of 1927, relating to tax deeds to be issued to the County upon the expiration of the period of redemption, upon due notice; tax deeds to the county and sale of property so acquired until December 31st, 1935, further extending the time of suspension to December 31st, 1937; and suspending the operation of all acts or parts of acts in conflict herewith and declare an emergency.

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

§ 1. AMENDMENT.] That Chapter 264 of the Session Laws of 1933 be amended and re-enacted to read as follows:

§ 1. That the operation of Section 2202 of the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 199 of the Session Laws of 1925 (Section 2202 of the 1925 Supplement to the Compiled Laws of 1913) and as amended by Chapter 266 of the Session Laws of 1927, relating to tax deeds to be issued to the county upon the expiration of the period of redemption, upon due notice; tax deeds to the county and sale of real property so acquired, and the whole of the provisions of said laws as so amended, be, and the same are hereby suspended until the thirty-first day of December, A. D. 1937, and the various duly elected, qualified, and acting county auditors of the State of North Dakota, with their several deputies be, and they are hereby prohibited from proceeding in any manner or taking any action whatsoever under the provisions of said act as amended until December 31, 1937.

§ 2. SAVING CLAUSE.] Providing, however, that this act shall not prohibit appraisals or sales of any of the property heretofore acquired under the provisions of the foregoing acts to which the county has acquired title at or before the time of taking effect hereof. Provided that property acquired at or before the taking effect thereof, the same may be appraised, advertised and sold at the option of the county commissioners.

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

Approved March 13, 1935.

## CHAPTER 278

H. B. No. 156.—(Aljets and Myers)

## TAX LEVY INTEREST, ETC., N. D. REAL ESTATE BONDS

An Act levying a tax of one-half of one mill upon each dollar of assessed valuation of all taxable property within the state for the years 1935 and 1936 for the purpose of paying the interest and creating a sinking fund for the payment of the principal of the North Dakota Real Estate Bonds now outstanding.

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

§ 1. There shall be levied upon each dollar of assessed valuation of all taxable property within the state for the years 1935 and 1936, to be paid during said years, one-half of one mill and all such revenues that may be collected thereby, shall be paid into the State Treasury and kept there in a special fund to be known as the North Dakota Real Estate Bond Fund, which shall be used for the following and no other purposes: To pay the interest on North Dakota Real Estate Bonds outstanding and the balance if any, to make up the deficiency in the sinking fund provided for by law for North Dakota Real Estate Bonds. Provided that whenever there is sufficient money in said fund or otherwise to fully pay said sums as hereinbefore provided then the said levy shall cease and any monies remaining therein shall be turned over to the General Fund.

Approved March 13, 1935.

## CHAPTER 279

S. B. No. 82—(Ettestad)

## ASSIGNMENT TAX SALE CERTIFICATES

An Act to amend and re-enact Section 2203, Supplement to the Compiled Laws of 1913, providing for the assignment of tax sale certificates held by the county, amount to be paid for an assignment thereof, and prescribing the form of such assignment.

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

§ 1. AMENDMENT.] Section 2203, Supplement to the Compiled Laws of the year 1913, is hereby amended and re-enacted to read as follows:

§ 2203. PROPERTY BID IN FOR THE COUNTY; ASSIGNMENT FORM.] At any time after any piece or parcel of land shall have been bid in for the county, and before such piece or parcel of land shall become forfeited to the county, and while such tract or parcel of land shall remain unredeemed, the county auditor may assign and convey the same and all the rights of the county in such piece or parcel of land acquired at such sale, to any person, (except the county auditor,

county treasurer, their deputies, and clerks) who shall pay the amount for which the same shall have been bid in together with interest thereon from the date of the tax sale at the rate of one-half of one per cent per month, and the amount of all subsequent delinquent taxes and penalties together with interest thereon at the rate of one-half of one per cent per month from December first of the respective years in which such taxes become delinquent, and shall execute to him an assignment which may be in substantially the following form:

I,....., auditor of the county of....., State of North Dakota, do hereby certify that at the sale of real estate for the delinquent taxes thereon for the county of..... and state aforesaid, which sale was held at the..... in said county of.....on the.....day of....., A. D. 19..., for the taxes of the year..... the following described piece or parcel of land situated in said county of....., State of North Dakota, to-wit: (insert description) was offered for sale to the best bidder; and no one bidding upon such offer the same was then bid in for the county for the sum of.....and the same still remaining unredeemed and on this day.....having paid into the treasury of said county the amount for which the same was bid in with interest thereon together with subsequent taxes, penalties and interest, amounting in all to.....dollars; therefore, in consideration thereof, and pursuant to law, I do hereby assign and convey all the right, title and interest of said county to said piece or parcel of land acquired therein at said sale to the said.....his heirs and assigns, subject to redemption as provided by law.

And I further certify that unless redemption is made of said real estate in the manner provided by law, the said..... or assigns, will be entitled to a deed therefor on and after the expiration of the time for redemption, as provided by law, and upon the surrender of this certificate.

In witness whereof I have hereunto set my hand and seal this .....day of....., 19....

County Auditor of.....  
County, North Dakota.

Approved February 19, 1935.

## CHAPTER 280

S. B. No. 262—(Matthaei)

## EXTENSION TIME FOR REDEMPTION FROM TAX SALES

An Act temporarily extending the time in which redemption may be made from tax sales and extending the time in which holders of tax sales certificates may present the same for obtaining tax deeds, and extending the time in which tax deeds may be obtained, and declaring an emergency and repealing all acts or parts of acts in conflict herewith.

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

WHEREAS, the severe financial and economic depression existing for several years past has resulted in extremely low prices for the products of the farm and the factories, a great amount of unemployment, and almost complete lack of credit for farmers, business men and property owners, and a general and extreme stagnation of business, agriculture and industry, and

WHEREAS, many owners of real property by reason of said conditions are unable, and it is believed will for some time be unable, to meet all payments as they come due for taxes on their properties and are therefore threatened with loss of such properties through tax deeds, and

WHEREAS, many such properties have been and are being bid in at tax sales for prices much below what is believed to be their real value, and

WHEREAS, tax deeds are being issued or will be issued for many of such properties, for amounts much below the actual value of said properties, and

WHEREAS, it is believed, and the Legislature of North Dakota hereby declares its belief, that the conditions existing as hereinbefore set forth has created an emergency of such nature that justifies and validates legislation for the extension of the time of redemption from tax sales, and

WHEREAS, the State of North Dakota possesses the right, under its police powers, to declare a state of emergency exists, and

WHEREAS, the inherent and fundamental purpose of our government is to safeguard the public and to promote the general welfare of the people, and

WHEREAS, under existing conditions the numerous sales for taxes would prevent fair, open and competitive bidding at the time of sale, in the manner now contemplated by law, and

WHEREAS, it is believed, and the Legislature of North Dakota hereby declares its belief, and the conditions existing as hereinbefore set forth have created an emergency of such a nature that justifies and validates changes in legislation, providing for the tem-

porary manner, method, terms and conditions upon which tax deeds may be issued.

§ 1. EMERGENCY DECLARED TO EXIST.] In view of the situation hereinbefore set forth, the Legislature of the State of North Dakota hereby declares that a public economic emergency does exist in the State of North Dakota and that in order to prevent the utter ruin and destruction of the people of this state and the collapse of civil government and in order to maintain the integrity of the family, the home and the public health, welfare and morals of the people of this state, the period in which the holder of a tax certificate of sale can ask for and obtain a tax deed, either by county, state or private person or corporation, holder of tax sale certificate, and the time in which the owner of the property may redeem from such tax sales be and the same is hereby extended to the first day of July, A. D. 1937; and the provisions of this act shall be in full force and effect coincident with the expiration of the provisions of Chapter 258 of the Session of 1933. Provided, however, that this act shall not be operative, except in favor and on behalf of any owner of such land, who shall have, within 90 days, after the service of the notice of expiration of redemption, filed with the county auditor in the county in which the land is situated, a notice that he desires to take advantage of this act, and the county auditor, in addition to the notice of expiration of period of redemption usually required by law, and as part thereof shall notify such owner of his rights under this act.

§ 2. EXTENSION OF TIME IN WHICH TO APPLY FOR TAX DEEDS.] The time in which the holder of a tax certificate of sale may present the same to the county auditor, with request for tax deed is hereby extended to a period of 10 years from and after the date of such certificate, and such holder of such tax certificate of sale shall be entitled to collect interest thereon at the same rate of interest as provided in the tax sale certificate during the time of this extension.

§ 3. DECLARATION OF POWER.] The Legislature does hereby declare that this act is passed under the police power of the state, for the reasons and purposes as herein stated and requests that the courts construe all of its provisions liberally, with a view of carrying out the purposes herein stated.

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

Approved March 12, 1935.

## CHAPTER 281

S. B. No. 66—(Committee on Taxes and Tax Laws)

## TAX SURVEY COMMISSION

An Act to provide for the creation of a North Dakota Tax Survey Commission, defining its powers and duties, and making an appropriation therefore, and declaring an emergency.

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

§ 1. CREATING COMMISSION, TERM, APPOINTMENT, VACANCIES.] There is hereby established a North Dakota Tax Survey Commission to consist of seven (7) members to be appointed by the Governor, all of whom shall be electors of the State of North Dakota. One of said members shall be a member of the Senate, one member of the House, and the remaining five (5) members shall be appointed so as to give representation to agriculture, labor, industry, education and profession. The term of office of the members of such commission shall expire on December 31, 1936. Any vacancy occurring on the commission from any cause shall be filled by the Governor.

§ 2. ORGANIZATION, EMPLOYEES, ET CETERA.] Within sixty days after the taking effect of this act, the commission shall meet at the State Capitol upon the call of the Governor, and shall organize by electing one of its members as chairman and adopting rules to govern its procedure. The State Tax Commissioner shall act as secretary for the commission, without compensation, but shall be paid his actual and necessary traveling and other expenses while actually engaged in work assigned to him by the commission. The commission may employ and pay such other employees and tax experts as it may deem necessary for the proper performance of its duties.

§ 3. COMPENSATION, EXPENSES.] Each member of said commission shall be entitled to his actual and necessary traveling and other expenses, and in addition, compensation of six dollars (\$6.00) per day while actually engaged in the work assigned to him by the commission, including attendance at commission meetings.

§ 4. POWERS, DUTIES, BUDGET AND APPROPRIATION.] It shall be the duty of the commission to make a comprehensive survey of the tax structure and situation in the State of North Dakota, including that of municipalities and other political subdivisions, and to formulate plans and prepare legislative measures for a complete revision of the taxation system of the State of North Dakota with the end in view of securing a more equitable distribution of the tax burden and a simpler and more efficient administration of the tax laws.

The Commission is hereby authorized and empowered to appoint from its membership, or otherwise, subcommittees for the purpose of making a special survey of any particular subject and of gathering data and information regarding the taxing laws and systems of other states and foreign countries, and may assign such part of its research studies and investigations, as it may decide, to departments, commissions or bureaus of the state government, or to any state institution, special committees or qualified individual whether residing within or without the state; provided, however, that all findings, conclusions and recommendations must be approved by said commission before they may become a part of the commission's final report.

§ 5. The commission, as soon as practicable, and not later than the first day of November, 1936, shall prepare and file with the Governor a complete report of its study, findings, conclusions and proposed legislation covering the subject of taxation and tax revision for the State of North Dakota, and shall cause to be printed one thousand (1,000) copies thereof, and the Governor shall send to each member of the Legislature, including members-elect, a copy thereof.

To facilitate the work of the commission, it shall have free access to all public records, files and official reports relating to the matter under investigation and it may hold public hearings at such places within the state as it may deem necessary for the proper performance of its duties and it may require any public official or employee of any state department, municipality, or political subdivision to appear before it and furnish to the commission any information, data, or other matter within his possession or knowledge pertaining to the subject matter under investigation by the commission.

§ 6. APPROPRIATION.] There is hereby appropriated from the General Fund of the State Treasury not otherwise appropriated the sum of fifteen thousand dollars (\$15,000.) or so much thereof as may be necessary for the purpose of carrying out the provisions of this act. Expenditures from such fund shall be made upon vouchers signed by the chairman and countersigned by the secretary after authorization by the commission, and shall be approved by the State Board of Audit.

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

Approved February 16, 1935.

## CHAPTER 282

H. B. No. 250—(State Affairs Committee)

## LEGALIZING POOR RELIEF WARRANTS

An Act validating certain county warrants for poor relief issued under and by virtue of Section 4, Chapter 98 of Session Laws of North Dakota for 1933, repealing all acts in conflict therewith, and declaring an emergency.

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

§ 1. Where the board of county commissioners of any county shall have heretofore incurred any obligation or obligations on the part of the county in providing poor relief under and by virtue of Section 4, Chapter 98 of Session Laws of North Dakota for 1933, by reason of an emergency created by unusual and unanticipated demands for the relief of the poor, and county warrants have been issued in payment of such obligations, such warrants are hereby declared legal and valid for all purposes.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

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

Approved March 5, 1935.

## CHAPTER 283

H. B. No. 161—(McIlraith)

## WARRANTS FOR CURRENT EXPENSES TAXING DISTRICT

An Act to amend and re-enact Section 2079b13, Supplement to the 1913 Compiled Laws, as amended by Chapter 247 of the Session Laws of 1933, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2079b13, Supplement to the 1913 Compiled Laws, as amended by Chapter 247 of the Session Laws of 1933, is hereby amended and re-enacted to read as follows:

§ 2079b13. WARRANTS FOR CURRENT EXPENSES.] In case any taxing district is unable to sell its certificates of indebtedness, it may issue warrants in payment of current expense, in excess of cash on hand, but not in excess of taxes levied but uncollected, and not otherwise encumbered, and the funds derived from the collection thereof shall constitute a special fund and the exclusive source of revenue for the payment of such warrants. If warrants be issued in excess of taxes levied, such warrants shall possess no validity

as against the taxing district but the officials knowingly and willfully issuing the same shall be personally liable for the payment thereof. Provided, however, that the governing board of any political sub-division may, in the event that there has not been sufficient funds in the treasury of such subdivision, to pay the salaries and wages of the officials and employees, including publication fees for official printing by the county official newspaper of such sub-divisions in full for a period of six months, by resolution authorize the issuance of warrants to such officials, employees and the county official newspaper for salary, wages and official publication fees, whereby one-half of such salaries, wages and official publication fees shall be paid in cash by the treasurer of such political sub-division to such officials, employees and the county official newspaper, and a warrant issued for the balance thereof, which shall be registered and paid as other warrants are registered and paid; provided further, that this act shall be construed to relieve the treasurer of such political sub-divisions of liability to other warrant holders because of the payment of salaries, wages and official publication fees as provided in this act.

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

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

Approved March 5, 1935.

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## WEEDS

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### CHAPTER 284

H. B. No. 139—(Biberdorf)

#### CUTTING NOXIOUS WEEDS

An Act to amend and re-enact Section 2003a1 and 2003a2 of the 1925 Supplement to the 1913 Compiled Laws relating to the cutting of noxious weeds on highways.

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

§ 1. AMENDMENT.] That Sections 2003a1 and 2003a2 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 2003a1. DUTY TO DESTROY.] It shall be the duty of the road overseer in all organized or unorganized townships, and the street

commissioner in all villages or cities within the State of North Dakota, to cut or destroy, or cause to be cut or destroyed, all weeds and grasses of every name, or nature and description, growing along or upon all graded public highways, streets and alleys in their respective road districts, villages or cities, at least twice in each year, to-wit: Once between July 1st and July 15th and once between September 15th and October 1st of each year. Such weeds shall be cut the entire width of the road, highway or street. Said work shall be paid for out of the road fund the same as any other road work.

§ 2003a2. FILING BILLS FOR CUTTING.] All overseers of public highways shall file their bills for cutting of weeds with the board of township supervisors in organized townships and with the board of county commissioners in unorganized townships, but such bills shall not be allowed until the cutting of weeds in the township is completed, and at the time said bill is filed it shall be accompanied by the affidavit of the overseer that said weed cutting has been completed. Such bill may be allowed for cutting between July 1st and July 15th provided affidavit is made that all cutting to be done during that period has been completed, and again after October 1st upon the filing of affidavit that all cutting required to be done between September 15th and October 1st has been completed.

Approved March 4, 1935.

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## CHAPTER 285

H. B. No. 158—(Holte)

### DEFINING AND MANNER OF DESTROYING NOXIOUS WEEDS

An Act to amend Section 2817 of the Compiled Laws of North Dakota for the year 1913 relating to noxious weeds, the definition of noxious weeds and the manner of destroying the same.

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

§ 1. That Section 2817 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 2817. NOXIOUS WEEDS. MANNER OF DESTROYING.] Each person shall destroy, upon all lands which he shall own or occupy, all weeds of the kind known as Canada thistle, sow thistle, leafy spurge (*Euphorbia esula* or *Euphorbia virgata*), field bindweed, Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*, *Lepidium repens* and *Hymenophyllum pubescens*) and dodder, at such time and in such manner as shall effectually prevent their bearing seed, and prevent their spread. And it shall be a misdemeanor for such person or persons to deposit or cause to be deposited in the

highway or in or along the banks of any natural water course any of the noxious weeds above described. And such misdemeanor shall be punishable by a fine of not to exceed fifty dollars nor less than ten dollars. The time and manner of destroying such weeds shall be prescribed by the board of county commissioners, and the same shall be published at least two weeks in some newspaper in the county, not less than two weeks before the time so prescribed; and if there is no newspaper published in the county, then written notice of the same shall be posted, the same as election notices are posted, in lieu of such publications.

Approved March 4, 1935.

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## WORKMEN'S COMPENSATION

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### CHAPTER 286

H. B. No. 263—(Marks)

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#### DISBURSEMENT WORKMEN'S COMPENSATION FUND

An Act amending and re-enacting Section 2 of Chapter 162 of the Session Laws of North Dakota for the year 1919 and acts amendatory thereof; Section 3C, Section 3G and Section 3G(1) of Chapter 260 of the Session Laws of North Dakota for the year 1929; Sub-section B, Sub-section D and Sub-section 1 of Section 4 of Chapter 162 of the Session Laws of North Dakota for the year 1919 as amended by Chapter 314 of the Session Laws of North Dakota for the year 1931; Section 10-I of Chapter 162 of the Session Laws of North Dakota for the year 1919 and acts amendatory thereof; Section 13 of Chapter 162 of the Session Laws of North Dakota for the year 1919 and Section 17 of Chapter 162 of the Session Laws of North Dakota for the year 1919, all constituting parts of the Workmen's Compensation Act of the State of North Dakota and further making it illegal to employ workers not protected by Workmen's Compensation Insurance and giving the Workmen's Compensation Bureau power to enjoin such unlawful employments.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 162 of the Session Laws of North Dakota for the year 1919 and acts amendatory thereof, is hereby amended and re-enacted to read as follows:

§ 2. Whenever used in this act, "Employment" includes employment by the state and all political subdivisions thereof, and all public and quasi-public corporations therein, and all private employments.

"Hazardous employment" means any employment in which one or more employees are regularly employed in the same business or in or about the same establishment, except agriculture and domes-

tic service, and except also any employment of a common carrier by steam railroad.

"Employee" means every person engaged in a hazardous employment under any appointment, or contract of hire, or apprenticeship express or implied, oral or written, including aliens, and including poor relief workers, except workers engaged in repaying to counties relief monies which the counties have been compelled by statute to expend for poor relief and also including minors, whether such minors are lawfully or unlawfully employed, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and excluding those engaged in illegal enterprises or occupations, and also excluding any executive officer of the business concern who receives a salary of more than twenty-four hundred dollars (\$2400.00) per year.

"Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, and every person, partnership, association, and private corporation, including any public service corporations, and the legal representative of any deceased employer, or the receiver or trustee of a person, partnership, association or corporation, carrying on a hazardous employment.

"Injury" means only an injury arising in the course of employment, including an injury caused by the wilful act of a third person directed against an employee because of his employment, but shall not include injuries caused by the employee's wilful intention to injure himself or to injure another, or by his voluntary intoxication. The term "injury" includes in addition to any injury by accident, any disease approximately caused by the employment. If the employer claims an exemption or forfeiture under this section, the burden of proof shall be upon him.

"Partial Disability" includes disfigurement resulting from an injury such as to diminish ability to obtain employment.

"Wages" shall include the market value of board, lodging, fuel and other advantages which can be estimated in money which the employee receives from the employer as a part of his remuneration.

"Weekly Wages" shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding his injury; provided that where, by reason of the shortness of the time during which the workman has been in the employment or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly earnings which, during the twelve months previous to the injury, were being earned by a person in the same grade of employment at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district. If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the

year and with a larger regular wage, only such larger wages shall be taken in consideration in computing his average weekly wages.

"Child" includes step-children, adopted children, posthumous children, and acknowledged illegitimate children but does not include married children unless dependent. "Brother" and "Sister" include step-brothers and step-sisters, half-brothers and half-sisters, and brothers and sisters by adoption but do not include married brothers nor married sisters unless dependent. All of the above terms and the term "grandchild" include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. "Parent" includes step-parents and parents by adoption. "Widow" includes only decedent's wife living with or dependent for support upon him at the time of his injury. "Widower" includes only the decedent's husband dependent for support upon her at the time of her injury. "Adopted" and "adoption" includes only legal adoption prior to the time of the injury.

Any term shall include the singular and plural and both sexes where the context so requires.

§ 2. AMENDMENT.] That Section 3C, Section 3G and Section 3G(1) of Chapter 260 of the Session Laws of North Dakota for the year 1929 are hereby amended and re-enacted to read as follows:

C. If the injury cause temporary or permanent total disability, the North Dakota Workmen's Compensation Fund shall pay to the disabled employee during such disability, a weekly compensation equal to sixty-six and two-thirds per cent of his weekly wage. Provided, however, that if the disability be permanent total disability, the total amount payable shall not exceed (\$15,000) fifteen thousand dollars for all claims based upon injuries or disability received upon and after March 7th, 1929.

G. If death results from an injury within six years, the North Dakota Workmen's Compensation Fund shall pay to the following persons, for the periods specified, a weekly compensation equal to the following percentages of the deceased employee's weekly wages; provided, however, that no compensation shall be paid where death takes place more than one year after the cessation of disability resulting from the injury, or, if there has been no disability preceding death, if death takes place more than one year after the injury, and provided, further, that the total amount payable shall not exceed the sum of \$15,000.00 in addition to the amounts paid for compensation and medical and hospital expense during temporary disability, for all claims based upon injuries or disability received upon or after March 7th, 1929.

G(1). In case of death or of permanent, total, or of permanent partial disability, and if the Bureau determines that it is for the best interest of the beneficiary, the liability for compensation to such beneficiary may be discharged by the payment of a lump sum equal

to the present value of all future payments of compensation computed at four per cent discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality; but in case of compensation to the widow or widower of the deceased employee, such lump sum shall not exceed 416 weeks' compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded. The bureau may also grant a partial lump sum settlement based upon the same computations as the complete lump sum which partial settlement shall be a complete discharge of whatever portion or percentage of the annuities is covered thereby.

§ 3. AMENDMENT.] That Sub-section B, Sub-section D and Sub-section I of Section 4 of Chapter 162 of the Session Laws of North Dakota for the year 1919 as amended by Chapter 314 of the Session Laws of North Dakota for the year 1931, are hereby amended and re-enacted to read as follows:

§ 4 B. The terms of the Commissioners shall be six years, and, in order to provide for the expiration of one of said terms every two years, the terms of the Commissioners now in office are to expire as follows: Representative of the Public to expire January tenth, 1939; Representative of the Employers to expire January tenth, 1941; Representative of Labor to expire January tenth, 1937. Each Commissioner shall receive a salary of two thousand two hundred and forty dollars (\$2,240.00) per year. Before commencing upon the execution of his duties each Commissioner shall file an oath of office in the usual form and shall be bonded by the State Bonding Department for the sum of five thousand dollars (\$5,000.00) for the faithful discharge of his duties as such and the proper accounting for all moneys received by him as such officer.

D. The Bureau may make necessary expenditures to obtain statistical and other information required for the proper enforcement of this act. The salaries and compensation of the members of the Bureau, of the Secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers and other assistants, and all other expenses of the Bureau herein authorized, and the premium to be paid by the State Treasurer for the bond to be furnished by him, shall be paid out of the Workmen's Compensation Fund. The Bureau may also employ an Assistant Attorney General, as its full time attorney, whenever the Bureau is able to pay the entire salary drawn by such Assistant.

I. The Bureau is hereby vested with full power and jurisdiction over, and shall have the supervision of, every employment and place of employment subject to this act, and shall, whenever necessary adequately to enforce and administer this act, issue and enforce all necessary and proper rules and safety regulations, and may

designate some suitable person to inspect the premises of any employer to determine if such regulations or rules are being followed or complied with.

§ 4. AMENDMENT.] Section 10-i of Chapter 162 of the Session Laws of North Dakota for the year 1919 and acts amendatory thereof, is hereby amended and re-enacted to read as follows:

10-i. The Workmen's Compensation Bureau shall disburse the Workmen's Compensation Fund to such employees of the employers as have paid into the said fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wherever such injuries have occurred, or to their dependents in case death has ensued, and such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of such injured or deceased employee, but no compensation shall be paid on account of injuries occurring outside of the State of North Dakota, nor because of death due to an injury occurring outside of the State of North Dakota, unless such employee is an appointive peace officer of any county in this state, receiving injury or meeting with death outside of the State of North Dakota in the course of his employment, or unless the employer and the Bureau shall have previously contracted for insurance protection for employees while working outside of the State in the employment in which the injury occurred. Providing that no such contract, with the exception as herein stated, shall be issued to any employer unless his principal plant and main or general office is located in North Dakota, and at least two-thirds of whose entire payroll is used or expended for work performed in the State of North Dakota, and appeals relative to the injuries received under such insurance outside of the State of North Dakota shall be triable in the District Court of Burleigh County, North Dakota.

§ 5. AMENDMENT.] That Section 13 of Chapter 162 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

§ 13. The State Treasurer shall be the custodian of the Workmen's Compensation Fund and all disbursements therefrom shall be paid by him upon vouchers authorized by the Workmen's Compensation Bureau. Provided, however, that all warrants drawn upon the Workmen's Compensation Fund and paid by the State Treasurer beginning with warrants dated July 1st, 1935, shall be returned to the Workmen's Compensation Bureau and shall be kept in the files thereof.

The State Treasurer is hereby authorized to deposit any portion of the Workmen's Compensation Fund not needed for immediate use in the same manner and subject to all the provisions of the law with respect to the deposit of state funds by such Treasurer;

and any interest earned by such portion of the Workmen's Compensation Fund as may be deposited by the State Treasurer in pursuance of authority herein given, shall be collected by him and placed to the credit of such Fund.

The State Treasurer shall give a separate and additional bond in such amount as may be fixed by the Governor, and with sureties to his approval, conditioned for the faithful performance of his duties as custodian of the Workmen's Compensation Fund.

§ 6. AMENDMENT.] Section 17 of Chapter 162 of the Session Laws of North Dakota for the year 1919 is hereby amended and re-enacted to read as follows:

§ 17. The Bureau shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final. Provided, however, in case the final action of such Bureau denies the right of the claimant to participate at all in the Workmen's Compensation Fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant, within thirty (30) days after the notice of the final action of such Bureau may, by filing his appeal in the District Court for the county wherein the injury was inflicted and serving a copy thereof upon the Workmen's Compensation Bureau by registered mail, be entitled to a trial in the ordinary way. In such a proceeding, the state's attorney of the county without additional compensation, shall represent the Workmen's Compensation Bureau, and shall be notified by the clerk forthwith of the filing of such appeal.

Within thirty (30) days after the filing of his appeal, the appellant shall file a petition in the ordinary form against such Bureau as defendant, and serve a copy thereof by registered mail upon the Workmen's Compensation Bureau, and further pleadings shall be had in said cause, according to the rules of civil procedure, and the Court shall determine the right of the claimant; and if it determines the right in his favor, shall fix his compensation within the limits prescribed in this act, and any final judgment so obtained shall be paid by the Workmen's Compensation Bureau out of the Workmen's Compensation Fund in the same manner as awards are paid by such Bureau.

The cost of such proceedings, including a reasonable attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against the Bureau, which fee shall cover and constitute the entire remuneration for the claimant's attorney for all services in connection with such appeal, it being the intention to relieve the claimant of all expense for attorney fees.

Either party shall have the right to prosecute error as in the ordinary civil cases, and appeals to the Supreme Court in such cases shall be triable de novo.

§ 7. EMPLOYMENT OF THOSE UNPROTECTED BY INSURANCE UNLAWFUL: ENJOINING THEREOF.] It is hereby declared unlawful for any person, firm or corporation whomsoever to employ anyone, or receive the fruits of the labor of any person, in a hazardous employment as herein defined, when such employee is not protected by Workmen's Compensation Insurance in full force and effect.

The Workmen's Compensation Bureau may enjoin by proper application to the courts of this State the unlawful employment of uninsured workers.

Approved March 13, 1935.

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## CHAPTER 287

S. B. No. 287—(Bonzer)

### COMPENSATION INSURANCE EMPLOYEES NAT'L RECOVERY WORK PROJECTS, RATES, ETC.

An Act authorizing the Workmen's Compensation Bureau to carry compensation insurance on employees on National Recovery Work Projects and to calculate and determine rates on a state wide experience basis.

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

§ 1. The Workmen's Compensation Bureau is hereby authorized and directed to carry compensation insurance on all employees now engaged or who may hereafter be engaged in the State of North Dakota National Recovery Work Projects where premiums for such insurance is paid from funds furnished by the Federal Government, and to calculate and determine the rates for such compensation insurance on a statewide experience basis.

Approved March 12, 1935.

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## CHAPTER 288

S. B. No. 286—(Bonzer)

### VALIDATION WORKMEN'S COMPENSATION INSURANCE PAYMENTS BY STATE OR MUNICIPALITIES

An Act validating payments heretofore made by state or municipalities for payments of Workmen's Compensation Insurance; authorizing municipalities to pay such premiums with any moneys except special levies and to draw special warrants for premiums where funds are unavailable and repealing all acts in conflict herewith, and declaring an emergency.

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

§ 1. VALIDATION.] All payments made by the State or any of the municipalities of the State of North Dakota of premiums for

Workmen's Compensation Insurance upon employees of such State or municipalities from whatsoever funds of such state or municipality except sinking and interest funds, are hereby declared valid for all purposes and the officials making such payments are hereby absolved from all responsibility, civil or criminal, because of such payments.

§ 2. POWER TO UTILIZE FUNDS FOR PAYMENT OF PREMIUMS DUE TO WORKMEN'S COMPENSATION BUREAU.] The State of North Dakota or any municipality thereof, may, when necessary, use any funds of such state or municipality, except those raised by special levies, for the payment of premiums due the Workmen's Compensation Fund of the State of North Dakota for insurance upon employees of the said state or municipalities respectively, and may, if there are no funds upon hand from which such payments may be made, issue special warrants against their respective general funds for the payment of such premiums, which warrants shall be paid in their order the same as any other warrants of such district.

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

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

Approved March 7, 1935.

## RESOLUTIONS

Senate Resolution J—(Greene of Stutsman)

### A.A.A. CATTLE PROGRAM ADJUSTMENT BENEFITS

WHEREAS, by Act of Congress cattle have been added to the list of basic commodities and thus subjected to adjustment price benefits; and

WHEREAS, the United States Government has acquired title to approximately a million head of North Dakota cattle under the drought cattle buying program; and

WHEREAS, the producers of said cattle received about 25% of the cost of producing same; and

WHEREAS, such producers are entitled to cost of production, or a parity price under the Agricultural Adjustment Act; and

WHEREAS, cattle producers of North Dakota, under the Agricultural Adjustment Act, are entitled to adjustment benefit payments in the amount of about \$40,000,000.00 if they are to receive parity prices for the cattle disposed of; and

WHEREAS, about 90% of said cattle were mortgaged for more than was paid for them; and

WHEREAS, cattle producers are unable to meet the obligations secured by the cattle so disposed of and unless the producers receive just compensation for their cattle, it is going to work a hardship on banks, credit companies and other mortgage holders in this and other states largely supported with Government money; and

WHEREAS, we are informed that the Agricultural Adjustment administration has not started to work out a program which will regulate cattle production:

THEREFORE, BE IT RESOLVED: That we urge upon the Agricultural Adjustment Administration to work out a cattle program as soon as possible and provide for adjustment benefits to the end that parity prices may be obtained for cattle, and the producers of cattle enabled to re-establish their almost depleted estates:

BE IT FURTHER RESOLVED: that a copy of this resolution be sent to the Secretary of Agriculture at Washington, D. C., and to our Senators and Congressmen in Washington urging them to do all in their power to help get an equitable cattle program started.

Filed March 8, 1935.

**Senate Concurrent Resolution R—(Miklethun)****CURRENCY FACILITIES FOR BANK OF NORTH DAKOTA**

WHEREAS, the Bank of North Dakota is organized and established by the State of North Dakota and is part of the State of North Dakota functioning in its sovereign capacity, and

WHEREAS, the Bank of North Dakota is backed and guaranteed by all resources of the State in its sovereign capacity and is one of the soundest financial institutions in the United States, and

WHEREAS, the State of North Dakota in due course of its business issues bonds and securities for the proper financing of its business and its institutions, which said bonds and securities are all within the limitations prescribed by the laws of the State of North Dakota and are guaranteed and backed by the integrity and all the resources of the state, and

WHEREAS, the State of North Dakota makes use of the Bank of North Dakota to handle and purchase these bonds and securities, and

WHEREAS, the Bank of North Dakota has on hand and does handle a large amount of these state bonds and securities as part of its resources and reserve, and

WHEREAS, it would be of great advantage and benefit to the State of North Dakota in the proper financing of its business enterprises and its institutions, that the Bank of North Dakota should be authorized, empowered and permitted to pledge with the United States Treasury such of the bonds and securities of the State of North Dakota handled by the Bank of North Dakota, and be it further authorized and permitted to issue currency in place thereof. In this matter the Bank of North Dakota would not be required to borrow money for short time financing and pay interest thereon, and

WHEREAS, an Act of Congress is necessary to qualify the Bank of North Dakota to take advantage of this medium of financing, now, therefore,

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN, that we petition the United States Congress now assembled, to enact the proper and necessary law qualifying the Bank of North Dakota to participate in the facilities of the United States Treasury for the issuing of currency in the name of the Bank of North Dakota, secured by a deposit of the bonds of the State of North Dakota and acceptable state securities, and,

BE IT FURTHER RESOLVED, that we petition the United States Treasury and Comptroller of the Currency to make such rules and regulations as will give to the Bank of North Dakota, as a sovereign institution of the State of North Dakota the facilities for issuing of currency.

BE IT FURTHER RESOLVED, that the Secretary of the State of

North Dakota be and is hereby instructed to forward an authenticated copy of this resolution to the President of the United States, the Honorable Franklin D. Roosevelt, to the President of the United States Senate, to the Speaker of the House of Representatives at Washington, D. C., to the Secretary and to the Comptroller of the United States Treasury, and to the two United States Senators and two Representatives from North Dakota in Congress.

Filed February 28, 1935.

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House Resolution F—(Morgan and Williams)

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**ESTABLISHMENT BANK OF THE UNITED STATES**

*Be It Resolved by the House of Representatives of the State of North Dakota:*

THAT WHEREAS, the Hon. William Lemke has introduced in the Congress of the United States an act for the establishment of the Bank of the United States, with broad powers in connection with issuance of currency and controlling the credit of the nation; and,

WHEREAS, the present banking system is largely responsible for the deplorable financial condition this great country of ours finds itself in today; and,

WHEREAS, the people of the State of North Dakota have had experience with and are definitely committed to a State owned bank; and,

WHEREAS, we believe that a nationally owned bank can do for the nation what the Bank of North Dakota has done for this state,

THEREFORE, BE IT RESOLVED, that we commend Congressman Lemke for his acts in this matter and urge all representatives of the common people to place the full weight of their influence behind said measure to the end that it may become an actuality as soon as possible.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Secretary of the Senate and Clerk of the House of Representatives of the Congress of the United States, and to Hon. William Lemke, Hon. Usher L. Burdick, Hon. Lynn J. Frazier and Hon. Gerald P. Nye.

Filed February 9, 1935.

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Concurrent Resolution D—(Erickson)

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## DISCONTINUATION TAX EXEMPT BONDS

Memorializing the Congress of the United States to act favorably, and with as much speed as possible, upon House Joint Resolution Number 66, providing for a Constitutional Amendment doing away with the issuance of tax exempt bonds.

WHEREAS, there is now pending in the Congress of the United States of America House Joint Resolution Number 66, which provides for a Constitutional Amendment doing away with the tax exempt feature of further issues of Federal, state, and Municipal bonds, and

WHEREAS, it is represented that the outstanding issues of tax exempt securities in the United States aggregate the sum of \$50,000,000,000, and it is impossible for this government to continue unless the loss of such revenue be eliminated.

NOW, THEREFORE, BE IT RESOLVED by the 24th Legislative Assembly of the State of North Dakota, assembled in its regular biennial session, that the citizens of North Dakota, through its legislative members call upon and urge all members of the Congress of the United States, and particularly the members representing the State of North Dakota, to use every honest and honorable means within their power to pass said resolution as speedily as possible, in order to prevent the issuance of tax exempt securities in the future.

BE IT FURTHER RESOLVED, that we urge upon the members of said Congress to take the necessary steps to retire, as speedily as possible, all outstanding tax exempt bonds and replace them with United States bonds which shall be subject to the use and customary taxation.

Filed February 8, 1935.

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Joint Resolution—(Representative Scholl)

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## TWENTY-FIFTH ANNIVERSARY BOY SCOUTS OF AMERICA

Today we commemorate the two hundred third anniversary of the birth of George Washington. This same month we commemorated the twenty-fifth anniversary of the founding of the Boy Scouts of America.

I move, Mr. President, that this joint assembly extend hearty congratulations to the Boy Scouts of America for the quarter century of achievement in development of the citizens of tomorrow; that North Dakota welcomes these prospective citizens who are now members of the various Scout Troops of our commonwealth. I further move that the presiding officers of the Senate and House of Representatives be requested to convey these, our sentiments, to

James E. West, National Scout Executive, Boy Scouts of America, in a document to be signed by the Governor, by the presiding officers of the Senate and House of Representatives and attested to by the Secretary of State.

Filed March 8, 1935.

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Senate Concurrent Resolution Q—(Stucke and Mutchler)

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**CONSTRUCTION LITTLE MISSOURI RIVER BRIDGE**

WHEREAS, there is no bridge across the Little Missouri River within the limits of the Fort Berthold Reservation so that the Indians living north and west of this river find it difficult at times to cross the Little Missouri to get to the Elbowoods bridge; and

WHEREAS, there is a need that such a bridge be constructed for the convenience and welfare of those Indians living north and west of the Little Missouri,

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the State of North Dakota, the House of Representatives concurring, that we respectfully request the construction of this bridge, and that it be considered a Federal project, and the same be constructed from Federal relief funds recently granted by Congress and that the work of the construction of said bridge, as far as possible, be contributed by the Indians on relief; this bridge to be built on the trail now passing south of Independence and crossing Section 27, Township 148, Range 91, Dunn County, approximately four miles northwest of the Fort Berthold bridge, also known as the Four Bears bridge, across the Missouri river, or at the most feasible location in that vicinity.

Filed February 23, 1935.

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House Concurrent Resolution A-12—(Holey and Erickson)

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**CONSTRUCTION YELLOWSTONE RIVER BRIDGE**

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring, that:*

WHEREAS, it is the sense of the members of the Legislative Assembly of the State of North Dakota, that the government of the United States should perform its solemn promise and place American agriculture on a basis of equality with other industries by providing an adequate system of roads for the transportation of agricultural products, and that adequate legislation to that end should be adopted at the earliest possible date; and

WHEREAS, hundreds of farmers living in western North Dakota are not now provided with an adequate system of roads and bridges

by means of which they can exchange products and have other products to market without paying toll bridge charges; and

WHEREAS, it is the function of the Federal Government to build bridges across navigable streams and to provide an adequate system of federal highways; and

WHEREAS, a highway bridge across the Yellowstone River near Cartwright, McKenzie County, North Dakota, will add greatly to the prosperity of agriculture in western North Dakota and provide a means of interchange of agricultural products and make available to the farmers in the dry land areas of western North Dakota the abundant feed and vegetable supplies of the irrigated districts of the Yellowstone Valley; and

WHEREAS, the construction of this bridge would aid greatly in the completion of the federal highway system in western North Dakota,

NOW THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING, that we respectfully request the construction of this bridge and that it be considered a federal project and the same be constructed from Federal relief funds recently granted by Congress and that the work of the construction of said bridge, as far as possible, be contributed by relief labor; this bridge to be built on Federal highway No. 23 near Cartwright in McKenzie County, North Dakota, and

BE IT FURTHER RESOLVED that duly engrossed copies of this resolution be forwarded to the Honorable Franklin D. Roosevelt, President of the United States, to the Bureau of Public Roads in Washington, D. C., to the Federal Relief Administrator in Washington, and to the North Dakota Highway Commissioner and to the United States Senators and Members of the House of Representatives from North Dakota.

Filed March 5, 1935.

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Senate Concurrent Resolution P—(Peterson)

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MEMORIALIZING CONGRESS TO SUPPORT HOUSE JOINT RESOLUTIONS No. 15, 83, AND 86 INTRODUCED IN THE CONGRESS OF THE UNITED STATES BY REPRESENTATIVE BURDICK

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

WHEREAS, Congressman Usher L. Burdick has introduced in the House of Representatives of the United States Congress the following Resolutions, to-wit:

House Joint Resolution Number 15, which has for its object

the cancellation of all feed and seed loans heretofore made by the United States Government through the Farm Credit Administration to farmers living in the drought district;

House Joint Resolution Number 83, which has for its object the establishment of a national moratorium with respect to debts financed directly or indirectly by government credit guarantee or authority, in order to prevent foreclosure or execute sales of homes and business establishments in the United States for a period of two years; and,

House Joint Resolution Number 86, which has for its object the appointment of a joint committee of seven (7), three (3) to be selected from the Senate and four (4) from the members of the House, with full power to inquire into Federal Emergency Relief distribution, including feed for livestock, and authorizing inquiry into the feasibility of allocating funds for Federal Emergency Relief to the various states; and

WHEREAS, we are in hearty accord with all of said several resolutions and the objects to be accomplished thereby;

THEREFORE, BE IT RESOLVED, that we do urge the Congress of the United States to take such steps as shall be necessary to carry out the purposes of said several resolutions.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Secretary of Senate, Speaker of the House of Representatives of the United States Congress and to the Honorable Usher L. Burdick.

Filed March 15, 1935.

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Senate Concurrent Resolution K—(Erickson, Peterson and Ettestad)

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#### CAPITOL BUILDING CHAIRS

Authorizing the Board of Capitol Commissioners to use part of the Capitol Building Funds to purchase chairs to be used in and about the Capitol Building.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring: That*

WHEREAS, there remains an unexpended balance in the Capitol Building Fund, and

WHEREAS, this Legislative Assembly is in immediate need of 200 folding chairs and 12 benches, with leather cushions to match Senate and House furniture, and there are no other funds available for the purchase of said chairs;

THEREFORE, BE IT RESOLVED By the Twenty-fourth Legislative Assembly of the State of North Dakota, assembled in its regular biennial session, that the Capitol Building Commissioners be, and they are hereby authorized and directed to purchase 20 folding

chairs at a total price of \$490.00, and 12 benches for the House and Senate at a total cost not to exceed \$594.00, and to pay for said chairs out of unexpended balance remaining in the Capitol Building Funds, said chairs to be used in the various legislative committee rooms, or such other parts of the Capitol Building as the Board of Capitol Building Commissioners shall direct.

Filed February 19, 1935.

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House Resolution T—(Godwin, Scholl, Savery and Schantz)

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GRATITUDE AND THANKS CAPITOL BUILDING CONSTRUCTION  
SERVICE

*Be It Resolved by the House of Representatives of the State of North Dakota:*

WHEREAS, the Twenty-second Legislative Assembly, by the enactment of Chapter 205 of the 1931 Session Laws, created the Board of State Capitol Commissioners, consisting of three residents of the state to be appointed by the Governor, and authorized and directed said Board to secure the submission of plans and designs appropriate to a Capitol Building for the state, the reasonable cost of such building to be \$2,000,000.00, and

WHEREAS, the members of such Commission so appointed proceeded to secure such plans and designs, and to advertise for bids and otherwise proceeded to secure the erection of said Capitol Building, and

WHEREAS, by the action of the Twenty-third Legislative Assembly the duties of the said Board of State Capitol Commissioners were transferred to the Board of Administration at a time when financial conditions were the most acute in the State's history; and

WHEREAS, through the honest, efficient and businesslike methods adopted by the Board of Administration, and the people employed by said Board in the supervision of completion of the erection of said building, the building has been fully completed, and in addition to the building as originally planned the Board has found it possible to install such extras as floor coverings for the entire building, installation of steam in the Memorial Building, carpets in many of the main offices, chairs, desks and other furniture for both legislative chambers, shades, draperies and blinds, book stacks for the Supreme Court and Attorney General's library, electric light bulbs throughout the building, sewer and water connections; some paving and sidewalks, gravel for driveways and many other items, all at a cost of one hundred twenty-four thousand dollars, and all of which has been done and furnished within the original appropriation of \$2,000,000.00 and

WHEREAS, a total of fifteen law suits were threatened in con-

nection with changes made in certain of said contracts, and other matters growing out of said matter, all of which were disposed of without bring of a single lawsuit, and without expense to the state; and

WHEREAS, the State of North Dakota now owns one of the most complete and beautiful Capitol Buildings in the entire nation, a building of which her people are justly proud, and which will serve the needs of the State for many years;

NOW, THEREFORE, in recognition of the honest, intelligent, painstaking and efficient service rendered by the various members of the Board of Administration, the Attorney General and members of his official staff, and State officials and employees, and all other persons, and in special recognition of the untiring efforts of Mr. R. M. Rishworth, President, Frank L. Anders, former Secretary, and Edward Nelson, Superintendent and later Secretary, of the Board of Administration, the architects and various contractors engaged in the erection of said structure, the people of the State of North Dakota do, by adoption of this resolution, make public record of their gratitude and sincere thanks.

Filed March 8, 1935.

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House Concurrent Resolution A-22—(Dahl of Emmons)

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**DESIGNATING THE EIGHTEENTH STORY OF THE CAPITOL  
BUILDING AS OFFICIAL PICTURE GALLERY**

*Be It Resolved by the House of Representatives, the Senate Concurring:*

WHEREAS, the beauty of the various offices, departments and rooms of the new Capitol Building would be greatly marred, and the general scheme of design, construction and decoration would be injured by the promiscuous hanging of pictures in such various offices, departments and rooms; and

WHEREAS, for historical reasons it is very desirable to secure a permanent record, through pictures, of past, present and future state officials, legislative members and heads of departments, and to provide a permanent and convenient place for the same; and

WHEREAS, the eighteenth story of the Capitol Building has been finished, and, for the present at least, is not needed for state purposes; and

WHEREAS, said story would furnish adequate room as well as a desirable place for the aforesaid purposes;

THEREFORE, the Board of Administration is hereby requested to make available the necessary wall space in the rooms on said eighteenth floor for the purposes herein mentioned, to the extent that the same will not unduly interfere with the use of said space for

other necessary purposes, and that the Board adopt and promulgate such rules and regulations with reference to the matter as they may deem necessary or advisable.

Filed March 8, 1935.

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Senate Concurrent Resolution A-D—(Committee on Appropriations)

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ASSIGNMENT ADDITIONAL CIVILIAN CONSERVATION CORPS  
UNITS TO NORTH DAKOTA

WHEREAS, the Government of the United States has heretofore assigned several Civilian Conservation Corps Units to North Dakota for service in the development of the park, forest and water resources of the State, and such services have been and are of inestimable aid in immediately alleviating unemployment, relieving distress and stimulating business and industry, as well as of great permanent benefit to the State in the construction of parks, development of forests, and in the conservation of water resources; and

WHEREAS, owing to the devastating effects of the long continued drought in North Dakota, the people of the State are in great need of the continued services of the Civilian Conservation Corps Units, both as the means of alleviating the economic crisis which now prevails, and as an agency of future services in the proper development of the park, forest and water resources of the State;

NOW, THEREFORE, be it resolved by the Senate of the State of North Dakota, the House concurring, that this Legislative Assembly does hereby express its deep appreciation to the Government of the United States, and particularly the National Park Service and United States Forest Service for the valuable aid received through the services of the Civilian Conservation Corps Units which have been heretofore and are now stationed in North Dakota, and do respectfully request the Federal Government, through its proper officers, to assign to North Dakota for like services in 1935, as many additional Civilian Conservation Corps Units as possible, consistent with sound national policy, and does hereby pledge the co-operation of the State in carrying on the work of all Civilian Conservation Corps Units so assigned.

Filed March 8, 1935.

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Senate Concurrent Resolution A-C—(Thatcher)

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ESTABLISHMENT PRICES ON MAJOR FARM PRODUCTS INSUR-  
ING COST OF PRODUCTION PLUS A REASONABLE PROFIT

WHEREAS, the Government of the United States has assisted practically every class of business in the Nation to carry on during this period of depression, and

WHEREAS, to do so codes have been formulated and regulations and rules have been agreed upon to allow a return for money invested and labor performed, and

WHEREAS, the farming industry, the largest industry of this United States, an industry in which nearly a third of our population is actively engaged, and

WHEREAS, this industry is the life blood of the nation, the real producer of all wealth and conducted by an honest, untiring citizenry toiling long days and in many cases deprived of the luxuries and pleasures enjoyed by other classes and professions, and

WHEREAS, even in times of prosperity in other lines of business the farmer was, even by strict economy, gradually losing, and

WHEREAS, many thousands of farm homes have been lost annually, and which is lowering the morale of the greatest industry of our Nation and hindering the return of prosperity to this country at this time, and

WHEREAS, the cause for this condition of our farming industry has been "a price below the cost of production,"

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, that this Legislative Assembly of North Dakota respectfully memorialize the Congress of the United States to establish prices on all major products of the farms of this Nation that will give the owners and tillers thereof the cost of production plus a reasonable profit, and

BE IT FURTHER RESOLVED, that attested copies of this resolution be sent to both Houses of the Congress of the United States, to each of the members thereof from this State, to the Secretary of Agriculture, all of Washington, D. C., and to the State Legislatures of the farming states of this Nation.

Filed March 5, 1935.

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Senate Concurrent Resolution T—(Trout)

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SHIPMENT FEED GRAINS INTO U. S.

*Be It Enacted by the Senate of the State of North Dakota, the House of Representatives Concurring:*

WHEREAS, a large percentage of the farmers of the State of North Dakota are experiencing a shortage of feed for their livestock because of crop failure in the year 1934 by reason of the drought, and have not the means with which to purchase sufficient grains for feeding purposes at their present high prices; and

WHEREAS, farmers are receiving Federal aid for the purchasing of feed to sustain their livestock, but that the aid or relief provided is inadequate with which to purchase sufficient feed at present high

prices even though the Federal allowance has been increased about fifty per cent, since feed has also appreciated in price in about the same proportion; and

WHEREAS, a large number of livestock have perished and many more will perish unless relief can be had; and

WHEREAS, large quantities of feed, consisting of oats, barley and low grades of wheat fit for feeding purposes, are available in the Dominion of Canada at considerably lower prices than prevail here, and that the importation of feed grains would not in any way prove detrimental to the agriculture industry of this State or of the United States,

NOW, THEREFORE, be it resolved by the 24th Legislative Assembly of the State of North Dakota, that we respectfully petition the President of the United States, the Hon. Franklin D. Roosevelt, and the Congress of the United States, to permit limited quantities of feed grains to be shipped into the United States, duty free, and in sufficient amount to relieve the acute feed situation that now prevails, and thereby prevent large losses by starvation of livestock in this and adjoining states.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to President Franklin D. Roosevelt, the President of the United States Senate, the Speaker of the House of Representatives of the United States, Congressmen Wm. Lemke and Usher L. Burdick, and United States Senators Lynn J. Frazier and Gerald P. Nye.

Filed February 23, 1935.

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House Concurrent Resolution A-7—(Bauer and Bettenhausen)

#### FEDERAL FEED SUPPLY FOR STOCK

WHEREAS, elaborate preparations were made by the United States Government to provide feed for stock in North Dakota, and to that end there has been concentrated in several of the cities of North Dakota, a large supply of both hay and straw; and

WHEREAS, it is now very apparent that a large amount of this hay and straw will be left to rot unless some provision is made for a more adequate and liberal system of distribution; and

WHEREAS, owing to the severe cold weather, a large amount of stock already has died from lack of feed and many thousand additional head are in such physical condition that they will starve in the near future and result in a tremendous loss to the owners, unless some immediate relief is furnished; and

WHEREAS, it is certain that the Government is going to take a huge loss on the hay and straw piled up as above stated, owing to the high price paid, and the inability of our farmers to buy;

THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE ASSEMBLY OF

THE STATE OF NORTH DAKOTA: That this condition be brought to the attention of the President of the United States, the Congress of the United States, Federal, State and local Relief Administrators, and they be urged to take immediate and definite steps to see that this situation is remedied; that the hay and straw now piled up be distributed to the farmers in need of it, and where it appears that the owners of stock are unable to purchase same, it be distributed upon an equitable basis without charge.

BE IT FURTHER RESOLVED, that the Clerk is instructed to mail authenticated copies hereof to President Roosevelt, to the Vice President, to the Speaker of the House of Representatives, the Federal Relief Administrator in Washington and the local Federal Administrator.

Filed February 13, 1935.

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House Concurrent Resolution A-6—(Thoreson)

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SELECTION OF UNBIASED FEDERAL JURORS

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

WHEREAS: There has been a great deal of criticism of the manner of selecting jurors for service in the Federal District Courts in the State of North Dakota; and,

WHEREAS: The present plan of selecting jurors in Federal District Courts gives to the clerk of the United States District Court and the Jury Commissioners entirely too much opportunity to select jurors personally agreeable to them:

THEREFORE BE IT RESOLVED: That we urge upon the Congress of the United States the enactment of the necessary legislation which shall remedy such condition, and which shall provide an impartial, unbiased and uncontrolled method for selecting Federal Jurors:

BE IT FURTHER RESOLVED: That we recommend for the consideration of Congress, the present law with reference to the selection of jurors in the District Courts in the State of North Dakota.

Filed February 21, 1935.

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House Resolution A-2—(Morgan)

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SUPPORT FRAZIER-LEMKE AND McNARY BILLS

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring, that*

WHEREAS there are a number of so-called farm relief bills pending in the present Congress, most of which bills are just make-

believe farm relief, and mere gestures, and intended to deceive and mislead the farmers of this nation, and

WHEREAS there is now pending and has been pending, before the present Congress a real farm relief bill known as the Frazier-Lemke U. S. Senate Bill 212, which provides that the United States government shall refinance the existing farm indebtedness at  $1\frac{1}{2}\%$  interest and  $1\frac{1}{2}\%$  principal on the amortization plan, not by issuing bonds, but by issuing Federal Reserve notes, secured by first mortgages on farms—the best security on earth—better than foreign bonds, and far better than the security put up for Federal Reserve notes by the Federal Reserve Board, and

WHEREAS two or three billion dollars used as a revolving fund will be sufficient to refinance the nine and one-half billion dollars of farm indebtedness and the government will make six billion, three hundred forty-five million dollars, gross profit at  $1\frac{1}{2}\%$  interest, in forty-seven years, and

WHEREAS if this bill is passed, it will put from two to three billion dollars, new money, in circulation among the people—it will loosen the frozen assets of the nation; the unemployed will again be able to get work and eat—the price of agricultural products will go up—the starving of millions will end and business will again be general, and

WHEREAS there is also pending before the present Congress a real Cost of Production bill, agreed to a year ago by three great farm organizations: The Farmers Union, the Farm Bureau and the Grange; which bill is known as the McNary bill, in the Senate, and which provides for the cost of production of that part of American agriculture consumed or used within the United States, and

WHEREAS this bill is far superior to the so-called Jones bill in that it is not loaded down with cumbersome and expensive machinery and limited to only part of the agricultural products,

NOW THEREFORE the Legislature of North Dakota respectfully petitions the Honorable Franklin D. Roosevelt, our President, in whose ability and wisdom we have unbounded faith, to carefully consider the Frazier-Lemke bill and the McNary bill above referred to, which we believe are far superior to any measures so far introduced in congress or discussed in public and which we believe will put an end to this depression that has all but wrecked this nation, and

BE IT FURTHER RESOLVED that we respectfully request the next Congress to give careful consideration to these two bills and to pass them without further delay. This, we believe, was the mandate of the people of this nation in the last election.

The Frazier-Lemke bill has the endorsement of twenty or more state legislatures including Montana, North Dakota, South Dakota, Minnesota, Wisconsin, Illinois and Nevada, and if passed, together with the McNary bill, will give sure and certain relief immediately to agriculture and the wheels of industry will start again, the de-

pression will end and the confidence of the people in this nation will again be restored.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to President Franklin D. Roosevelt, the President of the United States Senate, the Speaker of the United States House of Representatives, the Honorable Henry A. Wallace, Secretary of Agriculture, Congressmen William Lemke and Usher L. Burdick, U. S. Senators Lynn J. Frazier and Gerald P. Nye.

Filed February 6, 1935.

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Senate Resolution F—(Erickson, Johnson, Stucke, Lind, Greene of Stutsman, and Peterson)

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**FRAZIER-LEMKE FARM MORATORIUM ACT DECISION**

WHEREAS, the United States Circuit Court of Appeals sitting at Cincinnati, Ohio, has sustained the holding of the Honorable Charles I. Dawson, one of the judges of the District Court of the United States, in the case of Joint-Stock Land Bank of Louisville, Kentucky, vs. William M. Radford, declaring constitutional and valid the Frazier-Lemke farm moratorium act, and

WHEREAS, We believe that the final sustaining of such legislation will be of great and paramount importance to the agricultural interests of the nation, and we further believe that such legislation will play an important part in the final and speedy recovery of the agricultural and other interests of the United States,

THEREFORE BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, That the Secretary of the Senate be, and he is hereby instructed to send telegrams to Senator Frazier and Congressman Lemke, extending to them the sincere thanks and congratulations of the people of North Dakota.

BE IT FURTHER RESOLVED, That a copy of this resolution be mailed to Senator Frazier and Congressman Lemke and that the same be printed in the Journal.

Filed February 25, 1935.

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House Resolution I—(Myers, Aljets and Dahl)

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**FRAZIER-LEMKE FARM MORATORIUM ACT DECISION**

WHEREAS: The United States Circuit Court of Appeals sitting at Cincinnati, Ohio, has sustained the holding of the Honorable Charles I. Dawson, one of the judges of the District Court of the United States, in the case of Joint-Stock Land Bank of Louisville, Kentucky, vs. William M. Radford, declaring constitutional and valid the Frazier-Lemke farm moratorium act, and

WHEREAS: The daily press has seen fit to give but minor publicity to such holding, notwithstanding the fact that it devoted much space and gave much publicity to the holding of one United States District Court Judge who held such act to be unconstitutional and void; and

WHEREAS: We believe that the final sustaining of such legislation will be of great and paramount importance to the agricultural interests of the nation, and we further believe that such legislation will play an important part in the final and speedy recovery of the agricultural and other interests of the United States:

THEREFORE BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA: That the Clerk of this House be, and he is hereby instructed to send telegrams to Senator Frazier and Congressman Lemke, extending to them the sincere thanks and congratulations of the people of North Dakota.

BE IT FURTHER RESOLVED: That a copy of this Resolution be mailed to Senator Frazier and Congressman Lemke and that the same be printed in the Journal.

Filed February 22, 1935.

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Senate Concurrent Resolution A-F—(Greene of Stutsman)

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CONDEMNING DEALING IN FUTURES

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring: That*

WHEREAS, the dealings in grain futures is a common practice in the several grain markets of the Nation, and

WHEREAS, such dealings have a demoralizing effect upon the small buyers and traders in such markets, who are not familiar with the practices of those in control of the markets, and

WHEREAS, numerous elevators throughout the Nation have been bankrupted and compelled to close because their managers have speculated with company funds and have lost large sums of money through the manipulation of the market by those in control, and

WHEREAS, dealings in grain futures is in every sense a gambling transaction and ought to be prohibited and those guilty thereof ought to be prosecuted as any other common gambler:

THEREFORE BE IT RESOLVED, That we condemn the continuance of such practice and request the Attorney General of the United States and the Attorneys General of several states to take such action as will be necessary to stop the practice and to prosecute those guilty of such offense.

Filed March 8, 1935.

Senate Concurrent Resolution A-L—(Watt, Stucke and Marshall)

**GRAIN EMBARGO OR TARIFF INCREASE TO PROTECT  
DOMESTIC PRODUCERS**

WHEREAS, in its efforts to increase the price of farm commodities produced in the United States, Congress has enacted laws that have made it possible to withdraw a large acreage which may no longer be planted to our major export crops and prevailed upon the farmers to reduce their acreage over 40 million acres in 1934, and to destroy millions of pigs, with the prime object in view of reducing farm surplus that is claimed to be one of the major factors creating the low market value of wheat and other farm products; and

WHEREAS, statistics show that large amounts of wheat, durum, rye, corn, barley, oats, flax and pork have been imported into this country from Canada, Argentine, Hungary, France, Peru, Mexico, Bulgaria, Roumania, Persia, Poland, Russia, India and China, and entered into competition with domestic products, even after paying the now prevailing tariff duties; and

WHEREAS, statistics show that the importation into the United States from Canada alone of wheat, for a period of six months next preceding January 1st, 1935, has increased from approximately 100,000 bushels to approximately 13 million bushels as compared with the same period one year previous, also for the same period the importations of flour have increased from 2,765 barrels to 40,884 barrels; and

WHEREAS, the unrestricted importation of such grain can have but a depressing effect upon the market value of grains produced in this state and ultimately result in keeping the market value of all crops below the cost of production, and it would be to the best interests of the grain producing states that such unrestricted importation be curtailed until such time as domestic grains may reach a market value that will insure producers a fair profit over the cost of production,

BE IT THEREFORE RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING: That the President of the United States is hereby respectfully requested to take the necessary steps, through the proper departments, to either increase the tariff or declare an embargo where the conditions warrant, to protect domestic producers of grains against the foreign competition on our market that the American farmers are unable to meet if they are to maintain the standard of living to which every American citizen is entitled;

That a copy of this resolution be forwarded to the President of the United States, the Secretary of the Treasury of the United States, the Secretary of Agriculture of the United States, and to each of our Representatives in Congress.

Filed March 9, 1935.

## Senate Concurrent Resolution A-H—(Thorson)

**LIVESTOCK, MEAT AND GRAIN PRODUCTS EMBARGOES**

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

WHEREAS, During the present depression, the original cost of producing meat and grain products is greatly in excess of the price now realized by the sale of the same, and that by reason thereof farmers are unable to pay their bills and debts, and each year find themselves further behind with their debts and obligations, and if the above situation continues for any additional length of time, the farmers will lose their homes and all; and

WHEREAS, During the time farmers are operating at a loss they cannot be purchasers of other manufactured products and such industries will, in turn, fail for lack of business; and that all business of every kind and nature will be affected by this injustice to agriculture; and

WHEREAS, It follows that every kind of business located in the agricultural communities must rise or fall with the farmers, and that the important, and absolutely essential industry of agriculture cannot be stricken down without causing disaster to the country as a whole; and

WHEREAS, The placing of an embargo on the products mentioned would stabilize the prices thereof and bring such prices more in harmony with the production costs, together with a fair margin of profit, and bring the farmers out of the dire and distressing depression which now affects them,

NOW THEREFORE, Be It Resolved by the TwentyFourth Legislative Assembly of the State of North Dakota:

That we respectfully petition the Congress of the United States to pass laws and provide rules and regulations to place an embargo on flax, wheat, hogs, cattle and sheep, and upon pork, beef and mutton products until such time as the prices of said grains, livestock and meat products shall cover the cost of production, and we further petition that the law now permitting wheat to be milled in bond be repealed.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the President of the United States, to both Houses of the Congress of the United States and each member thereof from this state, to the Secretary of Agriculture, and to each House of the Legislative Assembly of those states whose Legislatures are now in session.

Filed March 8, 1935.

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**Concurrent Resolution A-3—(Morgan)**

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**RATIFICATION GREAT LAKES-ST. LAWRENCE WATERWAY TREATY**

WHEREAS, on the 20th day of February, 1931, there was introduced in the 1931 Session of the North Dakota Legislature a Concurrent Resolution relating to the Great Lakes-St. Lawrence Waterway; and

WHEREAS, said Resolution was adopted unanimously by the said House of Representatives of the State of North Dakota and was subsequently concurred in by the Senate of the State of North Dakota; and

WHEREAS, said Resolution urged that the Congress of the United States enact necessary preliminary legislation for the development of the St. Lawrence Waterway to the sea; and

WHEREAS, such Resolution further memorialized the President of the United States to proceed to negotiate a treaty with Canada for the development of said plan; and

WHEREAS, there is now pending in the United States Senate before the Foreign Relations Committee a seaway treaty, the ratification of which is necessary in order that the Great Lakes-St. Lawrence Waterway may be completed,

THEREFORE BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, SENATE CONCURRING, that the United States Senate is hereby memorialized to ratify said treaty at the present session of Congress, thereby clearing the way for extending ocean carriage 1500 miles into the heart of the continent.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to the President of the United States and to the Senate and House of Representatives of the United States.

Filed February 6, 1935.

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**Concurrent Resolution C—(Fowler, Whelan, Trovatten and Bonzer)**

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**APPORTIONMENT FEDERAL AID FOR HIGHWAY CONSTRUCTION**

WHEREAS, the Secretary of Agriculture under the authorization contained in the Hayden-Cartwright Act of June 18, 1934, has apportioned Federal Aid to the several states for use in highway construction in the fiscal year beginning July 1, 1935, which funds are apportioned upon the old policy of matching by the states, and

WHEREAS, the financial situation of North Dakota is such that it will not be able to match such federal aid and to take advantage of such apportionment, and

WHEREAS, it is unfair and unjust that our state should be pe-

nalized by reason of its existing financial condition for which it is in nowise to blame and cannot remedy at this time,

NOW THEREFORE, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives concurring, that action should be taken by allotment of Federal monies, if possible, or by legislation by Congress, if necessary, to make available to North Dakota and to other states which may be similarly situated, Federal funds which may be used to match such funds as have been apportioned as herein set forth.

BE IT FURTHER RESOLVED, that copies hereof shall be sent by the Secretary of the Senate to each of our Congressional delegation and to the Governors of Kansas, Nebraska, Iowa, Minnesota, South Dakota and Montana.

Filed February 6, 1935.

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Concurrent Resolution A-10—(Scholl, Dittmer and Thompson)

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CO-OPERATION FEDERAL AND STATE AUTHORITIES IN  
HIGHWAY CONSTRUCTION

*Be It Resolved by the Legislative Assembly of the State of North Dakota:*

WHEREAS, North Dakota's pioneers were attracted here by its agricultural possibilities, and almost all basic wealth is farm produced, and 63% of its people are residents of rural communities; and

WHEREAS, cities and towns were established to best serve the producers as business, educational, religious and recreational centers so necessary to our progress, and supply grain and stock markets, rail connections, etc., and

WHEREAS, highways should be built for the purpose of giving the farmers the easiest possible access to these community centers, since highways have largely superseded other means of business and social intercourse and traffic; and

WHEREAS, the policy of State and Federal Highway authorities of recent years seems to have unsympathetically disregarded the interests of towns and cities by routing, even secondary road projects, without regard to community needs, as is glaringly shown by a glance at the state road map; and

WHEREAS, this policy has caused stagnation and in other ways retarded progress, and partially destroyed the usefulness of a number of the smaller towns in our state; thus tearing down the work of generations by the destruction of investments and hampering business, social and educational progress,

THEREFORE, BE IT RESOLVED, By the House of Representatives of the State of North Dakota, the Senate concurring, that the Fed-

eral and State authorities be and are hereby urged to co-operate in a program of highway construction, giving due and proper attention to the needs of our urban and rural communities, in recognition of the fact that North Dakota is pre-eminently a small town state; and

BE IT FURTHER RESOLVED, That the Legislative Assembly of the State of North Dakota, deems such a revised road construction policy, favoring in all possible ways the farmers' primary market to be of the utmost importance to the economic and civic welfare of our entire state.

BE IT FURTHER RESOLVED, That the Secretary of State be and is hereby instructed to forward certified copies of this Joint Resolution to the Bureau of Public Roads in Washington, D. C., and to the North Dakota State Highway Commissioner and to the United States Senators and Congressmen representing the State of North Dakota in the National Congress, in a sincere effort to secure for our people official action in conformity to above expressions of this Resolution.

Filed March 4, 1935.

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House Concurrent Resolution A-11—(Borstad, Fedje and Solberg)

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FEDERAL RELIEF FUNDS TO ASSIST IN HOSPITALIZATION  
AND CARE OF THE SICK

*Be It Resolved by the House of Representatives, the Senate Concurring:*

WHEREAS, The hospitals of this state are unable to meet the demands made upon them for proper care and treatment of the sick, due to the shortage of funds caused by the severe drought and failure of crops during the year 1934, over an area comprising more than three-fourths of this state, and

WHEREAS, This condition will continue to exist for several months or until another crop is produced, and that there is no other available source from which to receive sufficient funds, and

WHEREAS, The Federal relief set-up does not provide for hospitalization or care of the sick,

THEREFORE, BE IT RESOLVED, That we urge upon the Congress of the United States the enactment of all necessary legislation to provide means for relieving this and similar emergencies,

BE IT FURTHER RESOLVED, That copies hereof be mailed to President Roosevelt, to the Vice President, to the Speaker of the House of Representatives, and to Congressmen William Lemke and U. L. Burdick, and to Senators Lynn J. Frazier and Gerald P. Nye.

Filed March 8, 1935.

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Senate Concurrent Resolution G—(Gronvold and Dubay)

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**ERECTION CUSTOMS AND IMMIGRATION BUILDINGS  
INTERNATIONAL PEACE GARDEN**

WHEREAS, The International Peace Garden has been established on the boundary line between North Dakota and Manitoba, and

WHEREAS, It is proper and necessary in order to complete said Peace Garden project, and to encourage and attract traffic to the same; and to increase an interest in such project, that adequate Customs and Immigration buildings, in keeping and in harmony with the character and nature of said Peace Garden project, be constructed and erected thereon,

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA: That the bill in Congress introduced by Senator Gerald P. Nye, which provides for adequate Customs and Immigration buildings upon said project be and the same is hereby approved and endorsed, and that Congress be petitioned and requested to pass the same.

Filed February 13, 1935.

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Senate Joint Resolution F—(Brostuen, Fowler and Whelan)

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**TAXATION BY THE SEVERAL STATES OF CERTAIN  
INTERSTATE SALES**

WHEREAS, Necessity for property tax relief is imperative in North Dakota as well as in other states throughout the Union; and

WHEREAS, Twenty-six states in an effort to afford property tax relief and to provide revenue for essential functions of government have enacted laws imposing taxes based upon or measured by sales of tangible personal property purchased and delivered in such states; and,

WHEREAS, No less than 65 per cent of the population of the United States now resides in states with such laws; and,

WHEREAS, By virtue of judicial interpretation of the Federal Constitution, the states may not levy without the consent of Congress taxes based upon or measured by sales moving in interstate commerce; and

WHEREAS, As a result of such an interpretation there is a discrimination in favor of interstate sales as against intrastate sales; and,

WHEREAS, Such discrimination if permitted to continue will tend to divert business from normal channels in North Dakota and elsewhere throughout the Union, thus subjecting local merchants to unfair competition; and

WHEREAS, It is of vital importance to the welfare of the people

of the United States that all things be done to promote the stability of local business in order that the financial structure of North Dakota and other states throughout the Union may be preserved; and

WHEREAS, It rests within the power of Congress to permit the states to levy nondiscriminatory taxes upon sales in interstate commerce; and,

WHEREAS, There is pending in Congress Senate File No. 2897 introduced by Honorable Pat Harrison, Senator from Mississippi, a bill to enable the states to tax such interstate shipments of goods; and,

WHEREAS, Said measure was passed by the Senate on March 15, 1934, but was not voted upon by the House of Representatives and hence did not become law; and,

WHEREAS, Need for such legislation is imperative in order to correct grave injustice in North Dakota and in all other states throughout the Union where taxes are based upon or measured by sales of tangible personal property; now, therefore, be it

RESOLVED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA, That the Congress of the United States be, and it is hereby memorialized to give relief to the State of North Dakota and all other states imposing taxes based upon or measured by sales of tangible personal property by immediately providing for the regulation of interstate commerce through granting consent to taxation by the several states of certain interstate sales as provided by the measure (S.2897) introduced by Senator Harrison during the second session of the Seventy-Third Congress; and be it further

RESOLVED, That copies of this resolution be sent to the presiding officers of the legislative bodies of all other states of the United States, with the request that they transmit similar memorials to Congress, and that copies of this resolution be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each of the members from North Dakota of the Senate and the House of Representatives of the United States, and to the Honorable Pat Harrison, United States Senator from Mississippi, author of the measure which would afford the states relief in this important matter.

Filed February 28, 1935.

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House Concurrent Resolution A-21 (Aljets)

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COMPILATION PAMPHLET SHOWING ACTION ON BILLS

WHEREAS, a complete record of action upon and disposal of all bills introduced in the House and Senate during this Session, should be made available to House and Senate members as quickly as pos-

sible; such record to show what bills have been indefinitely postponed, withdrawn or passed, with notation of Journal date and page of amendments thereto:

THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING: That such compilation be at once prepared in a pamphlet similar in size to the House and Senate Journals; that E. K. Shaeffer be employed for the House and Hope Snyder be employed for the Senate; they working together to prepare such compilation immediately. A copy of the same to be mailed as speedily as possible by the House and Senate mailing force to each member of the House and Senate, at the home address thereof. That the said E. K. Shaeffer and said Hope Snyder be and they are hereby respectively retained on this work for the House and for the Senate for the period of three days after the adjournment of this Legislative Assembly, at their present pay; such compensation with the printing expense of such pamphlet and of mailing the same to be charged and paid as legislative expense.

Filed February 8, 1935.

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House Resolution B—(Borstad and Fedje)

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**FILING LIST OF CORPORATIONS SERVED BY MEMBERS**

Requiring all members of the House of Representatives of the State of North Dakota who are at present on retainers by public service corporations doing business in the State of North Dakota, to file with the Clerk of the House of Representatives a list of the corporations they are thus serving.

*Be It Resolved by the House of Representatives of the State of Dakota, that*

WHEREAS: Section 43 of the Constitution of the State of North Dakota reads as follows:

"Sec. 43. Any person who has a personal or private interest in any bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon without the consent of the house." And

WHEREAS: Recent investigations disclose that certain members of previous Legislative Assemblies were, during their term of office as such members, on regular monthly or annual retainers by public service corporations doing business in the state. And

WHEREAS: We consider it contrary to and against the interests of the public policy of the State of North Dakota, to permit such members to vote upon legislation which will materially affect such public service corporations without making their interest known to the other members of the house in which they serve:

NOW THEREFORE, BE IT RESOLVED: By the House of Representatives of the Twenty-fourth Legislative Assembly of the State of North Dakota, that all members of this House of Representatives be, and they are hereby required to forthwith file with the Clerk of this house a complete list of the public service corporations to which they are now under obligation through retainer of any kind.

Filed February 14, 1935.

House Concurrent Resolution A-9—  
(Introduced by House State Affairs Committee)

DESIGNATION HOUSE AND SENATE EMPLOYEES,  
FIXING SALARIES

*Be It Resolved by the House of Representatives of the 24th Legislative Assembly of the State of North Dakota, the Senate Concurring:*

That for and during this Twenty-fourth Legislative Assembly the following named persons be employed and appointed as officers and employees of the Senate and of the House, and shall be paid the compensation set opposite their respective names.

FOR THE SENATE:

Secretary—F. E. Tunell .....	\$8.00
Sergeant at Arms—Arend Hoffman .....	5.00
Ass't. Sergeant at Arms—Joe Volk, Jr. ....	4.50
1st Ass't. Secretary—H. R. Morgan .....	6.50
2nd Ass't Secretary—W. J. Church .....	6.50
Desk Reporter—Marie A. Minnis .....	8.00
Bill Clerk—J. C. Goll .....	5.00
Postmaster—P. A. Peterson .....	4.50
Chief Stenographer—Margaret O. Sheehan .....	5.00
Stenographer—Betty Boyle .....	5.00
Stenographer—Bea Haugen .....	5.00
Stenographer—Josephine Selvig .....	5.00
Stenographer & Com. Clerk—Josephine Efteland.....	5.00
Stenographer & Com. Clerk—Kathryn A. Pagenkopf.....	5.00
Clerk—Clarice Thorson .....	5.00
Committee Clerk—Wm. Hagen .....	4.50
Committee Clerk—A. L. Fatland .....	4.50
Committee Clerk—Emil Strand .....	4.50
Committee Clerk—Nels Johnson .....	4.50
Committee Clerk—Wm. Kane .....	4.50
Committee Clerk—Phillip Heiling .....	4.50
Chief Mailing Clerk—J. M. Anderson .....	4.50
1st Ass't. Mailing Clerk—S. I. Cofell.....	4.50
2nd Ass't. Mailing Clerk—C. Ebel.....	4.50
Chief Enrolling & Engrossing Clerk—Hope Snyder.....	5.00

Ass't. Enrolling & Engrossing Clerk—Edna Walsh .....	5.00
Bill Room Clerk—L. J. Leer .....	4.50
Page—Roswell Kamrath .....	4.50
Page—Geo. DeFoe .....	4.50
Page—L. Nappen .....	4.50
Doorkeeper—Henry Zimmerman .....	4.50
Doorkeeper—T. O. Thompson .....	4.50
Doorkeeper—Chas. Severin .....	4.50
Doorkeeper—Max Netzbandt .....	4.50
Governor's Messenger—Jake Forester .....	4.50
Telephone Messenger—W. H. Rickbeil .....	4.50
Special Messenger—Chester Hamilton .....	4.50
Messenger—Henry Jacobson .....	4.50
Proof Reader—R. T. Wood .....	5.00
Ass't. Proof Reader—H. W. Anderberg .....	5.00
Senate Chamber Custodian—C. A. Patterson .....	4.50
Ass't. Senate Custodian—Arnold Glimm .....	4.50
Ass't Senate Custodian—Ole O. Sundby .....	4.50
Cloak Room Attendant—H. H. McCumber .....	4.50
Chaplains .....	3.00

## FOR THE HOUSE:

Chief Clerk—Walter S. Martin .....	8.00
1st Ass't. Chief Clerk—Minnie D. Craig .....	6.50
2nd Ass't Chief Clerk—Rex Stair .....	6.50
Desk Reporter—James Bothne .....	8.00
Sergeant at Arms—A. M. Peterson .....	5.00
Chief Stenographer—Helen Ulsrud .....	5.00
Stenographer—Evelyn Dada .....	5.00
Stenographer—Mabel Engeseth .....	5.00
Stenographer—Marna Cushman .....	5.00
Stenographer—Clara Kane .....	5.00
Stenographer—Beatrice Field .....	5.00
Chief Enrolling & Engrossing Clerk—Lyle George .....	5.00
Ass't. Chief Engrossing & Enrolling Clerk—F. E. Karges .....	5.00
Bill Clerk—Hans Solheim .....	5.00
Clerk, State Affairs—E. K. Shaeffer .....	4.50
Clerk, Com. on Appropriations—Herman Butt .....	4.50
Clerk, Judiciary Committee—Evelyn Olson .....	4.50
Clerk, Com. Taxes & Tax Laws—H. D. Crockett .....	4.50
Chief Mailing Clerk—Frank Wald .....	4.50
1st Ass't. Mailing Clerk—Lloyd Engh .....	4.50
2nd Ass't. Mailing Clerk—Sam Labrenz .....	4.50
Voucher Clerk & Ass't. Mailing Clerk—I. Anderson .....	4.50
Postmaster—Joe LePire .....	4.50
Ass't Postmaster—J. A. Engen .....	4.50
Bill Room Clerk—Anton S. Kraft .....	4.50
Bill Messenger & Clerk—C. E. Erickson .....	4.50
Committee Room Attendant and Messenger—John Bergheim .....	4.50

Com. Room Attendant & Mes.—J. F. Link .....	4.50
Ass't Sergeant at Arms and Doorkeeper—C. O. Carlson .....	4.50
Doorkeeper, Main Floor—Ed. Martell .....	4.50
Doorkeeper, Main Floor—Otto Bruns .....	4.50
Doorkeeper, Gallery—Mike Tousaind .....	4.50
Doorkeeper, Gallery—Hjelmer Solwick .....	4.50
Cloak Room Attendant—Chas. Roth .....	4.50
Telephone Messenger—Elizabeth Grace .....	4.50
Page & Messenger—G. W. McCutchen .....	4.50
Page & Messenger—George Schuch .....	4.50
Page & Messenger—Harold Gaulke .....	4.50
Page & Messenger—J. Schoonover .....	4.50
Page & Messenger—Roland Broschat .....	4.50
Page & Messenger—M. G. Frank .....	4.50
Page & Messenger—Kenneth Morgan.....	4.50
Proof Reader—H. R. Long .....	5.00
Ass't. Proof Reader—H. B. Carlson.....	5.00
Chaplain—Rev. N. E. McCoy .....	3.00
Special Messenger to Governor—H. G. Kapfer.....	4.50
Janitor—Martin Lund .....	4.50
Janitor—Lars Soiseth .....	4.50
Janitor—A. H. Oksendahl .....	4.50
Janitor—Jacob Bender .....	4.50
Janitor—Joe Vlassoff .....	4.50
Janitor—Moss Wilkie .....	4.50
Janitor—H. E. Dyste .....	4.50
Night Watchman—S. M. Jensen .....	4.50
Attendant—August Krenz .....	4.50
Attendant—Oscar Nelson .....	4.50
Attendant, Ladies' Cloak Room—Inga Jensen .....	4.50

Filed February 9, 1935.

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Senate Resolution A-O—(Committee on Employment)

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**PAYMENT ADDITIONAL SENATE EMPLOYEES**

WHEREAS, there has been an unprecedented amount of work during the last week of the session, particularly for the Enrolling and Engrossing Clerks which necessitated the employment of an additional clerk, and,

WHEREAS, Norma Wetzstein was employed as enrolling clerk for five days, and,

WHEREAS, a number of Senate attaches worked at their respective tasks several days before being sworn in, for which work they have received no pay, said persons being R. T. Wood, Proof Reader, having worked two days; E. A. Patterson, Custodian, having worked three days; and Arnold Grimm, having worked two days; and,

WHEREAS, Chester Hamilton, messenger, for the Senate expended \$9.40 taxi hire as messenger, and Henry Jacobson, messenger for the Senate expended \$3.20 for which they have not been reimbursed.

NOW THEREFORE BE IT RESOLVED that Norma Wetzstein be paid \$5.00 per day for five days work as enrolling clerk; that R. T. Wood be paid \$5.00 per day for two days as proof reader; that E. A. Patterson be paid \$4.50 per day for three days as custodian; that Arnold Grimm be paid \$4.50 per day for two days as custodian; that Chester Hamilton be paid \$9.40 as expenses for taxi hire as messenger; and that Henry Jacobson be paid \$3.20 for taxi hire as messenger.

BE IT FURTHER RESOLVED that Edna Walsh be retained for one day after the close of the session to enroll resolutions, and that she be paid \$5.00 for such additional day, and that J. C. Goll, Bill Clerk, be retained for two days after the close of the session to assist the desk force, and that he be paid therefor the sum of \$5.00 for each additional day.

Filed March 8, 1935.

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Senate Concurrent Resolution A-N—(Joint Committee on Employment)

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**RETENTION CERTAIN SENATE EMPLOYEES**

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That J. M. Anderson and S. I. Cofell, mailing clerks of the Senate, and Lloyd Engh and Sam Labrenz, mailing clerks of the House, of the Twenty-fourth Legislative Session, be retained for five days after the close of this session to complete sending Senate and House Journals of the last days of the session; and that H. R. Long, proof reader in the House and R. T. Wood, proof reader in the Senate, be retained for two days after the close of the session to finish proof reading the Journals of the House and Senate for the last day of this Twenty-fourth Legislative Assembly; and that George DeFoe, Henry Jacobson and Chester Hamilton, pages of the Senate, and Kenneth Morgan, Ronald Broschat and Harold Gaulke, pages of the House, be retained for two extra days after the close of the session for the purpose of wrapping and either mailing or expressing to the members of the Senate and House, bill books, journals, reports and files; and that Clara Kane and Mabel Engeseth, stenographers in the House, and Margaret O. Sheehan and Betty Boyle, stenographers in the Senate, be retained for one extra day, for the purpose of taking care of legislators' correspondence.

BE IT FURTHER RESOLVED, that each of the above named em-

ployees, to-wit J. M. Anderson, S. I. Cofell, Lloyd Engh and Sam Labrentz, as mailing clerks, be paid for said additional five days the sum of \$4.50 per day; and that H. R. Long and R. T. Wood, proof readers, be paid the sum of \$5.00 per day for two days; that George DeFoe, Henry Jacobson, Chester Hamilton, Kenneth Morgan, Roland Broschat and Harold Gaulke, as pages, be paid the sum of \$4.50 per day for said additional two days; that Clara Kane, Mabel Engeseth, Margaret Sheehan and Betty Boyle, as stenographers, be paid the sum of \$5.00 per day for said one extra day; all the above to be paid as other legislative expense and paid when the respective claims are verified by the affidavits of said parties herein named, at the completion of such work.

Filed March 9, 1935.

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House Resolution V—(Dahl of Emmons and Scholl)

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INVESTIGATION OF CHARGES RE CALLING EXTRAORDINARY  
SESSION

WHEREAS: Under the provisions of the Constitution of the State of North Dakota the Governor has the sole power to convene the Legislative Assembly on extraordinary occasions, and

WHEREAS: By virtue of the power so granted to him, and considering the emergency existing, the Hon. Wm. Langer, as Governor of the state did, on July 12th, 1934, issue a proclamation calling the members of the senate and house into extraordinary session, to convene at Noon on July 19th, 1934, but notwithstanding such call it is charged that certain interested persons attempted to and did actually prevent certain members of both houses from obeying said call, and did induce them to disregard said call and to refuse to attend said session, and

WHEREAS: Section 9320 of the Penal Code provides in part as follows: "Every person who wilfully and by force or fraud prevents the Legislative Assembly of this state, or either of the houses composing it, or any of the members thereof from meeting or organizing, is punishable by imprisonment in the penitentiary for not less than five years nor more than ten years or by a fine of not less than five hundred dollars nor more than two thousand dollars." and

WHEREAS: The charges made, if true, are serious and those guilty of the offenses charged should be dealt with according to law:

THEREFORE: The Hon. P. O. Sathre, Attorney General of the state, is hereby respectfully requested to make a thorough investigation into such charges and if they appear to be true he is requested to take the necessary steps to prosecute all persons in any way connected with such offenses:

The Clerk of this Assembly is hereby directed to deliver a copy of this resolution to the Attorney General forthwith.

Filed March 8, 1935.

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House Resolution M—(Godwin)

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INVESTIGATION FARGO DISTURBANCE

*Be It Resolved by the House of Representatives of the State of North Dakota That,*

WHEREAS, There recently occurred at Fargo, North Dakota, a disturbance which involved the alleged constitutional rights of citizens of this state and also involved the question of the legality of the acts of certain peace officers, and other officers, of the State and County of Cass;

WHEREAS, A large number of citizens were arrested and not brought to trial;

WHEREAS, The said disturbance and the prosecutions resulting therefrom is a matter of concern to the people of the State of North Dakota; and

WHEREAS, The complained of acts of the officers were done under the alleged authority and power given by the legislative acts of the Legislature of the State of North Dakota; and

WHEREAS, the large number of the arrests made, and other facts, raises a question as to whether or not the present law of this state giving the State's Attorney the power to bring citizens to a criminal trial by simply filing a criminal information, instead of requiring the action of a Grand Jury and the finding of an indictment by such Grand Juries is wise; and

WHEREAS, This House adopted a Resolution condemning the officials involved in such disturbance without making a thorough investigation of the facts;

NOW THEREFORE, BE IT RESOLVED, In order no injustice shall be done to any citizen of the State of North Dakota, that a committee of five members of this House be appointed by the Speaker to inquire into, and investigate, the facts concerning said disturbance, and the arrests that followed, with power to subpoena persons, books and papers, including officials of the state or any county or municipality, and with the power to employ counsel and to take such testimony as may be deemed necessary by the committee of five members or the sub-committee, which committee or sub-committee may sit for such purpose at any place within the state convenient to such committee for the purpose of taking such testimony, to sit during the term of the present legislative session and to report back to this House, its findings, its recommendations as

to what action if any should be taken in the matter and what, if any, future legislation should be enacted.

Filed March 2, 1935.

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House Concurrent Resolution A-20—  
(Symington, Dahl, Parkinson, Hurd, and Blaisdell)

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EXPENSES FARGO STRIKE INVESTIGATION

Providing for the payment of expenses of an investigation made by resolution of the House of Representatives relating to strike conditions, and the conduct of the officials relating thereto, in the City of Fargo, in Cass County, North Dakota.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring,*

That the sum of eight hundred and ten (\$810.00) dollars, or so much thereof as may be necessary to pay the expenses of said investigation, is hereby appropriated out of the moneys in the State Treasury not otherwise appropriated to be paid by the State Treasurer upon warrants drawn upon the Treasurer by the State Auditor, upon the presentation to the State Auditor of approved vouchers of the committee, signed by its chairman. Provided, however, that the circumstances surrounding this investigation are peculiar and unusual and the passage of this resolution shall not be taken as a precedent for any future legislative action.

An emergency is hereby declared to exist for the reason that there is no other provision for paying the expenses incurred by the committee, therefore this provision shall be effective from and after its passage and approval.

Filed March 8, 1935.

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Senate Concurrent Resolution A-M—(Joint Committee on Employment)

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COMPILING, ETC., LEGISLATIVE ASSEMBLY JOURNALS

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring,*

That Fred Tunell, Secretary of the Senate, and Walter S. Martin, Chief Clerk of the House, are hereby authorized, empowered and employed to compare and index the Journal of the Twenty-fourth Legislative Assembly, and to complete the Senate and House Journals and mail out to members the temporary Journals of the last days of the session, which have not been delivered to members before the close thereof; and the said Fred Tunell, Secretary of the Senate, and Walter S. Martin, Chief Clerk of the House are hereby directed and required at their own cost and expense to arrange for and pro-

cure sufficient assistance to insure that the said work shall be completed within thirty days after the adjournment of the session.

BE IT FURTHER RESOLVED, that for the services of said Fred Tunell, Secretary of the Senate, and Walter S. Martin, Chief Clerk of the House, as above set forth, that they be paid the sum of \$400.00 each, which shall include compensation for an assistant to be selected by each, all to be paid as other legislative expenses, and paid when the respective claims are verified by the affidavits of said Fred Tunell and Walter S. Martin showing the completion of such work.

BE IT FURTHER RESOLVED, that the necessary postage for mailing out the copies of temporary Journals as aforesaid be furnished to the said Secretary of the Senate and the said Chief Clerk of the House as part of the legislative expenses of this session.

Filed March 8, 1935.

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House Resolution G—(State Affairs Committee)

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**OFFICIAL PHOTOGRAPHER**

A Resolution to appoint and designate the official photographer for the House of Representatives of the Twenty-fourth Legislative Assembly of the State of North Dakota, and to provide for the making of a group picture of the members of such body for hanging in the Capitol; and for payment thereof.

WHEREAS, For historical purposes it has been the custom of all North Dakota Legislative Assemblies to have group pictures made of all members of such Assembly for hanging in the Capitol, and,

WHEREAS, The Slorby Studio of Bismarck, North Dakota, offers to make a group picture of the North Dakota House of Representatives of the Twenty-fourth Legislative Assembly of the same size and similarly framed as such pictures of previous Houses, and to hang such picture framed, in the House Chambers at a total cost of one hundred (\$100.00) dollars; such amount to be paid as legislative expense.

NOW, THEREFORE, BE IT RESOLVED: That the Slorby Studio of Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota House of Representatives of the Twenty-fourth Legislative Assembly to make such group picture; and the same to be paid for as legislative expense; and to take official photographs on the floor of such House;

BE IT FURTHER RESOLVED, That the Slorby Studio of Bismarck, North Dakota, be and is hereby awarded the making of such group photograph and is given the sole privilege of photographing members of the House of Representatives on the floor of the House Chambers during this session; that the Slorby Studio be authorized to furnish to such members copies of such group photo-

graph, 11x14 inches in size, at an expense to such members of \$1.00 each.

Filed February 14, 1935.

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**House Concurrent Resolution A-24—(Fedje)**

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**INVENTORY AND DISPOSITION OF LEGISLATIVE PROPERTY**

§ 1. That the chief clerk of the House of Representatives shall, immediately at the close of the 24th Legislative Session, make a detailed inventory of all of the property belonging to the House of Representatives and shall thereupon turn over and surrender to the Board of Administration of the State of North Dakota, all of the said property, taking receipt of the said Board of Administration for the same.

§ 2. That the Secretary of the Senate shall immediately at the close of the 24th Legislative Session make a like inventory of all of the property belonging to the Senate and shall thereupon turn over and surrender to the Board of Administration of the State of North Dakota, all of the said property, taking receipt of said Board for the same.

Filed March 8, 1935.

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**House Resolution W—(Aljets)**

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**APPRECIATION AND THANKS WILLIAM LAIST AND  
EDWARD NELSON**

WHEREAS, William Laist, the custodian of the Capitol Building, has served the state in that humble capacity for the past forty years, during which time he has unstintedly given of the best he had for the good of the state, and has, on innumerable occasions, contributed to the convenience and comfort of our Legislative Assemblies that have met during his time of employment and he has been especially courteous, gracious and accommodating to this closing session, and

WHEREAS, Edward Nelson, the Superintendent of the Capitol Building has shown much consideration and many courtesies to this Legislative Assembly,

NOW THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA: That we extend to the said William Laist and Edward Nelson our thanks for and appreciation of their many courteous contributions to our comfort.

Filed March 8, 1935.

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**House Resolution Y—(Beggs)**

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**EXTENSION THANKS REVEREND MCCOY**

*Be it Resolved by the House of Representatives of the State of North Dakota:*

WHEREAS, during this Legislative session the most Reverend McCoy almost continuously led the prayer for this body and,

WHEREAS, The prayers offered by the Reverend McCoy have been a paramount factor in the tempering of thought and deliberation of this legislature.

NOW THEREFORE, BE IT RESOLVED BY THIS LEGISLATIVE BODY, that we extend to the Reverend McCoy our most hearty thanks for for his efforts on our behalf.

Filed March 8, 1935.

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**Senate Resolution "I"—(Eastgate)**

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**APPRECIATION RADIO AND PRESS PUBLICITY**

Voicing appreciation for the publicity given—by radio and through the press—of the daily work and activities of the Twenty-fourth Legislative Assembly.

WHEREAS, Reports coming in from all corners of the State indicate that a fine service has been rendered the people of North Dakota through the splendid manner in which the doings of this Twenty-fourth Legislative Assembly have been reported, both through the newspapers and over the radio, and

WHEREAS, North Dakota people generally, because of this service, have a more thorough and detailed understanding and knowledge of the work of this legislature and affairs of state reflected in the legislation presented than that of any previous session because of the manner in which the legislative news has been presented, described and reported, and

WHEREAS, We believe this service has been of widespread interest and of untold educational value to the people of North Dakota,

THEREFORE, BE IT RESOLVED, That this Twenty-fourth Legislative Assembly hereby extends its thanks and appreciation to those responsible for the publicity thus given, and especially to Radio Station KFYZ for the free service donated to carry these nightly broadcasts, and to Sam Clark for the time and effort he has given in making nightly broadcasts of Legislative Hi-Lights, and to Senator Oscar Erickson for his untiring work in arranging nightly programs and talks by members of both House and Senate, and to the newspapers having special representatives at the Capitol for the purpose of reporting such legislative news.

Filed March 15, 1935.

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**Concurrent Resolution A-J—(Senator Cain)**

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**85TH BIRTHDAY CONGRATULATIONS HON. W. E. MARTIN**

WHEREAS, it has come to the knowledge of the members of the Twenty-fourth Legislative Assembly that William E. Martin, a former member of this assembly, is ill and a patient in the Deaconess Hospital at Mandan; and,

WHEREAS, William E. Martin served as a member of the House of Representatives from the Thirtieth Legislative District in the 1907, 1909, 1911 and 1913 Sessions of the Legislative Assembly, and was a member of the Senate from said Legislative District in the 1923, 1925, 1927, 1929, 1931 and 1933 Sessions; and,

WHEREAS, this is his eighty-fifth birthday; and,

WHEREAS, those who were associated with him in this Assembly, and those who have known him during his many years of residence in this state, recognize his honesty and sincerity of purpose:

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, that we express to William E. Martin our sincere congratulations upon his eighty-fifth birthday, and that we hope and wish for his speedy recovery.

Filed March 8, 1935.

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**Joint Memorial Resolution A—(Marshall, Fowler, Whelan and Fine)**

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**EXPRESSIONS OF SYMPATHY AND CONDOLENCE  
U. S. SENATOR LYNN J. FRAZIER AND FAMILY**

WHEREAS, the all wise Creator has called to the Great Beyond Lottie Frazier, wife of our Senior United States Senator Lynn J. Frazier,

BE IT RESOLVED, that this Legislative Assembly hereby expresses to Senator Frazier and the members of his family its sincere sympathy and condolence upon this great loss which he and they have suffered, and

That a telegraphic copy hereof be sent to Senator Frazier signed by the President of the Senate and the Speaker of the House.

That there be also prepared and sent to Senator Frazier an enrolled copy hereof, signed by both of said officers.

Filed February 6, 1935.

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House Resolution Q—(Keidel, Brunsdale and Fedje)

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EXPRESSIONS OF SYMPATHY HON. JAMES CADDELL

WHEREAS, the Supreme Ruler of the Universe, in His infinite wisdom, has called to His eternal home, Cornelius Caddell the brother of James Caddell;

NOW, THEREFORE, BE IT RESOLVED, that this House of Representatives of the State of North Dakota extend to James Caddell, one of our fellow members, our deepest sympathy in his great loss, and,

BE IT FURTHER RESOLVED, that the Chief Clerk deliver to James Caddell an enrolled copy of this resolution.

Filed March 8, 1935.

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House Resolution X—(Born)

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EXPRESSIONS OF SYMPATHY HON. RAY SCHNELL

WHEREAS, Representative Ray Schnell of Stark County has been called to the death bed of his daughter, Laverne, and

WHEREAS, the members of the House wish to express to the bereaved family their sympathy in the loss of their loved one;

NOW, THEREFORE, BE IT RESOLVED that the members of the House do hereby express their deepest sympathy for our brother Representative and the members of his family in their hour of loss and sorrow; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Representative Ray Schnell and that the same be printed in the Journal of this House.

Filed March 8, 1935.

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House Resolution P—(Clarke, Brunsdale and Fedje)

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EXPRESSIONS OF SYMPATHY HON. ZACK SHOCKMAN

WHEREAS, the Supreme Ruler of the Universe, in His infinite wisdom, has called to His eternal home, the little son of Clarence Shockman, and grandson of Zack Shockman;

NOW, THEREFORE, BE IT RESOLVED, that this House of Representatives of the State of North Dakota extend to the little one's parents and to Zack Shockman, one of our fellow members, our deepest sympathy in their great loss, and

BE IT FURTHER RESOLVED, that the Chief Clerk send to Zack Shockman an enrolled copy of this resolution.

Filed March 8, 1935.

Senate Concurrent Resolution A-E—(Mutchler, Stucke and Whelan)

**CONSTRUCTION MISSOURI RIVER DAM**

WHEREAS, the economic distress of North Dakota and South Dakota is in a large measure due to the long continued drought, and

WHEREAS, the receding ground water tables and the disappearance of surface waters present a most serious problem to the people of our state, and

WHEREAS, the Missouri River frequently carries an enormous amount of flood waters, dangerous and destructive to property and life to the lower Missouri and Mississippi basins, and

WHEREAS, the impounding of the flood waters would be of material benefit in restoring ground water tables and furnishing surface waters to North Dakota and would materially aid in preventing the recurrent floods in the lower Mississippi basins, and

WHEREAS, competent engineers have made a study of the problem of constructing a Missouri River dam and diverting the waters, for the benefit of North Dakota and South Dakota, showing that such a dam and diversion project are feasible, and

WHEREAS, the construction of such a dam and the diversion of such waters properly comes under federal jurisdiction, and

WHEREAS, the construction of the Missouri River dam, and the diversion project in connection therewith, would furnish employment for several thousand people now on federal relief through no fault of their own.

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the State of North Dakota, the House concurring therein, that we petition the United States Congress now assembled, and the President of the United States, the Honorable Franklin D. Roosevelt, to construct a dam on the Missouri River at Big Bend, between Mannhaven and Garrison, for the purpose of impounding the waters of the Missouri, and diverting the same in accordance with the report and recommendations of Burns and McDonnell, Consulting Engineers, and

BE IT FURTHER RESOLVED, that the Secretary of the State of North Dakota be and is hereby instructed to forward an authenticated copy of this Resolution to the President of the United States, the Honorable Franklin D. Roosevelt, to the President of the United States Senate, to the Speaker of the House of Representatives at Washington, D. C., to the United States Senators, and the two Representatives from North Dakota in Congress.

Filed March 8, 1935.

Concurrent Resolution A-15—(Godwin, Scholl and Blaisdell)

INVESTIGATION MISSOURI RIVER POSSIBILITIES  
NORTH AND SOUTH DAKOTA

WHEREAS, It is necessary to check the flow of the Missouri River in North Dakota and South Dakota by means of a large manual controlled diversion dam; and to release the stored water as needed to maintain an average flow to the mouth of the Missouri River and to divert part of aforesaid stored water to furnish surface water for cities and villages in North Dakota and South Dakota; also part of aforesaid diverted water to be used in replenishing receding ground water tables in North Dakota and South Dakota, and

Whereas, Many of the shelter belts now owned by farmers are dying from lack of ground water supply, and

WHEREAS, it would be necessary to restore ground water tables before a shelter belt of such large proportions as proposed by the Government could be expected to survive, and

WHEREAS, the control of the Missouri River between limits would make it entirely possible to afford the great northwestern territory a less expensive transportation of agricultural products, and

WHEREAS, the Missouri River forms a part of one of the most dangerous flood basins, namely the Mississippi-Missouri Basin, which annually causes millions of dollars of property damage and loss of life, and

WHEREAS, the Missouri River having caused local floods by excessive water and ice jams causes thousands of dollars of property damage and loss of life; aforesaid losses could be averted by complete Missouri River control, and

WHEREAS, North Dakota and South Dakota were at one time one of the largest northwest breeding areas for fowl in the United States, and with the receding water table causing water holes, sloughs, ponds, et cetera to dry up, thus forcing aforementioned fowl to leave the aforesaid areas, and

WHEREAS, with the development of the Missouri River a large amount of cheap electrical energy could be produced which would act as an incentive for industrial expansion within the states of North Dakota and South Dakota, and

WHEREAS, every year thousands of acres of North Dakota's and South Dakota's most productive land is washed away by the Missouri River at its high stages, and

WHEREAS, in view of the fact that proper development of the Missouri River very naturally comes under several different departments and/or commissions of the Federal Government, it is respectfully suggested that a Commission of five Engineers be created to

properly investigate the obvious possibilities for development of the Missouri River in North Dakota and South Dakota,

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the State of North Dakota, the Senate concurring therein, that we petition the United States Congress, now assembled, and the President of the United States, the Honorable Franklin D. Roosevelt, to appoint and instruct the aforesaid commission of five Engineers, and

BE IT FURTHER RESOLVED that aforesaid commission be selected from Civil Engineers in private life, one Engineer to be chosen from the States of North Dakota and/or South Dakota, and

BE IT FURTHER RESOLVED that the Secretary of State of the State of North Dakota be and is hereby instructed to forward an authenticated copy of this resolution to the President of the United States, the Honorable Franklin D. Roosevelt, to the President of the United States Senate, to the Speaker of the House of Representatives at Washington, D. C., to the two United States Senators and the two Representatives from North Dakota in Congress.

Filed March 4, 1935.

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Senate Concurrent Resolution A-B—(Miklethun and Fine)

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GOVERNMENT MONOPOLY ISSUANCE OF MONEY—  
GOVERNMENT BANK SYSTEM

*Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

WHEREAS, the United States Constitution under Article I, Section 8, providing for powers granted to Congress among other things specifically provides "the Congress shall have power to coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures."

WHEREAS, this function and governmental power has been turned over to the National Banks, and thereby placed in the practical control of such Banks; and,

WHEREAS, the use and abuse of this power has placed the economic direction and control of our country in the hands of a few men, and thereby determining its destiny; and,

WHEREAS, by reason of the delegation of this governmental power, a few men own the great mass of wealth and property in this country; and,

WHEREAS, the result of such system was foretold by Jefferson who said, "Already they have raised up a money aristocracy that has set the government at defiance. The issuing power should be taken from the banks and restored to the government, and the peo-

ple, to whom it rightfully belongs," and Lincoln said, "The money power of the country will endeavor to prolong its reign by working upon the prejudices of the people, until all wealth is aggregated in in a few hands and the Republic is destroyed. I feel at this time more anxious for my country than even in the midst of war," and Woodrow Wilson said, "The great monopoly in this country is the money monopoly. So long as that exists our liberty and freedom and individual energy of development are out of the question.\* \* \* \* This is the greatest question of all; and to this, statesmen must address themselves with an earnest determination to serve the long future and the true liberties of men;" and,

WHEREAS, it is necessary that this great power be restored to the government and its people, even though the hour is late,

NOW, THEREFORE, we urge upon Congress the passage of all necessary laws to re-establish the issuing of money as a monopoly of government, and that there be established a system of government banks exclusively owned, to the end that a bank system be provided for the people at cost.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and the Senators and Congressmen from North Dakota.

Filed March 8, 1935.

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Senate Resolution K—(Thatcher)

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INVESTIGATION EXORBITANT FEES, LIGHT, HEAT, POWER AND  
GAS COMPANIES

WHEREAS, some of the light, heat, power and gas companies operating in this state are alleged to be charging exorbitant fees, and

WHEREAS, some of them are allegedly refusing to extend service sufficiently to accommodate would-be customers, and

WHEREAS, it is alleged that some of the charges made for connection for city and farm homes are out of all reason, and

WHEREAS, it is charged that the services rendered in instances are unsatisfactory, and

WHEREAS, it is charged that the stock of these various corporations is watered,

NOW, THEREFORE, BE IT RESOLVED that the Board of Railroad Commissioners of the State of North Dakota are hereby authorized and directed to make a full, complete and exhaustive investigation of the above charges and that they report in writing to the next session of the legislature, either regular, or a special session if there is one, and that they embody in said report, if they find such charges to be true, recommendations as to the best method of securing jus-

tice for the people of the State of North Dakota from the utilities and further that they report what the approximate cost will be of the State of North Dakota buying the said utilities outright and whether, in their opinion, it would be advisable to do so.

Filed March 15, 1935.

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Joint Resolution B—(Bonzer)

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CONTINUATION FEDERAL FUNDS FOR RELIEF NEEDS

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

WHEREAS, during the past two years the Federal Government has set apart and given to the State of North Dakota outright grants of large sums of money to be used to relieve the needy and destitute citizens of the State, and,

WHEREAS, the persons needing the relief obtained through these grants were in the position of need through no fault of their own, but rather through conditions developing as a result of the combination of national and international economic disaster with local drouth conditions, and

WHEREAS, serious need continues through failure of improvement in economic conditions together with a continuance of drouth, and

WHEREAS, it now appears that the tax collecting power of the State is in grave danger of complete failure because of the inability of farm, home and industrial property to meet the demands made upon them, and

WHEREAS, the development of this condition prevents the possibility of the state making increased levies to meet the demands for relief needs until revision of the State Constitution can be affected and which will require two years time,

NOW, THEREFORE, BE IT RESOLVED, by the Legislative Assembly of the State of North Dakota, duly convened, that a Memorial be served upon the Congress of the United States, and upon his Excellency, the President of the United States, and upon Harold L. Ickes, Secretary of the Interior, and upon Harry L. Hopkins, Federal Emergency Relief Administrator, to the end that full grants of Federal funds to meet the relief needs of the State may be continued as in the past, and

BE IT FURTHER RESOLVED, that certified copies of this joint resolution be forwarded by the Governor of this state to the President of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives, and to the Members of the North Dakota delegation in Congress.

Filed February 8, 1935.

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**Senate Resolution H—(Handley)**

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**DEPRECATING LOBBY AGAINST SALES TAX**

*Be It Resolved by the Senate of the State of North Dakota: That*

WHEREAS, the members of the Twenty-fourth Legislative Assembly of the State of North Dakota, acting upon the advice and counsel of the Honorable Walter Welford, Acting Governor, and after full consideration and due deliberation concluded that the physical property in the state can no longer carry the unjust tax burden, and

WHEREAS, every attempt has been made to secure the necessary funds to maintain our educational system and to carry on the governmental functions of the state without the enactment of a sales tax act, and

WHEREAS, it has been found impossible to do so and has been found necessary to present for the consideration of the members of the Senate and House, Senate Bill Number 313, in order to furnish the necessary revenues to balance the State's budget and maintain the credit of North Dakota,

THEREFORE, we call upon all local and patriotic residents of our state to support the action of your Acting Governor and the Members of the Twenty-fourth Legislative Assembly in the enactment of Senate Bill Number 313, and

BE IT FURTHER RESOLVED, that we earnestly request you to condemn the action of a few persons who, prompted by selfish motives, and who, without considering the best interests of the state, are proceeding to form an organization for the purpose of referring the measure, not because of any honest belief that the provisions of the act are detrimental to the interest of the people as a whole, but to the end that they may raise a fund and furnish employment to the organizers. We further request that you refuse to join in this unjust action by refusing every request to sign referendum petitions.

Filed March 8, 1935.

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**Joint Resolution C—(Senate Committee on Education)**

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**INFORMATION FINANCIAL NEEDS OF PUBLIC SCHOOLS IN DROUGHT STRICKEN AREA**

WHEREAS, a serious crisis is impending in the financial condition of the public schools in the drought stricken areas of the State of North Dakota, and

WHEREAS, unless immediate financial assistance is forthcoming, at least 1,500 schools will be obliged to close in this area.

THEREFORE, BE IT RESOLVED, that the Senate hereby authorizes the Chairman of the Committee on Education to appoint a sub-com-

mittee to act jointly with a like committee from the House in presenting the seriousness of these needs to the Federal Emergency Relief Administration.

BE IT FURTHER RESOLVED that this Committee be authorized to collaborate with the Department of Public Instruction in securing the necessary statistical information bearing upon this crisis.

Filed February 6, 1935.

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Senate Concurrent Resolution A-G—(McDonald and Fine)

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NATIONAL GOVERNMENT SHARING COST OF EDUCATION OF  
SCHOOL CHILDREN

WHEREAS, equal educational opportunity for all children, although essential to true democracy, is today unfairly denied to millions of American children; and

WHEREAS, the welfare of the entire nation depends on an alert and educated citizenry; and

WHEREAS, many school districts have so little taxable wealth that, despite heavy tax rates, they will continue to be unable to maintain adequate schools, while in other parts of the nation vast amounts of taxable wealth have been accumulated which are truly the result of the toil of people throughout the nation; and

WHEREAS, the North Dakota Federation of Teachers and the American Federation of Teachers, affiliated with the American Federation of Labor, have adopted resolutions asking for national support of education:

THEREFORE, BE IT RESOLVED, that it is the opinion of the Senate of North Dakota, the House of Representatives concurring, that the national government should, as a permanent policy, share the financial cost of education of all school children; and

BE IT FURTHER RESOLVED, THAT THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING, most respectfully urge upon the Congress of the United States the early enactment of legislation providing that the national government pay to each school district twenty-five dollars (\$25.00) a year for each child enrolled, and

BE IT FURTHER RESOLVED, that the Secretary of State of the State of North Dakota, be, and is, hereby instructed to forward a duly authenticated copy of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives and to each Representative of the State of North Dakota in the United States Senate and House of Representatives.

Filed March 8, 1935.

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Concurrent Resolution A—(Greene, McDonald, Fowler and Drew)

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CONTINUANCE FEDERAL AID TO TEACHERS IN DISTRESSED  
SCHOOL DISTRICTS

WHEREAS, the Federal Government during the year of 1934 did grant to the teachers employed by distressed school districts financial assistance by paying salaries to teachers, thus enabling many school children in the drouth area to secure schooling who would otherwise have been denied it, and

WHEREAS, such aid now being furnished will expire January 31, 1935, or within twenty-one days, and

WHEREAS, while recognizing the state's responsibility to provide assistance to such distressed school districts we must acknowledge that in the ordinary course of legislative action any financial plan devised will be too late to be of assistance during the present term, and

WHEREAS, the financial crisis of the entire public school system is bound to grow more serious and will unless aid is forthcoming result in the loss of school privileges to at least twenty-five per cent of the school children living on farms and in small towns, villages, etc.

THEREFORE, BE IT RESOLVED, that the Senate of the State of North Dakota, the House concurring, respectfully and urgently memorialize the Congress of the United States to direct that the Federal Emergency Relief Administration continue the relief aid now being furnished to distressed school districts for the balance of this school term or until such time as may be necessary to secure special state revenue for such purposes.

Filed February 6, 1935.

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Senate Concurrent Resolution U—(Fine, Fowler and Whelan)

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FEDERAL AID 1935 SEED NEEDS

WHEREAS, during the past years the Federal Government has made loans to the farmers of this state to aid them in the purchase of seed with which to plant their crops and has taken security for such loans in the form of notes secured by crop mortgages, and

WHEREAS, by reason of the continued drought conditions existing in this state and the continuance of the depression which has so adversely affected agriculture, it has been absolutely impossible for our farmers to liquidate but a very small portion, if any, of such indebtedness, and

WHEREAS, it will be necessary for our farmers to receive further aid from the Federal Government during the year 1935, to en-

able them to purchase and obtain the seed necessary to plant their crops,

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING, That we urge our Representatives in Congress to do everything possible to bring about the passage of legislation by Congress or the issuance of such executive order as may be necessary to obtain for our farmers the seed which will be required to plant their crops during 1935, but without any requirement that payment shall be made or security required or given on account of any prior indebtedness to the government for seed sold and furnished in prior years, and further urge that the sale and delivery of seed for the year 1935 be made immediately so as to make seed available at once.

Filed March 5, 1935.

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House Concurrent Resolution A-I—(Peterson of Bottineau)

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PAYMENT SEED AND FEED OBLIGATIONS TO U. S.  
GOVERNMENT

WHEREAS, a large percentage of the farmers of the State of North Dakota, and other farming states, have been and still are severely suffering from deflation, depression, drought and other causes beyond their control, and

WHEREAS, these causes have placed these farmers in a position where a large portion of them are either compelled to seek government relief and feed and seed help or go out of business; and furthermore, previous years seed and/or feed loans on the part of a large number of farmers remain unpaid because of poor crops and financial stress resulting from a combination of these adverse conditions and destructive prices; and,

WHEREAS, the prices of feed and seed now existing constitute in all probability a wide disparity as compared to the reasonably prospective prices of feed and seed of similar quality if a normal crop be realized, thus again resulting in an unfair and unequal purchasing or compensating farm dollar;

NOW, THEREFORE, BE IT RESOLVED by the Twenty-fourth Legislative Assembly of the State of North Dakota, that we respectfully petition the Honorable Henry Wallace, U. S. Secretary of Agriculture, the Congress of the United State and President Roosevelt that they do grant unto these above farmers as set forth herein the privilege of returning bushel for bushel, when and if they get a crop, in full and fair payment for any and all such feed and seed obligations to the United States Government; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to President Franklin D. Roosevelt, the President of the

United States Senate, the Speaker of the United States House of Representatives, the Honorable Henry A. Wallace, Secretary of Agriculture, Congressmen Wm. Lemke and Usher L. Burdick and U. S. Senators Lynn J. Frazier and Gerald P. Nye.

Filed February 1, 1935.

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Senate Concurrent Resolution X—(Fine and Miklethun)

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**ENDORISING PROPOSED SHELTERBELT PROJECT**

WHEREAS, trees have proven a great boon to mankind, and are a priceless heritage to posterity, and

WHEREAS, successful experiments in tree planting under all kinds of conditions have been conducted by the Federal Experiment Station at Mandan, the several substations, the State School of Forestry at Bottineau, and by private enterprise in North Dakota, and

WHEREAS, the President, Hon. Franklin D. Roosevelt, has proposed a forest shelterbelt to extend through a number of Great Plains States, including North Dakota, for the purpose of minimizing the destructive influences of winds and conserving the natural moisture of the region, and

WHEREAS, recent droughts have emphasized the necessity for such protection and conservation, and the need for appropriate early action is urgent,

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING: That we express our appreciation of this forward-looking plan to benefit agricultural and allied industries in this section, and as such vital to the entire nation, and

That we endorse the proposal in its entirety, and

That we respectfully urge the Congress of the United States to enact legislation and make the necessary appropriations to carry into effect the Great Plains Shelterbelt Project, and

BE IT FURTHER RESOLVED, that the Secretary of State is instructed and directed to transmit copies of this Resolution to the President of the United States, the Secretary of Agriculture, and to each of the Senators and Representatives in Congress from this State.

Filed March 8, 1935.

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Senate Resolution G—(Watt)

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**LISTS OF EMPLOYEES OF VARIOUS STATE DEPARTMENTS**

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, That the Industrial Commission, the Board of Administration, the State Board of Auditors, the State Regulatory Department, the

Commissioner of Insurance, the State Highway Department, the Board of Railroad Commissioners, Motor Vehicle Department and the Workmen's Compensation Bureau, are hereby requested and directed forthwith to prepare and file with the Secretary of the Senate a list of any and all employees under their jurisdiction, supervision, or control, directly or indirectly, giving the name, office held and annual salary received, and the payroll for the month of February, 1935, also the amount spent for traveling and other expenses during the year 1934.

Filed March 8, 1935.

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House Resolution N—(Burke, Smith, Blaisdell, Downey and Clark)

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**STATE DEPARTMENT EXPENDITURES IN EXCESS OF  
APPROPRIATIONS**

WHEREAS, the several departments of government of the State of North Dakota have made requests to the twenty-fourth Legislative Assembly for appropriations in excess of one hundred and fifty thousand (\$150,000.00) dollars to cover deficits incurred in such departments during the past biennium, and

WHEREAS, under the provisions of Section 640a1 of the Supplement to the Compiled Laws of 1913 it is made a misdemeanor for any state official or state board or head of any state institution to spend more money than is appropriated by the State Legislature for the biennium, and

WHEREAS, all indebtedness incurred by such officials for their respective departments in excess of such appropriations is by law declared to be absolutely void and,

WHEREAS, the Twenty-fourth Legislative Assembly due to unusual contingencies and emergencies has seen fit to make deficit appropriations and to honor debts incurred in excess of the appropriations for the past biennium; and

WHEREAS, this House does not wish its actions in this respect to be interpreted as creating a precedent with regard to deficit appropriations nor as condoning the acts of such state officials in violating the statutes of this state and

WHEREAS, it is the desire of this House, that the public be fully informed as to the laws applicable to this situation to the end that all persons may know when they enter into any contract with any state officer, state board or the head of any state institution, calling for the expenditure of money in excess of the appropriation for such state office, board or institution that as to such excess the contract is absolutely void;

WHEREAS, in most instances these deficiency appropriations have been made necessary by reason of the fact that certain state officials had practically exhausted the biennial appropriations for their re-

spective departments when their terms expired or six months prior to the close of the biennial period, leaving practically no funds, with which their successors could operate their respective departments during the first six months of their terms.

BE IT THEREFORE RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE TWENTY-FOURTH LEGISLATIVE ASSEMBLY, that these acts of state officials in exceeding the legislative appropriations for their respective offices are hereby condemned, and

BE IT FURTHER RESOLVED that this House hereby requires in so far as it has power so to require by resolution that in the future no state officer, state board, or the head of any state institution shall expend during the first eighteen months of any biennial period more than three-fourths of the operating appropriation for the biennium for such department, board or institution, in so far as this policy is consistent with efficient departmental management.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the head of every state department so that they may govern their future actions accordingly and copies hereof be given to the daily newspapers, the representatives of the press associations so that the public may be fully informed as to its rights and liabilities.

Filed March 8, 1935.

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Senate Resolution E—(Committee on Appropriations)

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**SERIOUSNESS OF INSTITUTIONAL BUILDING NEEDS**

WHEREAS, a serious condition and crisis exists at several of the state institutions of this state with respect to the necessity for new buildings to properly house and care for the inmates of such institutions, and

WHEREAS, the financial condition of this state is such by reason of drouth and other causes to make it extremely burdensome, if not impossible, to appropriate and raise sufficient funds to build the new buildings at such institutions as are imperatively needed, and

WHEREAS, the said Senate Committee on Appropriations has appointed a sub-committee consisting of Senators Marshall, Watt, and Dubay, with respect to this matter,

NOW THEREFORE BE IT RESOLVED, that the Senate hereby approves the action of its said committee on Appropriations in appointing such sub-committee and does hereby authorize and empower the said sub-committee to act jointly with a like committee from the House in presenting the seriousness of these needs to the Federal Emergency Relief Administration.

Filed January 31, 1935.

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House Resolution H—(House Committee on Appropriations)

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**SERIOUSNESS INSTITUTIONAL BUILDING NEEDS**

WHEREAS, a serious condition and crisis exists at several of the state institutions of this state with respect to the necessity for new buildings to properly house and care for the inmates of such institutions, and

WHEREAS, the financial condition of this state is such by reason of drought and other causes to make it extremely burdensome, if not impossible, to appropriate and raise sufficient funds to build the new buildings at such institutions as are imperatively needed, and

WHEREAS, the said House Committee on appropriations has appointed a subcommittee consisting of Representatives Parkinson, Thompson and McLarty with respect to this matter.

NOW THEREFORE, BE IT RESOLVED, that the House hereby approves the action of its said committee on appropriations in appointing such sub-committee and does hereby authorize and empower the said sub-committee to act jointly with a like committee from the Senate, in presenting the seriousness of these needs to the Federal Emergency Relief Administration.

Filed February 14, 1935.

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Senate Concurrent Resolution A-K—(Erickson)

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**CONSOLIDATION OR CLOSING OF CERTAIN STATE INSTITUTIONS**

WHEREAS, there is a general feeling among the people of the State of North Dakota that some of the state institutions should either be consolidated or closed; and

WHEREAS, some of these institutions were established under such conditions that it is impossible to consolidate them; and,

WHEREAS, the entire subject is very involved and intricate and requires study in order to do justice to the schools themselves, the people in the vicinity and adjoining counties where schools are located:

NOW, THEREFORE, BE IT RESOLVED by the Senate of the State of North Dakota, the House of Representatives concurring, that a committee consisting of the Governor, Attorney General and Superintendent of Public Instruction, together with the Board of Administration, make a thorough study of the feasibility of either consolidating or closing some of these institutions and that after they have arrived at a decision that the Secretary of State, at the next general primary election shall send out a ballot to all the county auditors of North Dakota, who in turn shall send same to the various voting places and that the people of the state be given an opportunity to

express their wishes by voting at that time on the various propositions of either consolidating or closing these institutions as this committee may determine and which shall be submitted to the people.

Filed March 8, 1935.

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Senate Concurrent Resolution No. I—(Miklethun and Peterson)

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**TOWNSEND OLD AGE REVOLVING PENSION FUND**

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:*

WHEREAS, the problem of old age security has become a leading public issue, and

WHEREAS, the people of the State of North Dakota have become conscious of the need for Federal legislation aiming to make dependent old age more secure; and

WHEREAS, many thousands of the people of this state have endorsed and recommended a plan known as "The Townsend Old Age Revolving Pension Plan," tending toward the accomplishment of these aims and the security of persons of this state in their old age; and

WHEREAS, it is imperative that our younger people may find employment and thus put an end, in a large measure, to our present unemployment situation, and that the active and wide spread buying and selling to result from the operation of the Townsend Bill will help banish poverty and bring back prosperity to our country in general:

NOW THEREFORE, BE IT RESOLVED by the Senate of this Twenty-Fourth Legislative Assembly, the House of Representatives concurring herein: That the Congress of the United States is hereby respectfully memorialized and urged to give every consideration to the said "The Townsend Old Age Revolving Pension Plan," if, as, and when the same is presented for its consideration.

BE IT FURTHER RESOLVED, that the Senators and Representatives of the State of North Dakota in the Congress of the United States be requested to take such necessary steps as will insure full consideration of the aforesaid "The Townsend Old Age Revolving Pension Plan" upon its presentation to the Congress of the United States, and that copies of this memorial be forwarded forthwith to the President of the Senate, to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives of the State of North Dakota.

Filed February 13, 1935.

**Senate Concurrent Resolution A-I—(Fine and Thorson)**

**RELEASE MINIMUM SEEDING REQUIREMENTS 1935  
WHEAT ALLOTMENTS**

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring, That*

WHEREAS, There is at this time, over a large part of the State of North Dakota, an extreme shortage of moisture in the soil, and

WHEREAS, The past few years have proven that unless there is a reasonable amount of moisture on or before seeding time, crop failures have largely followed due to soil blowing, lack of soil moisture, etc., Now, therefore,

BE IT RESOLVED that the Senate of the State of North Dakota, the House of Representatives concurring, do respectfully petition Honorable Henry A. Wallace, Secretary of Agriculture, and Honorable George Farrell, Wheat Administrator, that they permit the farmers in North Dakota to choose themselves whether or not, under these conditions, they shall be required to buy expensive seed and run the risk of perhaps another crop failure with consequent loss; and

BE IT FURTHER RESOLVED, That the farmers of North Dakota may be released from their minimum seeding requirements in order to participate in the benefits of the wheat allotment for the year 1935;

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Honorable Henry A. Wallace, Secretary of Agriculture, George Farrell, Wheat Administrator, Farmers Union Legislative Committee at Washington, Secretary of the Senate of the State of South Dakota and Secretary of the Senate of the State of Minnesota.

Filed March 8, 1935.

**Senate Concurrent Resolution H—(Whelan, McGillic and Lynn)**

**WORLD WAR VETERANS ADJUSTED COMPENSATION  
CERTIFICATES**

Requesting Congress of the United States to enact legislation to provide for the immediate payment of World War Veterans' Adjusted Compensation Certificates: Cancelling Interest: Refunding interest paid.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

WHEREAS, A general economic depression producing a depreciation in the value of all commodities, a stagnation of business, an aggravated condition of unemployment and serious individual suffering now exists in the State of North Dakota and throughout the whole nation; and

WHEREAS, There are now pending before the Congress of the United States certain measures, the purpose of which is to alleviate in some degree the existing distressing conditions, by providing for the immediate conversion into cash of World War Veterans' Adjusted Compensation Certificates; and,

WHEREAS, The passage of such legislation would bring immediate relief to thousands of veterans and their dependents who are now in need, create new markets, instill new life into American business, and be a well deserved demonstration of the gratitude of the nation to those who carried its arms in 1917 and 1918; and,

WHEREAS, The American Legion in convention duly assembled have requested the immediate cash payment of all Adjusted Compensation Certificates; and,

WHEREAS, It is our sincere and honest belief that the immediate cash payment of all Adjusted Compensation Certificates will be of untold value in hastening recovery from present economic crisis:

NOW, THEREFORE, BE IT RESOLVED: That the Senate of the State of North Dakota, the House of Representatives concurring, most respectfully urge upon the Congress of the United States, the early enactment of Legislation providing for the cancellation of all accrued interest, the refund of all interest paid, and the immediate payment, upon application, of the full face value of such Adjusted Compensation Certificates.

AND BE IT FURTHER RESOLVED, That the Secretary of State, of the State of North Dakota be and is hereby instructed to forward a duly authenticated copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives and to each Representative of the State of North Dakota in the United States Senate and House of Representatives.

Filed February 8, 1935.

## VETOES

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

### APPROPRIATION—BOARD OF AUDITORS

An Act making an appropriation to the Board of Auditors for the purpose of carrying out the provisions of Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 226, Laws of 1915, and as amended and re-enacted by the Initiated Law approved November 2nd, 1920, and as provided for in Chapter 143, Laws of 1923, the same being Sections 369 and 369b of the Supplement to the 1913 Compiled Laws of North Dakota, and as amended and re-enacted by Chapter 186, Laws of 1933.

### V E T O

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 37 which has not been signed by me is attached.

This bill has been vetoed for the reason that the service is largely a duplication and repeats same work done by auditors in the Department of the State Bank Examiner. Furthermore, the special audits under this law have been more of a political axe than an effective check and in this time of need is a waste of money.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary to the State Board of Auditors for the purpose of examining and auditing the accounts, books and vouchers of the State Treasury, departments and commissions and of all industrial institutions of this State, and for the purpose of ascertaining the assets and liabilities of the same as provided for in Section 369 of the Compiled Laws of the State of North Dakota for the year 1913, as amended and re-enacted by Chapter 226, Laws of 1913, and as amended, and re-enacted by the Initiated Law approved November 2nd, 1920, and as provided for in Chapter 143, Laws of 1923, the same being Sections 369 and 369b of the Supplement to the 1913 Compiled Laws of North Dakota, and as amended and re-enacted by Chapter 186, Laws of 1933, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

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H. B. No. 41—(Committee on Appropriations)

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BOVINE TUBERCULOSIS

An Act making an appropriation for the purpose of indemnifying owners of animals infected with bovine tuberculosis and to pay expenses in connection therewith.

## V E T O

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 41 which has not been signed by me is attached.

This bill has been vetoed for the reason that this appropriation does not appear to be a necessity at this time as so many cattle have been shipped out of the country, and if an occasion should arise when such funds will be necessary, some arrangement can be worked out for them at such time.

Very respectfully,

WALTER WELFORD,

Acting Governor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$25,000.00, or so much thereof as may be necessary for the purpose of indemnifying the owners of animals infected with bovine tuberculosis, which animals have been destroyed and to pay expenses in connection therewith, as provided in Section 2699 to 2710, inclusive, of the Compiled Laws of North Dakota for the year 1913, and amendments thereto, for the biennium beginning July 1st, 1935, and ending June 30th, 1937.

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H. B. No. 93—(Seibel and Caddell)

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CHATTEL MORTGAGE FORM

An Act to amend and re-enact Section 6756 of the 1913 Compiled Laws of the State of North Dakota, relating to the form of Chattel Mortgages.

## V E T O

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 93 which has not been signed by me is attached.

This bill has been vetoed for the reason that it is impossible to

conform to the regulations in the bill calling for specific description of property to be mortgaged. This would be particularly applicable to sheep or cattle where it would be necessary to make a complete and effective description individually of each cow, horse, sheep, hog, etc., going into detail even to the point of describing the last white mark or bald spot.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. AMENDMENT.] That Section 6756 of the 1913 Compiled Laws of the State of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 6756. FORM.] A Mortgage of personal property shall be made in substantially the following form:

This mortgage made the.....day of.....in the year  
.....by A. B. of.....by occupation.....  
mortgagor.....to C. D. of.....mortgagee  
witnesseth:

That the mortgagor mortgages to the mortgagee (here describe the property) as security to him for the payment of \$.....  
on (or before) the.....day of..... in the  
year.....with interest thereon (or as security for payment of  
a note or obligation describing it, etc.)

A. B.

The mortgage shall contain a complete description of the personal property offered as security for the debt therein described and said mortgage shall be void as to all property not fully and definitely described therein, and it shall be unlawful to attempt to describe in said mortgage, any property by the following designation, or similar designation, to wit:

"It being the intention hereby to cover all my personal property of like kind;" or "Together with or additions thereto" or "Together with all increase of said stock" or "Being all of my said personal property." Said mortgage shall be void and of no effect as to the property not fully and sufficiently described, and it shall have no force and effect as to any other property attempted to be covered thereby.

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

## S. B. No. 120—(Peterson)

## ABOLISHING CROP MORTGAGES

An Act to amend and re-enact Section 2 of that certain initiated law entitled, "An act declaring mortgages on growing and unharvested crops to be against the public policy of this state, and abolishing the same," approved and adopted by the electors at the June 29th, 1932, Primary Election, repealing Chapter 150, Session Laws of 1933 and declaring an emergency.

## V E T O

March 21, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

Senate Bill No. 120 which has been vetoed by me is herewith attached.

This bill has been vetoed for the reason that the enactment of such legislation would prohibit any loan by agencies of the Federal Government. Furthermore, it is believed that Chapter 150 of the 1933 Session Laws is sufficient without further enactment of legislation along this line.

Respectfully,  
WALTER WELFORD,  
Acting Governor.

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

§ 1. AMENDMENT.] That Section 2 of said initiated law be amended and re-enacted to read as follows:

§ 2. REPEAL.] Whereas there is question as to the validity of Chapter 150, Session Laws of 1933, this act covers the same subject matter, therefore said Chapter 150 is hereby repealed.

§ 2. That all mortgages on growing and unharvested crops are abolished, and that any and all mortgages on growing and unharvested crops hereafter taken shall be held null and void and of no effect; provided, however, that the provisions of this act shall not apply to any mortgage in favor of the United States or of any department thereof, nor to any liens permitted under the provisions of Chapter . . . . ., Session Laws of 1935, which is H. B. No. 287 of the 24th Legislative Assembly.

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

## H. B. No. 5—(Erickson of McKenzie)

## GRAIN STORAGE ON FARMS, ABOLISHING GRAIN STORAGE COMMISSIONER, ETC.

An Act relating to grain storage on farms, abolishing the office of Grain Storage Commissioner of North Dakota, and transferring all powers and duties of that office to the Board of Railroad Commissioners of the State of North Dakota, and amending and re-enacting Section 2 of Chapter 138 of the 1929 Session Laws and repealing Sections 3 and 4 of Chapter 138 of the 1929 Session Laws and all acts or parts of acts in conflict herewith, and declaring an emergency.

## V E T O

March 15, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 5 which has not been signed by me is attached.

This bill has been vetoed for the reason that pending further developments as to the crop situation and the possibility of establishing an independent office in co-operation with the governmental activities administering the provisions of the Agricultural Adjustment Act, it is believed desirable to retain this office.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 138 of the 1929 Session Laws be amended and re-enacted to read as follows, to-wit:

§ 2. BOARD OF RAILROAD COMMISSIONERS TO ACT AS GRAIN STORAGE COMMISSIONER.] The office of Grain Storage Commissioner of North Dakota as created by Chapter 138 of the 1929 Session Laws is hereby abolished, and the duties of said officer are hereby placed in the Board of Railroad Commissioners of the State of North Dakota, and whenever in said Chapter 138 of the 1929 Session Laws the name "Commissioner" is used, the same shall thereafter refer to the Board of Railroad Commissioners of the State of North Dakota, and it is hereby made the duty of the Grain Storage Commissioner of North Dakota to deliver and transfer to said Board of Railroad Commissioners all papers, documents and files and all office equipment belonging to his said office.

§ 2. REPEAL.] That Sections 3 and 4 of Chapter 138 of the 1929 Session Laws, and all acts or parts of acts in conflict herewith are hereby repealed.

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

H. B. No. 311—(Schauss, by Request)

PENALTIES VIOLATIONS PRACTICE OF MEDICINE AND  
SURGERY

An Act to amend and re-enact Section 470 of the Compiled Laws of the State of North Dakota for 1913 being Section 13 of Chapter 189, Session Laws of 1911 relating to penalties for violation of the laws concerning the practice of medicine and surgery.

V E T O

March 15, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 311 which has not been signed by me is returned.

This bill has been vetoed for the reason that it would appear that the penalty provided therein is unnecessarily severe.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. Section 470 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 470. PENALTIES FOR VIOLATIONS AND FOR FRAUDULENT IMPERSONATION AND FRAUDULENT DEVICES.] Any person who shall practice medicine in this state without complying with the provisions of this article, and any person who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the Court. Any person who shall present or attempt to file as his own, a diploma or certificate of credentials of another, who shall give false evidence or present any altered or forged instrument or writing of any kind to the State Board of Medical Examiners or any member thereof, in connection with an application for license to practice medicine, or in any hearing before said Board, or who shall practice medicine under a false or assumed name or who shall falsely personate another practitioner of a like or different name, or shall be convicted for the second time of violating any of the provisions of this article, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for a term of not less than one year nor more than three years at hard labor.

H. B. No. 295—(Downey, Clarke, Cunningham and Smith)

**PROHIBITING MORTGAGES SECURING PURCHASE OR  
CONTRACT PRICE**

An Act prohibiting real estate and chattel mortgages given to secure the purchase or contract price of personal or real property from including or creating a lien on any real or personal property other than the property purchased for which said mortgage is given to secure; invalidating real and chattel mortgages given in violation of this act, and repealing all acts or parts of acts in conflict herewith.

**V E T O**

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 295 which has not been signed by me is attached.

This bill has been vetoed for the reason that it is too broad in its scope, and for the further reason that under the provisions of this act a person who would purchase material and labor for a building, could not execute a mortgage upon the lot upon which the building was to be placed. This would make impossible the negotiation of any construction loan for any purpose.

This act, if made effective, would prevent and prohibit negotiation for purchase of any materials of any kind whose value would be rapidly depreciating and, therefore, would require additional security for the protection of the original purchase price.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. No chattel or real estate mortgage given to secure the purchase or contract price of any real or personal property shall contain, include, create, or attempt to create a lien on any other real or personal property than that purchased for which said chattel or real estate mortgage is given to secure the purchase or contract price.

§ 2. All chattel or real estate mortgages hereafter made, executed, and delivered to secure the purchase or contract price of personal property which create or purport to create a lien against any real or personal property other than the property for which said chattel or real estate mortgage is given to secure the payment of purchase or contract price, are hereby declared to be against public policy and outlawed, and are hereby declared to be absolutely void.

§ 3. PENALTY.] Any person or persons who violate any provision of this act shall be guilty of a misdemeanor and upon conviction

tion be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred (\$100.00) dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days or by both such fine and imprisonment at the discretion of the Court.

§ 4. All acts and parts of acts in conflict herewith are hereby repealed.

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H. B. No. 253—(Bjerke and Bilden)

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DISPOSITION FEES AND PAYMENT OF EXPENSES  
REGULATORY DEPARTMENT

An Act to amend and re-enact Section 6 of Chapter 199 Session Laws of 1933 relating to the disposition of fees and payment of expenses of the North Dakota Regulatory Department.

V E T O

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 253 which has not been signed by me is attached.

This bill has been vetoed for the reason that the Regulatory Department now needs the revenue for maintenance. Furthermore, the accounting, auditing, and mailing of a 70% would require expenditure and waste of most of 30% in overhead disbursement.

Very respectfully,

WALTER WELFORD,

Acting Governor.

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

§ 1. AMENDMENT.] Section 6 of Chapter 199 Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 6. FEES. DISPOSITION OF. EXPENSES. HOW PAID.] All revenues derived and fees and charges charged and collected under authority of this act by the Director, Assistant Director, and Inspectors of the Regulatory Department shall be properly accounted for daily by the said Assistant Director and Inspectors to the Director of the Regulatory Department and by him recorded and monthly forwarded to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated as the "State Regulatory Fund" out of which all salaries, bills and expenses of whatever nature incurred in the performance of this act shall by said Treasurer be paid.

Vouchers for all salaries and expenses of whatever nature incurred by the Director, Assistant Director and Inspectors of the

Regulatory Department in carrying out and enforcing the provisions of this act, when approved by the said Director, shall be forwarded monthly to the State Auditing Board for audit and approval, and when audited and approved by said Board shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for said salaries and expenses, specifying that said warrants are to be paid from the State Regulatory Fund. The State Treasurer shall thereupon pay said expenses out of the State Regulatory Fund.

Annually, after the salaries and expenses of said Director and Inspectors and other necessary expenses of said Regulatory Department have been paid by the State Treasurer, the said State Treasurer shall transfer to the General Fund of the state fifty per cent of the balance that then remains in said revolving fund and deposited in said fund by said North Dakota Regulatory Department.

Provided, however, that in case the said Director, Assistant Director or Inspectors, collect any money for the State Tax Commissioner, State Auditor, Dairy Commissioner, Commissioner of Agriculture and Labor, or any other officer or board under the provisions of this act, and which moneys or taxes so collected are under the laws of this state directed to be placed by the office or officers or board for whom the said collections were so made by the Regulatory Department in the general or other fund of the State, then the moneys and taxes so collected by said Regulatory Department shall not be placed in said State Regulatory Fund as hereinbefore provided, but shall be accounted for to the officers or board for whom the said collections were made and their receipt taken therefor.

Provided, further, that seventy per cent of the amount of license fees collected pursuant to Article 20A of Chapter 5 of the Political Code of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, shall be paid to the Treasurer of each and all incorporated cities and villages as provided for in said Article.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

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H. B. No. 204—(Schantz)

## PROHIBITING SMOKING IN SPECIFIED PLACES

An Act to repeal Section 10185b of the Supplement to the 1913 Compiled Laws of North Dakota relating to prohibiting smoking in specified places, and the penalties.

## VETO

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 204 which has not been signed by me is attached.

This bill has been vetoed for the reason that it would appear that the present act should be left in force.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. REPEAL.] That Section 10185b of the Supplement to the 1913 Compiled Laws of North Dakota be and the same is hereby repealed.

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S. B. No. 227—(Bonzer, Fowler and Coffey)

## SERVICE OF SUMMONS BY PUBLICATION

An Act to amend and re-enact Section 7429, Compiled Laws of North Dakota for the year 1913, relating to service of summons by publication.

## VETO

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

Senate Bill No. 227 which has not been signed by me is attached.

This bill has been vetoed for the reason that the statute in effect appears satisfactory and there seems to be no occasion for requiring less notice than is now provided for.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. AMENDMENT.] That Section 7429, Compiled Laws of

North Dakota for the year 1913, be amended and re-enacted to read as follows:

§ 7429. NUMBER OF PUBLICATIONS.] Service of the summons by publication may be made by publishing the same four times, once each week for four successive weeks, in a newspaper published in the county in which the action is pending, if a newspaper is published in such county and if no newspaper is published in such county, then in a newspaper published at the seat of government of this state.

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H. B. No. 95—(Niewoehner)

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**LEGALIZING, ETC., TAX SALE NOTICES AND CERTIFICATES**

**An Act legalizing and validating all publications and posting of tax sale notices and tax sale certificates based thereon which notices have been posted or published prior to January 1st, 1935.**

V E T O

March 14, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 95 which has not been signed by me is attached.

This bill has been vetoed for the reason that this act will not cure any failure to comply with a statutory provision which was a prerequisite to the validity of the act itself.

Very respectfully,

WALTER WELFORD,  
Acting Governor.

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

§ 1. All publications of every nature of delinquent tax sales, or sale of land by the county for delinquent taxes, required by law to be made in an official or legal newspaper, or any posting of notice of delinquent tax sale, or sale of land by the county for delinquent taxes, as provided by law and made prior to the 1st day of January, 1935, within the State of North Dakota, are hereby declared legal and valid and of the same force and effect as though made in full compliance with the then existing statutes and any tax sale certificate held by the county and not issued prior to the date of this act may be issued any time subsequent to the approval of this act.

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

## H. B. No. 27—(Committee on Appropriations)

## WOLF, COYOTE AND MAGPIE BOUNTY

An Act making an appropriation for the purpose of paying a bounty on wolves and coyotes as provided for under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913 as amended by Chapter 283, Session Laws of 1927 and as amended by Chapter 9, Session Laws of 1933, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota; and declaring an emergency.

## V E T O

March 15, 1935.

TO THE HONORABLE THE SECRETARY OF STATE:

House Bill No. 27 which has not been signed by me is returned.

This bill has been vetoed for the reason that lack of funds at the present time does not permit of such an appropriation. Furthermore, if conditions later on warrant such an expenditure, arrangements can be made at that time for funds to cover such cases.

Very respectfully,

WALTER WELFORD,

Acting Governor.

Acting Governor.

WW/gp

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of \$40,000.00 or so much thereof as may be necessary for the purpose of paying the bounty on wolves and coyotes as prescribed under Sections 2645 to 2656, inclusive, of the Supplement to the Compiled Laws of 1913, as amended by Chapter 283, Session Laws of 1927, and as amended by Chapter 9, Session Laws of 1933, and magpie bounty as provided for by Sections 2656b1 to 2656b9, inclusive, of the Supplement to the 1913 Compiled Laws of North Dakota.

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

## CONSTITUTIONAL AMENDMENTS

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### ARTICLE 48

#### COUNTY OFFICERS (Submitted by Legislature)

§ 173. At the first general election held after the adoption of this amendment, and every two years thereafter, there shall be elected in each organized county in the state, a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold their office until their successors are elected and qualified; provided in counties having fifteen thousand population, or less, the county judge shall also be the clerk of the district court. Provided further that counties having a population of 6,000 or less, the register of deeds shall also be clerk of the district court and county judge. The legislative assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

Approved, September 22, 1933. 84207 to 62945.

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### ARTICLE 49

#### READING OF LEGISLATIVE BILLS (Submitted by Legislature)

§ 63. Every bill shall be read two separate times, but the first and second readings may not be upon the same day; and the first reading may be by title of the bill only, unless upon such first reading, a reading at length is demanded. The second reading shall be at length. No legislative day shall be shorter than the natural day.

Approved, September 22, 1933. 77077 to 61987.

## INITIATED MEASURES

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### MANUFACTURE, SALE AND DISTRIBUTION OF BEER

An Act defining and providing for the manufacture, sale and distribution of beer, providing revenue therefrom, and licenses therefor, prohibiting the transfer of licenses, excluding certain persons from the right to purchase the same, appointing a State Beer Commissioner and defining his powers, duties, and salary; authorizing cities, villages and county commissioners to provide a local tax and prescribe rules and regulations under which beer may be sold and authorizing municipalities to provide penalties for violation of their regulations; providing for the administrative expenses of this Act; making it unlawful for any person to engage in the manufacture or sale of beer without first obtaining a license therefor; providing a penalty for the violation of the provision thereof; providing for a saving clause as to constitutionality; and repealing Senate Bill No. 263 passed by the 23rd Legislative Assembly of the State of North Dakota, and all acts or parts of acts in conflict with this act, and making an appropriation to carry out the provisions hereof.

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

§ 1. BEER—DEFINITION.] The term beer as used in this act shall be construed to be of such alcoholic content as is now or may be hereafter defined by the Act of Congress of the United States.

§ 2. SALE WITHIN THE STATE—WHO SHALL SELL.] Any person, firm, or corporation, partnership or association, having a legal and bona fide residence in, and being a citizen of, the State of North Dakota and engaged in any legitimate and lawful business, may engage in the retail sale of beer as described herein under such restrictions as are hereinafter provided.

§ 3. BEER COMMISSIONER—POWER AND DUTIES.] There is hereby established for the purpose of carrying out the provisions of this act, an officer to be known as the State Beer Commissioner of the State of North Dakota, whose duty it shall be to license all persons, firms, corporations, partnerships and associations, who may desire to engage in the sale of beer, either wholesale or retail, and such officer shall be appointed by the Governor of the State, and shall hold his office for a period of two years, unless re-appointed for a similar term or terms. Such officer may be, in the discretion of the Governor, the State Regulatory Officer of the State of North Dakota, as now constituted. Such officer shall, before licensing any person, firm, corporation, partnership or association, require such applicant to submit in writing, such information as said Commissioner shall deem necessary to insure the sale of beer by reputable persons, of good moral character. The Commissioner shall have power to refuse a license to any person applying therefor, on the ground that such applicant does not have the qualifications required by this bill

but the decision of the Commissioner in this respect shall always be subject to review by the courts of the state.

§ 4. COMMISSIONER'S SALARY AND REMOVAL.] The Beer Commissioner of the State of North Dakota shall be paid a salary of \$3,500.00 per annum, and necessary traveling expenses, while engaged in the duties of his office. Said Commissioner may be removed by the Governor, at any time, and without cause.

§ 5. FEES FOR LICENSE.] The minimum state fee for a retail license to sell beer in this State shall be the sum of \$15.00 per year, and the maximum shall be \$100.00 per year, to be collected by said Commissioner and turned over to the Treasurer of the State of North Dakota. For the license fee for the first year of doing business of retailing beer, the applicant for such license shall pay a license within the above mentioned limits, which fee for said first year shall be determined by the Commissioner and be based upon the probable volume of business which said applicant is likely to do during said year, and that for any renewals of said license or for license for years succeeding the first year, the amount of such license fee, within the above mentioned limits, shall be based upon the volume of beer retailed by such applicant during the preceding year; provided, however, that the license fee to be paid to the state for the first year shall in all cases be in the sum of \$100.00, except in cities and villages (whether incorporated or not) having a population of less than 500 inhabitants, and in such places the minimum fee shall be \$15.00 and no greater sum than \$50.00 in the discretion of the Commissioner.

§ 6. ADDITIONAL STATE REVENUE—THE AMOUNT THEREOF AND HOW COLLECTED.] From and after the taking effect of this act there is hereby levied and assessed and there shall be collected and paid to the State Treasurer upon all beer sold in North Dakota to consumers, the following taxes, to be paid prior to the sale and delivery thereof to the consumer and at the time said beer is delivered to the retailer; on each pint of beer in bottles or other container, one-half cent; on each quart of beer in bottles or other containers, one cent; on each gallon of beer, in kegs or other containers, four cents. All beer sold in this state shall be put up in bottles, kegs or other containers, so that stamps can be affixed thereto in the manner hereinafter provided, the stamps representing the payment of said tax shall be provided by the Commissioner and purchased from him. The proceeds of the sale of such stamps to be turned over to the Treasurer of the State of North Dakota, and such stamps shall be affixed to the bottles, kegs or other containers containing said beer in such manner that the opening of the container breaks the stamps, thereby preventing the use of the stamp a second time.

§ 7. BREWERIES MAY BE ESTABLISHED WITHIN THE STATE.] Any person, firm, corporation, partnership or association shall have

the right to establish within the State a brewery for the manufacture and wholesaling of beer as defined herein, upon making an application and paying to the said Commissioner a license fee of \$500.00 per annum, to be paid to the Treasurer of the State of North Dakota. Provided, however, that no brewery operating within or without the state shall be licensed to engage in the retail sale of beer within the state.

§ 8. DELEGATION OF POWER TO INCORPORATED CITIES AND VILLAGES AND BOARD OF COUNTY COMMISSIONERS WITH REFERENCE TO BEER LICENSES.] There is hereby conferred upon the governing bodies of each incorporated city and village the authority to require licenses from retailers of beer in such village or city, and to license, and to deny and revoke licenses for cause, and to regulate the business of vendors at retail of beer authorized to be sold by this act, in their respective jurisdictions, subject to review by the courts of the state, to impose and collect a license fee therefor, and to provide for the punishment of any violation of any such regulations, according to the provisions of law, excepting that such regulations shall be uniform, and that all applicants for license, who are qualified under Section Two of this act, shall be granted licenses by said municipalities.

There is hereby conferred upon the Board of County Commissioners in each county the same powers and authority as are herein granted to the governing boards of incorporated cities and villages, provided, however, that the Board of County Commissioners shall not grant or issue any license, or exercise any regulation or control except in unincorporated villages now in existence, the plats of which are now of record.

§ 9. SALES TO CERTAIN PERSONS UNLAWFUL.] No retailer or wholesaler of beer, or any brewery established within this state, shall be permitted under the provisions of this act to sell beer to a minor, incompetent person, Indian as defined by Federal Law, or a person who is an inebriate or habitual drunkard.

§ 10. ADMINISTRATIVE EXPENSE HOW PAID — APPROPRIATION.] The salary of the State Beer Commissioner, all office and other administrative expenses, all supplies, stationery, the printing of stamps and certificates shall be paid by the State Treasurer out of the revenue derived from the operation of this act, upon proper vouchers filed by the State Beer Commissioner. It being the purpose of this act to relieve the general fund of the state from any and all costs in connection with the administration of the provisions thereof; provided, however, that there is hereby appropriated out of the general fund of the state, not otherwise appropriated, the sum of \$1,000.00 to carry out the provisions of this act.

§ 11. WHOLESALERS AND DISTRIBUTORS AUTHORIZED TO DISTRIBUTE BEER. LICENSE AND RESTRICTIONS.] Any person, firm, cor-

poration, partnership, or association regularly engaged in legitimate wholesale business within the state may be licensed to distribute beer by wholesale. They shall be licensed for that purpose by the State Beer Commissioner upon submitting to said Commissioner an application in writing, on such forms as the Commissioner shall require, showing such information as shall be required to bring them under the provisions of this act. Each said distributor shall pay a wholesaler's license fee of \$200.00 to be collected by the Commissioner and paid to the State Treasurer. No distributor, licensed to do business in this state shall ever be licensed to retail the sale of beer within the state, in quantities less than a case.

§ 12. TRANSFER OF LICENSES PROHIBITED.] No license issued by the State Beer Commissioner shall be transferable, and any attempt to do so shall constitute a violation of the provisions of this Act.

§ 13. LICENSES—LIMITED.] No license to sell beer by retail or wholesale shall entitle the holder thereof to carry on said business at more than one location under any one license, and each license issued shall contain the legal description of the place where the holder thereof operates his said business.

§ 14. REPEAL OF CONFLICTING LAWS.] Senate Bill No. 263, passed by the 23rd Legislative Assembly of the State of North Dakota, relating to the sale of legalized beer, and all other acts or parts of acts in conflict with the operation of the provisions of this act are hereby repealed.

§ 15. SAVING CLAUSE AS TO CONSTITUTIONALITY.] The object sought by this enactment is to provide for the sale and regulation of beer in the State of North Dakota, and it is hereby declared that if any provision of this act in any manner controverts the provisions of the Constitution of this state, that the remaining provisions would have been enacted by the people even though such provision had been eliminated from the act. Hence, if any of the provisions are found to be in violation of the Constitution, the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

§ 16. UNLAWFUL TO MANUFACTURE OR SELL BEER—WHEN.] It shall be unlawful for any person to engage in the manufacture or sale of beer, as defined herein within this state, without first obtaining a license so to do as provided herein.

§ 17. PENALTY.] Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than one hundred (\$100.00), nor more than one thousand dollars (\$1,000.00), or imprisonment in the county jail, for a period of not more than six months, or both;

for a second offense, the same penalties shall be assessed, and in addition thereto the license of the offender shall be revoked.

Approved, September 22, 1933. 116420 to 48731.

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#### SUNDAY THEATRES AND MOVIES

An act to permit the operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays, after two p. m., for profit or otherwise, and permitting labor and services in connection therewith on Sundays, and repealing all acts or parts of acts in conflict with this act.

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

§ 1. LAWFUL ACTS ON SUNDAY.] The operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays after the hour of two p. m., for profit or otherwise, and the labor performed and services rendered in operating said theatres, and showing said moving pictures and theatrical performances in said theatres, on Sundays, for profit or otherwise, is hereby declared to be lawful.

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

Approved, November 6, 1934. 136743 to 135073.

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#### SUNDAY THEATRES AND MOVIES

An Act to permit the operation of moving picture theatres, and showing moving pictures and other theatrical performances in said theatres, on Sundays, after Two p. m., for profit or otherwise, and permitting labor and services in connection therewith on Sundays, and repealing all acts or parts of acts in conflict with this act.

Disapproved, September 22, 1933. 82235 to 81453.

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#### CONTROL INTOXICATING LIQUOR

An Initiated Measure providing for the lawful importation, transportation, sale, use and possession in this state of intoxicating liquor and of beer containing not to exceed 5.5 per cent of alcohol by weight, and defining words and terms employed in the law and commodities not applicable to the law or exempt therefrom; prohibiting the establishment or maintenance of saloons or the manufacture, sale or distribution of bootleg liquor; diverting into the local and State Treasuries the legitimate tax revenues from the sale of intoxicating liquor now taken from the people by bootleggers and others violating existing liquor laws; providing for the control, licensing, taxation, regulation, and administration of the traffic in intoxicating liquor in this state and those engaged or participating therein or affected

thereby; providing certain prohibitions, restrictions and exemptions respecting intoxicating liquor; restricting the sale of intoxicating liquor to the business districts of municipalities except certain club licenses and granting certain powers to municipalities in regulating traffic in intoxicating liquor and those participating therein; prohibiting unlicensed importation, sale, exchange, barter, disposition or possession for sale of any intoxicating liquor except as provided in such initiated measure; setting up a uniform system for the licensed selling of intoxicating liquor within the limits and under the conditions set forth in such initiated measure; creating the office of Liquor Control Commissioner, defining his powers and duties, and fixing his salary and establishing a system for the administration of the law; providing for the licensing of certain dealers in intoxicating liquor; fixing schedules of license fees and taxation of liquor sales and the disposition of such revenues; providing for the enforcement of such law and penalties for its violation; repealing all conflicting laws, including Sections 10092, 10093, 10094, 10095, 10096, 10097, 10098, 10099, 10100, 10101, 10102, 10103, 10104, Compiled Laws 1913, 10105 Compiled Laws 1913; as amended by Section 10105 Supplement to Compiled Laws 1913; 10105a Supplement to Compiled Laws 1913; 10106, 10107, 10108, 10109, 10110, 10111, 10112, 10113, 10114, 10115, 10116, Compiled Laws 1913; 10117 Compiled Laws 1913 as amended by Section 10117 Supplement to Compiled Laws 1913; 10117a Supplement to Compiled Laws 1913; 10118, 10119, 10120, 10121, 10122, 10123, 10124, 10125, 10126, 10127, 10128, 10129, 10130, 10131, 10132, 10133, 10134, 10135 Compiled Laws 1913; 10136 Compiled Laws 1913, as amended by Section 10136 Supplement to Compiled Laws 1913; 10136a1, 10136a2, 10136a3, 10136a4 Supplement to Compiled Laws 1913; 10137, 10138, 10139, 10141, 10142, 10143 Compiled Laws 1913; 10140a, 10141 Supplement to Compiled Laws 1913; 10143a1, 10143a2 Supplement to Compiled Laws 1913; 10144 Compiled Laws 1913, as amended by Section 10144 Supplement to Compiled Laws 1913; 10145 Compiled Laws 1913; 10145 Supplement to Compiled Laws 1913; 10145a1, 10145a2, 10145a3, 10145a4 Supplement to Compiled Laws 1913; 10145b1, 10145b2, 10145b3, Supplement to Compiled Laws 1913; 10145b4 Supplement to Compiled Laws 1913 as amended by Chapter 174 Laws 1931; 10145b5, 10146b6, 10145b7, 10145b8, 10145b9, 10145b10, 10145b11, 10145b12, 10145b13, 10145b14, 10145b15, 10145b16, 10145b17, 10145b18, 10145b19, 10145b20, 10145b21, 10145b22, 10145b23, 10145b24, 10145b25, 10145b26 Supplement to Compiled Laws 1913; 10146, 10147, 10148, 10149, 10150, 10151, 10152, 10153, 10154 Compiled Laws 1913; 10170, 10171, 10172, 10173, 10175 and 10176 Compiled Laws 1913 and Chapter 141, 1933 Session Laws, Chapter 97, 1921 Session Laws, Chapter 268, 1923 Session Laws, Chapters 195 and 196, Session Laws of 1915, Chapters 134, 135 and 136, 1917 Session Laws, Chapter 175, 1925 Session Laws; also Chapter 221, 1923 Session Laws so far as it applies to intoxicating liquor.

Disapproved, June 27, 1934.

119968 to 88079.

#### LOCAL OPTION AND ANTI-MONOPOLY LIQUOR CONTROL

An Initiated measure legalizing the importation, transportation, sale and possession and manufacture in certain cases, of liquor; providing for revenue therefrom and licenses therefor; prohibiting the transferring of licenses; excluding certain persons from the right to purchase liquor; authorizing the governing bodies of municipalities to provide and require the payment of a local tax or license

and to raise revenue hereunder; and to prescribe certain regulations; providing for the administrative expenses of this act; making it unlawful for any person to engage in the manufacture or sale of liquor without first obtaining a license therefor; providing a penalty for the violation of the provisions thereof; providing for a saving clause as to constitutionality; repealing all acts in conflict therewith; defining liquors; authorizing distilleries under certain conditions; providing for a Local Option and the right of the people in each municipality, at certain elections, to vote on the question of continuing the legalized sale of liquor in such municipality; limiting place of sale; disposition of liquor revenue funds and allotment of portions thereof to School Districts; appropriating state funds to put this act in operation; legalizing 5, 5% beer.

Disapproved, June 27, 1934. 114299 to 90076.

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#### LARGER LOCAL CONTROL AND LOCAL OPTION IN PROVIDING SUPPORT OF MINIMUM EDUCATIONAL FACILITIES

An Act to amend and re-enact Section 7 of Chapter 235 of the Laws of North Dakota for the year 1929 as amended by Chapter 297 of the Laws of North Dakota for the year 1931, relating to the levy of school taxes and the limitations thereof, to permit governing boards of school districts to make an annual tax levy for school purposes in an amount sufficient to provide each school district with seventy (70) dollars annually for each child enrolled in the school or schools of each school district, to provide for the exercise of option on the part of governing boards of school districts in the mode of determining tax levy, to define enrollment, to provide for the filing of sworn statements of enrollment, and to provide for the repeal of all acts and parts of acts in conflict with this act.

Disapproved, June 27, 1934. 99299 to 91391.

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#### REPEAL PROHIBITION STATUTES

An Act to repeal Sections 10092 to 10104 both inclusive, Compiled Laws of 1913; 10105 Compiled Laws 1913, as amended by Section 10105 Supplement to Compiled Laws 1913; 10105a Supplement to Compiled Laws 1913; 10106 to 10116 both inclusive, Compiled Laws 1913; 10117 Compiled Laws 1913 as amended by Section 10117 Supplement to Compiled Laws 1913; 10117a Supplement to Compiled Laws 1913; 10118 to 10135 both inclusive, Compiled Laws 1913; 10136 Compiled Laws 1913 as amended by Section 10136 Supplement to Compiled Laws 1913; 10136a1 to 10136a4 both inclusive, Supplement to Compiled Laws 1913; 10137 to 10143 both inclusive, Compiled Laws 1913; 10140a to 10141 Supplement to Compiled Laws 1913; 10143a to 10143a2 Supplement to Compiled Laws 1913; 10144 Compiled Laws 1913, as amended by Section 10144 Supplement to Compiled Laws 1913; 10145 Compiled Laws 1913 and 10145 Supplement to Compiled Laws 1913; 10145a1 to 10145a4 both inclusive, Supplement to Compiled Laws 1913; 10145b1 to 10145b3 both inclusive; 10145b4 Supplement to Compiled Laws 1913 as amended by Chapter 174 Laws of 1931; 10145b5 to 10145b26 both inclusive, Supplement to Compiled Laws 1913; 10146 to 10154 both inclusive, Compiled Laws 1913; 10170 to 10173 both inclusive, Compiled Laws 1913; 10175 and 10176 Compiled Laws 1913.

Disapproved, November 6, 1934. 139733 to 111511.

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## REFERRED MEASURES

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### ADMINISTRATION OF INSOLVENT BANKS

(Referendum of S. B. 207, 1933 Legislative Assembly)

An Act relating to the administration of insolvent banking institutions; repealing all acts or parts of acts in conflict herewith.

Disapproved, September 22, 1933. 94130 to 58746.

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### SALES TAX

(Referendum of S. B. 315, 1933 Legislative Assembly)

An Act to provide revenue by means of an Emergency Replacement Revenue Act for state purposes by imposing a tax upon sales of tangible personal property and upon sales of personal and professional services by vendors as herein defined; for the inclusion therewith of additional business or service in operation now or hereafter analogous to those defined in the act or listed in the schedule; authorizing the State Tax Commissioner to prescribe rules and regulations for the collection thereof; prescribing the method of collecting the tax and payment thereof to the State Treasurer; and providing schedules explanatory of the application of such tax; and providing penalties; emergency; time limitation of the act.

Disapproved, September 22, 1933. 113807 to 41241.

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### REMOVAL WORKMEN'S COMPENSATION BUREAU COMMISSIONER WITHOUT CAUSE

(Referendum of H. B. 146, 1933 Legislative Assembly)

An Act to amend and re-enact Section 4, Sub-section A, Chapter 314, Session Laws of the State of North Dakota for the year 1931.

Disapproved, September 22, 1933. 94429 to 50819.

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